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**Republika Kosova – Republic of Kosovo**

**AGJENCIA KUNDËR KORRUPSIONIT**  
**AGENCIJA PROTIV KORRUPCIJE**  
**ANTI - CORRUPTION AGENCY**



# ANTI-CORRUPTION STRATEGY

2021 - 2023

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## I. EXECUTIVE SUMMARY

*List of institutions participating in the Working Group for drafting the Strategy.*

- 1 Anti-Corruption Agency
- 2 Ministry of Justice
- 3 Ministry of Internal Affairs
- 4 Assembly of Kosovo
- 5 Ministry of Local Government
- 6 Kosovo Police
- 7 Office of Prime Minister
- 8 National Audit Office
- 9 Kosovo Customs
- 10 Police Inspectorate of Kosovo
- 11 Public Procurement Regulatory Commission
- 12 Procurement Review Body
- 13 Ministry of Finance
- 14 Central Election Commission
- 15 Ministry of Trade and Industry
- 16 Kosovo Judicial Council
- 17 Privatization Agency of Kosovo
- 18 Ministry of Defense
- 19 Ministry of Environment and Spatial Planning
- 20 Kosovo Prosecutorial Council
- 21 Policy and Monitoring Unit of Public Enterprises
- 22 Tax Administration of Kosovo
- 23 Ministry of Education and Science
- 24 Ministry of Health
- 28 FOL Movement

**ABBREVIATIONS:**

ACA	Anti-Corruption Agency
OPM	Office of the Prime Minister of Kosovo
MLG	Ministry of Local Government
MLSW	Ministry of Labor and Social Welfare
MES	Ministry of Education and Science
MF	Ministry of Finance
MC	Ministry of Culture
MJ	Ministry of Justice
MIA	Ministry of Internal Affairs
MH	Ministry of Health
CEC	Central Election Commission
SP	State Prosecutor
KPC	Kosovo Prosecutorial Council
KJC	Kosovo Judicial Council
KP	Kosovo Police
PIK	Police Inspectorate of Kosovo
PPRC	Public Procurement Regulatory Commission
OAG	Office of the Auditor General
PRB	Procurement Review Body
TAK	Tax Administration of Kosovo
PAK	Privatization Agency of Kosovo

## I. EXECUTIVE SUMMARY

Corruption remains a challenge for the institutions and the society of Kosovo. The overall corruption perception of the society is still high. Therefore, local mechanisms are to be further strengthened for the fight against and prevention of corruption. Improvement and more effective implementation of policies, and good governance remain two of the main conditions for prevention and fight against corruption for the rule of law in Kosovo.

Over the years, the Anti-Corruption Agency has worked on drafting this strategy. Meanwhile, during 2020 in the process of drafting the Anti-Corruption Strategy and Action Plan 2021 - 2023, the situation with the pandemic (COVID19) has had an impact which is challenging the society and the state.

This Strategy and Action Plan will be valid until the approval of the relevant Law on the Anti-Corruption Agency - the Law on Prevention of Corruption which is in progress. This is because the current draft of this law determines that the Anti-Corruption Strategy and Action Plan will be drafted by the Office of the Prime Minister, while the Anti-Corruption Agency will be monitoring the activities deriving from the Action Plan.

During the drafting of the Anti-Corruption Strategy 2021 – 2023 and Action Plan, various local and international reports related to the corruption and perception on corruption in Kosovo have been taken into account. In this context, the primary sectors have been divided and greater accountability and full transparency will be required in performing the duties and the mandate of relevant institutions. Also, based on problems identified and challenges presented, measures and activities have been proposed which have effectively foreseen the tools and methods for prevention and combating corruption.

As a result of identified problems and challenges, and based on activities and measures determined for the fight against and prevention of corruption in Kosovo, the Strategy has been divided into the following sectors:

- ⇒ POLITICAL SECTOR
- ⇒ STATE ADMINISTRATION AND LOCAL GOVERNANCE
- ⇒ LAW ENFORCEMENT AND JUDICIARY
- ⇒ PUBLIC PROCUREMENT AND PUBLIC FINANCE MANAGEMENT

Developing a “zero tolerance” approach against corruption remains one of the main objectives of the strategy, which relates to all general and specific objectives of the Strategy and Action Plan. Meanwhile, other general principles of the strategy are: increasing integrity, responsibility and transparency in the work of state administration bodies and strengthening the trust of citizens on public institutions, improvement of legislation and strengthening institutional capacities for prevention and fight against corruption, as well as raising awareness and education of general public in the anti-corruption area.

## II. INTRODUCTION

Corruption is one of the main obstacles in the path towards achieving the state's sustainable political, economic and social development. In the global corruption perception index for the European and Western Balkans countries, according to Transparency International, Kosovo in 2019 is ranked unfavorably with 36 points, namely in the 101st place from a total of 180 countries. This result means that it has marked a deterioration in the fight against corruption compared to 2018, when it was in 93rd place, with 37 points. Therefore, in addition to increasing transparency, integrity, preventing and combating corruption, it is also in Kosovo's interest to influence the improvement of the perception of corruption.

