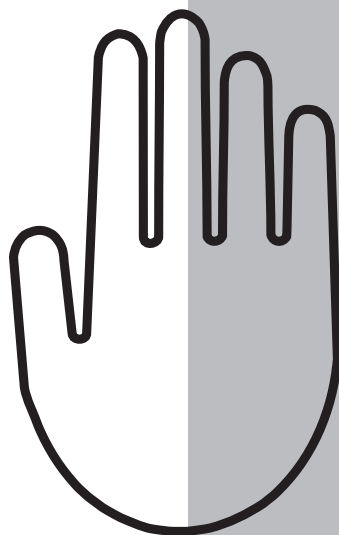




The Anti-Corruption Action Plan:

Social and Economic Necessity for Kosovo

October 2006



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Introductory Note

All PISG Prime Ministers, who have taken office, have determined the fight against corruption to be a top priority for Kosovo. This fight is a healthy and necessary exercise and will help restoring trust in the institutions and enabling the people of Kosovo to establish a sustainable democracy.

The basis for this aim was laid down with the endorsement of a comprehensive Anti-Corruption Strategy and of the Anti-Corruption Action Plan, which contains a set of measures on the legislative, administrative, judiciary and police level. It also provides for initiatives towards civil society, such as providing the public with information on the status of the fight against corruption.

Workshops that have been organised and are planned, are a joint effort of the OSCE Mission in Kosovo and the Office of the Prime Minister. The workshop sessions, for the first time, convened all stakeholders involved in implementing the Action Plan and civil society representatives.

This documentation, which also represents a joint initiative, provides recent information by local and international experts on the state of corruption in Kosovo, on its perception by the public and on the first steps in the fight against corruption. It explains to the public the root causes of corruption and how corruption can be eradicated. Furthermore, this documentation is supposed to help the Kosovo Institutions in the implementation of the Action Plan.

Corruption is not a fate that has to be endured forever. Once the reasons are known, they can be addressed. The Action Plan, the public discussions in the workshop sessions and this documentation endeavour to assist the Kosovo society in its efforts to establish a fully functioning democracy.

Werner Wndt
Ambassador
Head of OSCE Mission in Kosovo



Agim Çeku
Prime Minister of Kosovo




Table of contents

The Kosovo Anti-Corruption Agency

Hasan Preteni, Director of the Anti-Corruption Agency 8

Corruption in Kosovo – features, opinions and challenges

Muhamet Mustafa and Ekrem Beqiri, Riinvest Institute 11

Combating Corruption in Kosovo

Fron Nahzi, East-West Management Institute 25

Combating Corruption in Kosovo

Franklin Devrieze, OSCE Mission in Kosovo 31

The danger of corruption: Opinions and reality

Habit Hajredini, Director of the Office of Good Governance 38

The Kosovo Anti-corruption Agency

Hasan Preteni, Director of the Kosovo Anti-corruption agency

The Kosovo Anti-corruption Agency (KAA) is an independent body which exercises responsibilities determined by PISG "Anticorruption Law" No. 2004/34.

The KAA began its work in Kosovo on 17 July 2006 with the appointment of a director. The primary activities of the director are outlined in the Institution's Organigram and in the Rules of Procedure. The KAA, with the help of local and international institutions, shall function fully for six months following appointment of the KAA Director.

The KAA is a very important Institution. Its activities depend much on the support of local and international institutions. The main concern of all Kosovars-in the political aspect, is Kosovo's final status, while in the "internal" aspect, the main concerns are unemployment and corruption. War against corruption will be the main argument in front of the International Community as for how much Kosovars are ready to establish the state, to become aware, to join the civilized states of Europe, and to establish Democratic and Independent Institutions.

In order to carry out the KAA Director's duties over his/her first five year term, the KAA should be:

- a) Independent;
- b) professional;
- c) well structured;
- d) open to co-operation;
- e) transparent; and,
- f) well-paid.

a) INDEPENDENT

The body shall be Independent of interference by the political spectrum in its activities; professional staff are not to be influenced by political parties and special interests. KAA officials are not to have a criminal background and their families must demonstrate that they too are good Kosovo citizens.. The authority on which the KAA exercises its activity, should be separate from other governmental bodies and there must be no conflict of interest as this can pose a risk for failure to implement the law.

b) PROFESSIONAL

KAA staff should be well trained, well prepared and should have professional knowledge of the legal system. Special importance should be paid to training youth, the ones who have received their education abroad. Knowledge of a foreign language (especially English), excellent computer skills, understanding the legal system and special tasks in KAA, are outstanding parameters to achieve success. The KAA needs to prepare Kosovo's strategy against corruption

or to amend the existing one. Meanwhile, it should suggest systematic changes to the legal system and, by proposing these changes, decrease or prevent corruption. The KAA should take part (together with other NGOs and Associations) in preventing corruption. The body should also take part and provide advice while drafting the Ethical Code platform in the Public and Private Sector.

c) WELL STRUCTURED

The structure of the KAA should cover a wide array of tasks. The structure is to be outlined as per the tasks anticipated by the law. The structure is not to be copied from another Institution, however by using practices of the agencies engaged in the same activity in the region, tasks anticipated by the law and provided budget, in order to establish a functional structure. The structure of the KAA should be both horizontal and vertical. The horizontal extension implies a strong and stable centre in Kosovo level, while the vertical extension implies functionalizing the centres throughout Regions of Kosovo - up to the municipal level.

d) OPEN FOR CO-OPERATION

The KAA should co-operate with all local and international structures whose mission it is to fight corruption, as well as to learn from the achievements made by other countries which have successfully transitioned from a totalitarian government to a democracy. Further, the KAA should use the practices of countries that adhered or are about to adhere to in the EU.