Preventing and combating corruption is an obligation defined in the legislation that regulates the declaration of assets, conflict of interest, protection of whistleblowers and other areas related to the scope of activity of the ACA and other law enforcement institutions, but, It is also an obligation deriving from the membership of Kosovo in international organizations for the fight against corruption, as the Conventions of United Nations against Corruption, Criminal Law Convention on Corruption of the Council of Europe, Civil Law Convention on Corruption of the Council of Europe and other standards against corruption.

Despite the achievements made so far, Kosovo similar to other countries of the region continues to face difficulties in the Rule of Law sector, namely shortcomings in the judicial system, internal issues and access to justice. Various international reports, including Technical Documents of various Projects such as the Project Against Economic Crime - PECK II and the Support to Anti-Corruption Efforts - SAEK II project, as well as the European Commission - Kosovo Country Reports and national strategic documents highlight the need for proactive engagement of the state in improving the efficiency of the police, prosecution office and judiciary in general, particularly in prevention and fight against corruption and organized crime.

Based on the data contained in the ACC Annual Work Report 2019, it is noted that the joint efforts by the justice system and other mechanisms are required for fighting corruption and building a strong institutional system that produces concrete results in the fight against corruption and ultimately creates and increases the citizens' trust. Therefore, all institutions, including those of law enforcement, should be more coordinated and as effective as possible in the areas related to the prevention, investigation and fight against corruption, and other aspects in the field of anti-corruption.

Although progress has been made in the fight against corruption, it still remains a concern for the Institutions of the Republic of Kosovo. Despite the engagement in creating a corruption-free social environment, results cannot be deemed satisfactory. Kosovo Authorities have set clear priorities for enforcing the legislation, which aim to fight and prevent of corruption, promote transparency and strengthen institutional integrity.

### III. METHODOLOGY:

Based on the Decision of the Director of the Anti-Corruption Agency, the Technical Working Group for the development of the Anti-Corruption Strategy and Action Plan (2021-2023) has been established). The group consists of institutions that are responsible for the fight against and prevention of corruption and rule of law in Kosovo. The Working Group also includes civil society representatives. Institutions engaged in this Working Group are: AAC, OPM, KJC, KPC, MIA, KOSOVA ASSEMBLY, MLG, KP, PPRC, PRB, MF, OAG, CEC, MTI, MJ, MESP, MES, MH, and Civil Society Organizations. Also, numerous sector meetings, meetings with contact points, meetings with Working Group members and meetings with civil society and media representatives have been held.

The members of the technical group have provided their comments and proposals regarding the activities of the action plan, and their comments have been accepted and discussed in the subsequent meetings of the technical group.

The strategy and its action plan has been prepared based on the legal provisions of Administrative Instruction (NRC) no. 07/2018 on planning and drafting strategic documents and action plans and based on Article 16 of the Law on ACA, no. 0/L-159, in cooperation with the Government of the Republic of Kosovo and other governmental and non-governmental institutions.

The drafting of the Anti-Corruption Strategy and Action Plan is an obligation defined in the current Law in force No. 03/L-159 on the Anti-Corruption Agency. Article 5, paragraph 1, subparagraph 1.3, which stipulates that the Agency monitors and oversees the implementation of the Anti-Corruption Strategy and Action Plan. Meanwhile, Article 16, paragraph 1 and 2, of Law No. 03/L-159 on the Anti-Corruption Agency obliges that *the Agency, in cooperation with Government and other government and non-government institutions drafts strategy against corruption; the Agency through the Government submits for approval the Strategy against Corruption in the Kosovo Assembly, a document which contains policies against corruption that must be implemented by the responsible institutions of the Republic of Kosovo, as in the central level also in the local one.* Furthermore, Article 17 of the law states that *on Implementation of the Strategy against Corruption, the Agency drafts the Action Plan against Corruption in cooperation with the responsible institutions of the Republic of Kosovo, ... .*

The drafting and approval of this Strategy is also part of the process of Kosovo's integration into the European Union, and it is defined as an Objective in the National Program for the Implementation of the Stabilization and Association Agreement (NPISAA) 2020 - 2024 approved by the Government on 19 May 2020 (Page 185 and 286 of the document); is part of the European Reform Agenda (ERA); is an obligation set out in the Stabilization and Association Agreement, and at the same time a commitment made by the Government at the Trieste Summit and the London Summit - as part of the Berlin Process.

#### IV. BACKGROUND:

ACA is an independent and specialized body for the implementation of state policies for combating and preventing corruption in Kosovo. The Agency was established in July 2006, whereas commenced operation on 12 February 2007. The mandate and competences of the Agency have been determined in Article 6 of the Law No. 03/L-159 on the Anti-Corruption Agency.

The scope of the Agency is focused on investigations and administrative aspects. ACA carries out this mandate through the process of declaring the assets of senior public officials, declaring and registering gifts of public officials, preventing cases of conflict of interest in exercising public office, monitoring public procurement activities, drafting and monitoring implementation of the Anti-Corruption Strategy and Action Plan, investigating and detecting cases of corruption, protecting whistleblowers, preventing the phenomenon of corruption and increase public awareness with the aim of building a sound society based on the rule of law and order.

The Current Anti-Corruption Law, based on which ACA conducts its activities, provides measures against corruption within the scope of the Anti-Corruption Strategy and Action Plan, particularly in the initial investigation of corruption, whistleblower protection, analyzing and eliminating the causes of corruption, the non-compliance of holding a public office and conducting profitable activities by the official persons, limitation in terms of accepting gifts related to the performance of official duties, and supervises their properties, as well as those of persons in close relation to them and restrictions of contracting entities participation on public tenders.



## V. CURRENT SITUATION

Kosovo has adopted relevant legislation in the field of preventing, combating and investigating corruption. It has also established relevant institutions with mandates related to the field of preliminary investigations of corruption, in the protection of whistleblowers, analyzing and eliminating the causes of corruption, the non-compliance of holding a public office and conducting profitable activities by the official persons, limitation in terms of accepting gifts related to the performance of official duties, and supervises their properties, as well as those of persons in close relation to them and restrictions of contracting entities participation on public tenders.

Nevertheless, according to some international and domestic research on the perception of corruption, it is noted that very little change has been made and that the level of corruption is still worrisome in Kosovo.

According to the UNDP study "Public Pulse on Corruption" of 2019, the citizens of Kosovo as in May 2018, consider unemployment (29.4 percent), corruption (13.4 percent) and poverty (8.6 percent) as three the biggest issues which Kosovo faces. Specifically, on average a quarter of respondents (25 percent) stated that they perceive that large-scale corruption is present in public and international institutions in Kosovo. The majority of Kosovars (68.8 percent) believe that undeserved factors, such as family ties, bribes, party alliances, friends and, to a lesser extent, appearance and gender, are the most important factors in securing employment in the public sector<sup>1</sup>.

Perceptions of large-scale corruption ranged from a low percentage of 10.7 percent of respondents claiming to be prevalent in international organizations, to a high level of 31.4 percent of respondents claiming that it is prevalent in customs. While the levels of current perceptions of large-scale corruption in each institution have decreased compared to May 2018, the largest changes in perceptions have been observed in the following institutions: international organizations (10.7 percent compared to 24.5 percent in May), courts (29.1 per cent compared to 38.6 per cent in May), and EULEX police (20.9 per cent compared to 29.9 per cent in May). Overall, the three main institutions with the least widespread corruption are international organizations, educational institutions, and EULEX police<sup>2</sup>.

Progress reports over the years have highlighted that Kosovo is at an early stage/has a level of preparation in the fight against corruption and little progress has been made through significant legislative reforms in the area of law enforcement, including the Criminal Code, in the investigation and the prosecution of high-level cases, as well as in the preliminary freezing

<sup>1</sup> Public Pulse XV February 2019, Public Pulse XV February 2019, compiled by UNDP in Kosovo

<sup>2</sup> Ibid, p. 15

of assets. The final confiscation of assets still remains low.<sup>3</sup> Criminal law provisions on corruption are generally in line with relevant European standards. Kosovo is not a party to most international anti-corruption conventions, including the United Nations Convention against Corruption, due to issues related to its status. However, Kosovo has made considerable efforts to harmonize its legislation with these instruments.

Therefore, it is not a surprise that citizens of Kosovo think that corruption is one of the biggest problems for the country. Out of 42 countries participating in the Global Corruption Barometer 2016<sup>4</sup>, Kosovo ranked third with 65% of respondents claiming that corruption is one of the biggest problems the country faces. Only Moldova with 67% and Spain with 66% were positioned before Kosovo.

Meanwhile, regarding the problems identified in the meetings of the working group, according to the reports made by all members of the working group, and to the comments sent, the main problems identified by the strategy sectors are as follows:

- ⇒ Lack of effective internal control mechanisms in the field of anti-corruption;
- ⇒ Lack of audit of political party finances;
- ⇒ Lack of proper legislation for financing political parties, for monitoring and auditing their finances;
- ⇒ Lack of unit responsible for sectoral risk analysis related to corruption risks;
- ⇒ Lack of effective (administrative) fines and non-strengthening of mechanisms for prevention of conflict of interest;
- ⇒ Lack of integrity plans in all public institutions and lack of the institution responsible for its monitoring;
- ⇒ Lack of control of public enterprises
- ⇒ Insufficient and incomplete access to public documents
- ⇒ The problem of nepotism, conflict of interest, politicization in employment in public administration
- ⇒ Failure to finalize the categorization/classification of jobs in the civil service;
- ⇒ Lack of internal audit and improper management of own source expenditures of public institutions;
- ⇒ Failure to control municipal public enterprises and non-evaluation of legal acts at the municipal level;
- ⇒ Inadequate coordination of law enforcement institutions;
- ⇒ Lack of profiling in law enforcement institutions for corruption cases;
- ⇒ Lack of review mechanism in law enforcement institutions;
- ⇒ Lack of financial investigations in parallel with criminal investigations.

<sup>3</sup> Kosovo Progress Report 2019

<sup>4</sup> [http://www.transparency.org/whatwedo/publication/people\\_and\\_corruption\\_europe\\_and\\_central\\_asia\\_2016](http://www.transparency.org/whatwedo/publication/people_and_corruption_europe_and_central_asia_2016)

All these problems identified by sectors, have been addressed through specific objectives, with adequate measures and activities which are presented in the Action Plan of this Strategy.

## 1. Legal framework

The legal framework, based on which the Agency exercises its legal mandate, contains the following, but not only limited to:

### LAWS:

#### ***Law No. 03/L-159 on Anti-Corruption Agency***

This Law defines the status and responsibilities of the Anti-Corruption Agency in the field of combating and preventing corruption, especially in the area of reporting, detection and investigation of corruption, the implementation of the Strategy and Action Plan against Corruption.

#### ***Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of all Public Officials and Law No. 04/L-228 on amending and supplementing the Law No. 04/L-050***

This Law defines obligations of senior public officials to declare their property, revenues and the origin and obligation of Agency to control declared property and origin of property as well as obligations of all public senior officials to declare gifts and the origin of gifts.

#### ***Law No. 06/L -011 on Prevention of Conflict of Interest in Discharging Public Function***

The purpose of this law is to prevent the conflict between public interest and private interest of senior officials in discharge of public functions.

#### ***Law No. 06/L -085 on Protection of Whistleblowers***

The purpose of this law is to enable the reporting of violations in the public and private sector and the protection of whistleblowers.

## VI. GENERAL OBJECTIVES OF THE STRATEGY

Objectives of this Strategy resulted from the need of relevant state institutions to prevent and fight corruption in Kosovo, building an administration with higher integrity, responsibility and full transparency. At the same time, the Strategy objectives include ongoing legislation improvement in the fight against corruption and promotion of rule of law in Kosovo.

Objectives set in this Strategy resulted from the national and international legal requirements, as well as reports published by various local and international organizations in the field against corruption.

Main objectives of this Strategy are divided into the following horizontal objectives:

- ⇒ Development of “zero tolerance” approach against corruption
- ⇒ Building integrity, responsibility and transparency in the work of public administration bodies and strengthening the citizens’ trust on public institutions
- ⇒ Improving legislation and strengthening institutional capacities for prevention and fight against corruption
- ⇒ Public awareness raising and education of general public in the anti-corruption area

### 1. General principles of the Strategy:

The basic principles on which the Anti-Corruption Strategy is drafted and shall be implemented are as follows:

Respecting human rights – this principle requires unconditioned respect of human rights and basic freedoms by all public authorities and enables individuals whose rights have been violated to seek effective remedies on equal basis.

Rule of law – obliges institutions to enforce the legislation in force without exception.

Political will – requires all senior public officers to demonstrate genuine political determination in effectively addressing the issue of corruption.

Responsibility – obliges all competent bodies and their staff to assume full responsibility for their actions, including the drafting and implementation of anti-corruption policies, and the implementation of this Strategy and relevant Action Plan.

Good governance, transparency and integrity – requires the institutions to make all their policies compliant with the effective and efficient implementation of public interest; it emphasizes the need for open institutions, particularly in terms of decision-making and the right of citizens for access to public information; requires practical rules for respecting and implementing the ethical principles in the institutional and personal integrity.

Political neutrality – strengthens the public sector’s institutional independence, impartiality and autonomy in general, in order to function without undue external influence.

Proper management of public works and property – requires all institutions to manage public issues and public property in an effective and efficient manner and only in favor of public interest.

Cooperation – calls upon all relevant institutions to implement this Strategy and Action Plan to cooperate in good faith and in compliance with the objectives and measures endorsed, as stated in the aforementioned documents.

Inclusion – obliges all public authorities in Kosovo to increase close cooperation with private sector, civil society and all citizens in the fight against corruption.

Self-assessment – requires a periodic assessment of corruption risks from responsible institutions, with the purpose of improving the implementation of this Strategy and relevant Action Plan.

## VII. ACTIVITIES AND ALTERNATIVES CONSIDERED

Based on the experience of implementing the National Anti-Corruption Strategies (Anti-Corruption Strategy 2009-2011 and Anti-Corruption Strategy 2013 - 2017), in compliance with the amendments to the legislation and general public perception in relation to the corruption in Kosovo, when developing this Strategy, the strategic sector objectives and activities have been better reformulated, restructured and analyzed and the following alternatives have been prepared. All these have been done with the purpose of harmonizing the inter-institutional efforts to fight corruption in all fields in Kosovo.

As a result, activities and measures foreseen for alternatives have been divided into the following sectors:

- ⇒ POLITICAL SECTOR
- ⇒ STATE ADMINISTRATION AND LOCAL GOVERNANCE
- ⇒ LAW ENFORCEMENT AND JUDICIARY
- ⇒ PUBLIC PROCUREMENT AND PUBLIC FINANCE MANAGEMENT

## **1. Political sector**

The political sector remains the most challenging field in the fight against corruption as the political system remains unsettled due to corruption accusations. The political will should be strengthened in order to consider corruption in a more comprehensive and strategic manner.

At the policy-making level, there should be a leadership setting the agenda and priorities for improving results in the fight against corruption – thus demonstrating the political will. The Government, through the Anti-Corruption Strategy and Action Plan, should set priorities, activities to be taken and ensure that those activities are budgeted and implemented in compliance with the plan, in order to ensure strategic positive results during the three-year period. The successful anti-corruption policy requires the support by both the Government and the opposition, and endeavors have to be made in ensuring that all political parties represented in the Assembly are involved in the discussion on the policy-making against corruption, and ideally agree with the vision presented for improving the general framework against corruption.

Parliamentary supervision is an extremely useful tool in the fight against corruption and should therefore be strengthened. Ministries, heads of agencies and other relevant public officers should regularly report to the Assembly and respond to questions in sessions specifically for topics related to “anti-corruption” and performance of anti-corruption bodies.

Favoritism and nepotism in job recruitment throughout the entire public sector remains a great concern for the public and the international community. The evidence of negligence in

employment is more of a top-down line, and from the local to the central administration. One of the specific concerns are the allegations of political affiliations being the precondition for appointed to a position, and the negotiations between political parties for sensitive and key positions, such as appointments in the judiciary, managing positions and boards of publicly-owned enterprises and high-level posts of public service.

The current system of detecting public officials' property and incomes is only a paper-based system (submission of asset forms physically, the online system is not yet operational) and is therefore prone to mistakes by submitting officers and monitoring officers within the Anti-Corruption Agency. Although the compliance rate for submissions is very high, the ability to use these data for detailed investigations in unexplained properties is negligible.

In the field of conflict of interest prevention in the exercise of public office there is significant progress, but there is still work to be done, which are part of this action strategy.

The new Law on Prevention of Conflict of Interest in Discharge of a Public Function, entered into force in 2018, has made an advancement in the sense that it has limited multiple engagements for senior public officials, and has also put the individual public institutions in charge of drafting special regulations for the prevention of conflict of interest within their respective institutions.

So, what should be part of this strategy is the obligation of the country's institutions to draft regulations for the prevention of conflict of interest in all their public institutions, always based on the Law on Prevention of Conflict of Interest.

Also, the obligation of public institutions is and remains the establishment, functioning and strengthening of responsible authorities for prevention of conflict of interest in all public institutions in the country in accordance with the requirements of the Anti-Corruption Agency in continuous cooperation with the division of responsible authorities within the Anti-Corruption Agency.

Funding of political parties remains a very sensitive area, prone to abuses. Currently, political parties funding is the only greatest gap in the anti-corruption system. There is a serious lack of transparency when it comes to financial resources and statements of political parties, as well as implementation of existing legal provisions. Given the contradictory relations between political parties and illegal funding, funding of political parties should be governed with clear standards by making use of strong control and implementing mechanisms. Central Election Commission (CEC) of Kosovo is the authority responsible for obtaining and formal control of financial reports from political parties. According to the records, financial reports submitted are not usually compliant to the regulations defined by law. An amendment to the Law on Financing Political Parties approved in 2013 transferred the responsibility of auditing political entities from CEC to the Assembly of Kosovo. Although CEC in the past faced great challenges in fulfilling its audit responsibilities due to the lack of human and financial resources, audit reports became accessible to the public for 2011 and 2012.

By transferring responsibilities to the Assembly of Kosovo in 2013, due to the lack of institutional stability and political will, the Assembly failed to engage auditors to audit political parties' annual financial statements for the last three years and expenditures during national and local elections in 2013 and 2014, and for the national and local elections for 2017. This situation clearly shows a low level of political parties will to increase transparency in terms of funding. The system which places the responsibility of auditing finances of political parties' by representatives of that same political entity benefiting from such funds is a direct conflict of interest and is poses a potential risk to the transparency and accountability of the entire political system.

However, the latest version of the draft law that has been brought to the Assembly is a major step in advancing the transparency and financial accountability of political entities to the public, with particular emphasis on controlling the financing of political entities, auditing financial reports and publishing them. The draft law also defines punitive measures for entities that do not comply with the requirements of this law. The approval of this draft law also reflects the opinion of the Venice Commission.

## **2. Public Administration**

Public institutions at local and central level have made some improvements in terms of transparency of spending, recruitment and awarding of tenders, with a number of them publishing their own expenditures. However, such practice is not employed uniformly in municipal and central level institutions. Verification procedures are obviously lacking. The Codes of Conduct exist in some institutions, though they are rarely discussed among the staff,



and many civil servants are not aware of their existence. There are no formal procedures for collaborators to report unethical conduct, and there is fear of retribution.

Under the previous strategy, the enactment of the public institutions integrity plan was applied as a measure. This tool is a very useful method for institutions to identify the corruption risks and draft mitigation plans in order to minimize similar risks. To date, several institutions have completed integrity plans, out of which some are municipal institutions and some others are central level institutions. The system would greatly benefit from the approval of clear criteria as to who should approve an integrity plan, what do such plans include and the mandate of the public institution to conduct proper monitoring.

### **3. Rule of law and Judiciary**

Rule of Law and legal reform are among key requirements in the fight against corruption and other negative phenomena in Kosovo and remain a top priority in terms of creating an evidence of successfully prosecuted corruption offences.

Politicians have often dismissed the publics' perceptions of a widespread corruption and object it by referring to official statistics wherein the number of indictments for corruption offences is relatively low, thus arguing that the perception of corruption is an exaggeration and does not reflect the reality. Truth be told, the statistical data on court cases show that

corruption is not in the five categories treated by the justice system in Kosovo. In 2015, out of 20,077 criminal cases dealt with by Kosovo courts, only 200 or less than 1% were corruption offences, while a more or less similar trend was repeated in 2016: out of 23,766 criminal cases, only 284 were cases of corruption or less than 1.2%. This model continued in 2017; from January to June there were 12,680 criminal cases in Kosovo's basic courts, whereas only 151 cases were corruption cases or less than 1.2%. Moreover, out of these 151 cases, there none deriving from the Tracking Mechanism. Therefore, efforts should be made in increasing the number of general cases and the number of complex cases involving large sums of money and assets that are said to have been stolen.

The State Prosecution of Kosovo has specialized prosecutors on economic crimes, who work together with specialized investigators for criminal corruption offences in the Kosovo Police. The State Prosecutor (SP) during 2019 had at work a total of 166,633 reports - criminal cases (cases from the registers: PP, PPM, PPN, NJN, PPP, cases of AP and OCSP). Out of this number of cases: - 111,340 or 66.81% have been inherited/transferred as unresolved cases from previous years, and - 55,293 or 33.19% were received during 2019. During this year, from this number of cases: - 79,675 out of 47.81% 2 of cases at work during 2019 have been resolved or processed in the competent bodies and - 86,958 or 52.19% of all cases at work have remained unresolved. The efficiency of resolved cases during 2019 is: - 79,675 reports - criminal cases have been resolved in total; - 24,382 reports - criminal cases more than received during the year, or 44.09% reports - criminal cases more than received during the year.<sup>5</sup>

Joint investigative teams, led by prosecutors, and cooperating with law enforcement agencies, Financial Intelligence Unit, Tax Administration, customs officials and others, are used from time to time, however the same were not used to fully investigate a case from start to finish. Also, joint investigative teams and the special investigative techniques should be better utilized. The means and methods of detecting undue declaration of assets, which are used by the Anti-Corruption Agency, are regularly consulted by the investigating authorities and many cases have been brought to their attention by the Agency, however, none of these criminal complaints resulted in successful prosecution. The Financial Intelligence Unit monitors national and international politically exposed persons (PEPs) based on suspicious activity reports and suspicious transaction reports received by reporting entities.

A large number of releases and changes in corruption and financial crime cases suggest that more work needs to be done with the judiciary in explaining complex financial cases. Also, better coordination between prevention and elimination bodies is needed, particularly in improving the quality of criminal complaints filed by the preventive authorities, so that the police and the prosecution can act on them. The judiciary should also handle more financial cases in order to understand how investigative authorities gather evidence and how criminal financial enterprises operate so that they can tackle the large number of acquittals in such cases. Increased specialization by the prosecution and the police on investigating financial

<sup>5</sup> Annual Work Report by the Kosovo Prosecutorial Council - <https://prokuroria-rks.org/assets/cms/uploads/files/Dokumente%20Publikime/KPK/Raporte/Keshilli%20Prokurorial%20i%20Kosov%20v%20C3%ABs%20-%20Raporti%20vjetor%202019.pdf>

crime, seizure of property, and other advanced areas such as fraud scrutiny and forensic accountability would be extremely helpful. Better coordination between preventive and investigative bodies and training of preventive bodies on how to present useful data is needed.

#### **4. Public Procurement and Public Finance Management**

The National Audit Office has conducted audits of public institutions, identifying irregularities and has continuously published the findings with recommendations. In the opinion of the Auditor General, the Annual Financial Statements of the Government for 2019 present a true and fair view in all material respects. Budget preparation for years continues to be one of the Government's main challenges. Analyzes from our examinations have identified significant discrepancies between the planned budget allocations and actual amounts of these allocations. The actual amount of receipts at the end of the year was by 258 million lower than the receipts planned by final budget; i.e. budget outturn against planning was 89.6%. It was the same situation in the previous year budget planning as well. When it comes to planning of expenditures, they were projected under the final budget with a budget deficit of

around €37 million, but this projection was not implemented and the total amount of receipts spent by the yearend was 96.8%.<sup>6</sup>

The audit results disclosed that the financial reporting of 14 audited enterprises contain shortcomings and are inaccurate. Therefore, negative opinion has been given to 13 POEs, whilst only one has been given a positive opinion. In addition to poor reporting, their financial situation is difficult and the financing structure is quite unfavorable. The Financial Statements of 2019 show that six POEs have operated at a loss totaling to around €28 million, whilst eight enterprises have presented a positive financial result, with a symbolic profit of less than €1,3 million.

Recommendations given in the previous year have been partly addressed. Of the total number (921) of recommendations given, 370 or 40% were fully implemented, 113 or 12% were in the process of implementation, 312 or 34% were not implemented, and 126 or 14% were closed unimplemented.

The legal framework is largely in place. The public procurement system is largely transparent and accessible to the public. Procurement Review Body has the power to review and disqualify bidders from participating in public procurement for a period of one year for sending false information or falsifying documents.

Vacancies in the Procurement Review Board hinder its work by prolonging procurement activities and thus increasing the number of complaints.

Regulation of the legal basis and mechanisms for dealing with conflicts of interest in the complaints review procedures in the PRB, provides space for possible conflict of interest situations and non-transparency in the selection of public procurement experts to handle complaints in the PRB. This requires greater transparency and strengthened internal mechanisms for the prevention of conflict of interest.

All contracting authorities must present bid notices, which are then published on the website of the Public Procurement Review Body. The conflict of interest of bidders and contracting authorities is regulated by the Law on Public Procurement and prohibits the participation in the tender, for ten years, for any person who has been convicted in court for fraud or for a corrupt act. The undue "trading in influence" on a public procurement procedure is regulated by the Law on Public Procurement. The public procurement website is publicly accessible, and the option of searching is enabled. The website includes the following information: Prior notification, contracting notice, contract award notice, notice for termination of procurement activities, names of tender winners.

In addition, the e-procurement system is also applied, which has increased transparency, as it has centralized the procurement. The blacklist for bidders who are involved in violation of the Law on Public Procurement is not functional or not used.

<sup>6</sup> Annual Audit Report for year 2019: [http://www.zka-rks.org/wp-content/uploads/2020/09/Raportivjetor\\_Broshura\\_Final.pdf](http://www.zka-rks.org/wp-content/uploads/2020/09/Raportivjetor_Broshura_Final.pdf)

The Anti-Corruption Agency is also involved in monitoring public procurement procedures for potential conflict of interest and issues opinions on selected cases. The Agency receives information on allegations of corruption or conflict of interest from the bidders and after reviewing and concluding that there is sufficient information for a reasonable doubt that a criminal offence may have occurred, this information is sent to the prosecutor's office. Over the past years, opinions issued by the Agency have been partially implemented.

In the past, the mandate of the institutions responsible for public procurement has been challenged, alluding in overlapping of powers. However, the legal framework has been amended and now the role of ACA, PRB, PPRC, and the Contracted Authority in the field of Public Procurement is clear. This has resulted in better cooperation among the above-mentioned institutions. The lack of adequate monitoring of the implementation of separate contracts and the content of annexes to contracts remains concerning.

While transparency in public procurement and public finance management has been increased, the same has not been accomplished in terms of fraud detection, particularly by senior public officials. More efforts should be made in ensuring that identified irregularities are properly investigated by police and prosecutors.

Tax evasion, tax fraud and the black economy continue to pose major threats. The failure to collect taxes on such cases implies a loss in budgetary revenues, which when combined with corruption allegations, destroys citizens' trust in the government.

## VIII. CHALLENGES ON ACCOMPLISHING THE STRATEGIC OBJECTIVES

*Lack of political will to make the necessary changes:* without a serious and genuine political will, and strong and tangible support for all involved organizations, there will be no change to the legislative, institutional and practical fight against corruption.

*Lack of awareness and knowledge on the existence of the Strategy and its basic characteristics:* if targeted organizations within the country are not aware of the existence of the Anti-Corruption Strategy and their main obligations described in the strategy, they cannot apply it.

*Lack of effective implementation monitoring:* Effective monitoring allows targeted organizations to pursue their goals, and enables monitoring bodies to control, coordinate and improve implementation levels.

*Poor implementation of the Strategy:* justified and unjustified reasons that impede the effective implementation of the Strategy, the target organizations should understand that no reason is sufficiently strong to serve as a justification for not implementing the strategy.

*There is no accountability for the poor implementation by the public sector:* organizations and individuals from the public sector, who do not understand that the anti-corruption strategy and its action plan should be implemented, must understand that the same is reasonable, and otherwise they will be exposed to sanctions in case of avoiding their responsibilities.

*Lack of interest for implementation in the private sector and civil society:* the private sector and civil society organizations cannot be forced to implement the Strategy, therefore they should be motivated by the quality of solutions provided in the objectives, measures and activities of the Strategy and Action Plan.

## **IX. RECOMMENDED APPROACH**

The development of the strategy and definition of its objectives has been done taking into account all relevant factors. In this regard, budgetary possibilities, and personal and professional capacities of the implementing institutions of this Strategy have been taken into account. Furthermore, the objectives and activities have been defined after research was carried out and meetings held with various law enforcement and rule of law institutions, representatives of civil society and the media.

Implementation of defined activities implies finances, which are set out in detail in the Action Plan. As far as the state is concerned, the combating and prevention of corruption affects the improvement of Kosovo's image, namely by completing the findings in the European Commission Progress Report and other reports prepared by local and international organizations.

Failure to act and implement the strategy threatens the functioning of the rule of law system in Kosovo, and from non-state intervention against a harmful activity.

This strategy contains concrete measures and detailed activities of implementing agencies on the partial objectives and activities, namely describes the deadlines for its implementation.

## **X. IMPLEMENTATION, MONITORING, AND EVALUATION OF THE STRATEGY**

The implementation of the Strategy should be monitored on a regular basis and should be regulated by law. Therefore, all organizations assigned with a task to implement at least parts of the respective action plan will be required to report on a yearly basis regarding the implementation. In the event of reporting delays, all the measures laid down in the legal provisions covering the civil service shall apply, starting from the Law on Civil Service, Code of Ethics, and Law on Labor, Internal Regulations of relevant institutions and other provisions of positive Laws in Kosovo.

## 1. The role of the monitoring system

The process of implementing the Strategy will be the process of achieving strategic objectives, specific objectives and activities. Monitoring and evaluating the achievement of objectives and the effectiveness of relevant activities are an integral part of the strategy and key components of its implementation process. Monitoring and evaluation will help follow-up the implementation of the strategy to measure the level of achievement of its objectives in the process, to assess the need for change and to determine the changes, particularly with regard to the activities.

The monitoring process will be carried out through responsible institutions, through the Anti-Corruption Agency with wide participation of stakeholders. The main dimensions of monitoring and evaluation of the Strategy are:

- Institutional capacities;
- Monitoring indicators during implementation and until the end of the period;
- Information sources and measuring instruments;
- Distribution and use of monitoring and evaluation results.

## 2. Institutional capacities for monitoring and evaluation

The monitoring and evaluation system will be extended to all institutions responsible for achieving the objectives set out in the strategy and action plan.

Through the Division of Investigation and Strategy, ACA will be the main bearer and institution responsible for achieving the objectives. The Division of Investigation and Strategy of ACA will monitor the most important indicators that deal with the strategy. At the end of each year, it should prepare a professional report on the level of achievement of the objectives to be presented before the Director of ACA and to the Assembly of Kosovo.

Relevant ministries, through contact points and other local institutions responsible for the implementation of this strategy, will be responsible for monitoring and evaluating the activities they have as bearers, including prosecutors and courts. These institutions will periodically inform ACA through the Division of Investigation and Strategy so that the reports are unified and an annual report is prepared based on these reports.

Non-governmental organizations, civil society and the media will participate in monitoring and evaluating the Strategy at joint roundtables to be organized by the ACA. In these roundtables, civil society will submit observation reports on the projects and programs they have implemented.



Under international conventions, countries should cooperate with one another and relevant international and regional organizations in promoting and developing anti-corruption strategies. The Anti-Corruption Strategy will be published and accessible to the local and international public, while the anti-corruption institutions in Kosovo will be open to the cooperation with other countries and institutions in the region and around the world. Cooperation will mainly include areas such as exchange of information, exchange of good practices, harmonization of topics of common interest and organization of events aimed at enhancing the skills of these countries and institutions in relation to effective drafting and implementation of anti-corruption strategies.

### **3. Distribution and use of monitoring and evaluation results**

The outcomes of monitoring and evaluation will be distributed in order to inform the public about the progress made in advancing intellectual rights, namely achieving strategic objectives. After the drafting of progress reports, based on data and surveys, they will be distributed to other users, which are:

- State institutions,
- International partners,
- Civil society,
- Media,
- General public.

The main institution responsible for distributing the results is the ACA, namely the Division for Investigations and Strategies. Publication of the results will be done through the media or through seminars and roundtables, with conclusions on the progress of the strategy.

## **XI. ACTION PLAN**

The Action Plan has been developed within the general strategic framework determined in the National Strategy of the Republic of Kosovo. The Action Plan is in compliance with the general framework of the Strategy and has the following content:

- Strategic objectives; strategic measures;
- Concrete activities for realizing objectives and strategic measures;
- Responsible and supporting institutions for achieving every objective and activity;
- Deadline for each objective;
- Necessary financial sources for carrying out activities;

Indicators for each objective and activity accomplished. The Action Plan has been scheduled to be reviewed on annual basis under the mandate of the Anti-Corruption Agency; however, its amendment and supplementing may be done even earlier, depending on the situations and needs its amending and supplementing. The Action Plan will be updated through the review, work manual and will be translated into a specific document.

## **XII. PRIORITIES AND RESPONSIBILITIES**

Government of the Republic of Kosovo will oblige all relevant institutions mentioned as participants in this document to properly plan the implementation of measures mentioned in their medium-term and long-term, setting priorities and responsible institutions during five years of this strategic period, as determined in the Action Plan.