The KAA should co-operate with educational institutions of the country and organize seminars and roundtables with the goal of educating a wider audience. The KAA should notify Kosovo's authorities for carrying out the obligations emerged from international acts and should provide them with recommendations on how to meet them. A special importance should be paid to co-operation with judicial and police institutions as they should treat criminal actions quickly and correctly.

Further, there should be discussion about establishing a professional body, such as in the judiciary, that shall deal only with the war against corruption.

e) TRANSPARENT

The work of the KAA should be transparent. To build trust with the general public, the body should publicize corruption-related actions undertaken at the high level. The KAA should set up a web page and ensure a telephone line, where Kosovo's citizens could report such cases.

f) WELL PAID

Those employed at the KAA should be well paid. Their salaries should be paid by the Kosovo Consolidated Budget – sufficient for the safety of their own, and for their families' well-being, and encourage engagement of professionals in it.

We can be very sure that only people who are well paid will not be corrupted and that they will give their maximum while performing their professional tasks.

The Kosovo Budget will be a good warrantor for KAA activity and for the indemnity of those who fight corruption. Financial means should not be spared in fighting corruption, because the results can be turned many fold. The professional staff should have special treatment both in the Prosecutor's Office and in the Courts

CONCLUSION

The war against corruption in Kosovo will be won only if it gains national importance and if this war is supported without any compromise by Kosovo's Institutions. The awareness of citizens should be raised to the European level. There must be the general conviction that the fight against corruption protects legal system, democracy and human rights, good governance, honour and social justice, competition, economic growth, and general trust in public institutions and the moral values of society. The war against corruption can be won if all cases are reported and if everybody is involved.

Corruption in Kosovo – features, opinions and challenges

Muhamet Mustafa, Riinvest
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Abstract

This paper serves as an effort to address and analyse some of the characteristics of the corruption phenomenon in Kosovo.

The present paper analyses the following: i) general factors that characterize the existing Kosovar society from the perspective of circumstances that contribute to the expansion of the corruption phenomenon; ii) results of the surveys on the corruption public perception; and iii) challenges regarding the fight against corruption.

The paper is part of a wider report, that was implemented with the financial support of the Kosovo Open Society Fund (SOROS) within a comprehensive project of studying the corruption in Kosovo.

1. Context

Corruption is a multidimensional phenomenon, which is as old as the human kind. It is in the nature of the human being to try to create privileges and personal benefits irrespective of the needs of other people even if that is detrimental to others. In this regard other segments of Kosovar society are not ruled out too.

The current existing context of corruption in general may be characterized as a result of the political and social system before the collapse of former Yugoslavia, especially under the circumstances of pre - 1999 war period and general trends that occurred after the establishment of the international administration in Kosovo. Being subject to unequal treatment unlike other nations in the former Yugoslavia, the Kosovo population to a great extent was forced to realize the rights through corrupting public officials at all levels. Such an “understanding” for the purpose of realizing the civic rights results in the continuation of “employment” of such practices after the 1999 war as well. After the end of war, the establishment of a new political and economic system, which was followed by numerous difficulties that a war torn society encounters and existence of power dualism between international and local institutions, resulted in a corruption prone environment at all institutional and non-institutional levels.

The impact of regional dimension must not be left aside since Kosovo is surrounded by an environment characterized by a great deal of corruption. This is because all countries surrounding Kosovo have gone through the same difficulties of transition, which creates a favourable environment for corruption and these difficulties have been emphasized in Kosovo – see frame 1.

Frame 1. Common characteristics for countries with high level of corruption

According to the Transparency International (TI), developing countries and a great part of Balkans are characterized by a high level of corruption. In this context, Kosovo is not an exemption. Current circumstances and processes in Kosovo, which are characterized by transitional socio-economic difficulties and armed conflict consequences, create favorable conditions for corruption in Kosovo.

Common characteristics ... for countries with high level of corruption are the following:

- ❖ Majority of these societies have suffered a totalitarianism in the past and/or have gone through civil conflicts.
- ❖ Although the majority of these countries have elected governments and are considered as democratic countries, their democratic institutions have different levels of development.
- ❖ The unemployment is high, whereby the state attempts to reduce unemployment by generating employment in the public sector.
- ❖ The employees in these sectors have low salaries, and depending on their household size, the majority are considered that live under or at the poverty threshold.
- ❖ Civil society and media are either undeveloped or weak.

These characteristics have not changed at all during last three years, hence the circumstances that favour the further increase of corruption exist yet. Therefore, PISGs must work intensively to eliminate all the circumstances that make the corruption possible.

Source: Early Warning Report #10, Riinvest, 2005.

Frame 2. Definitions of corruption

A more widely cited definition of corruption is the following “abuse of power for material benefit”.

Pursuant to the Kosovo Anti-Corruption Law corruption is “any breach of duty by an official person or responsible person within a legal entity and any activity of the initiators or benefactors of this conduct directed as a response to a service that directly or indirectly has been promised, offered, demanded, received or anticipated for himself or herself or for another person. “

2. Corruption dimension in Kosovo

The current situation of corruption in Kosovo was not recorded at the level, which would suggest accurately the priority fields, on which the short-term and mid-term anti-corruption strategy should be focused.

In general, there is a lack of data that would assess the volume and intensity of corruption in Kosovo.

By the beginning of 2004¹, the total number of criminal investigations against corruption / fraud / financial criminality was between 10 and 15 cases per year. During 2005 the courts addressed only 15 corruption cases.² This data should be more perceived as an indication of the lack of institutional investigation than as an indication of true dimension of corruption.

More information regarding the structure, level, and scope of corruption in Kosovo can be found in the surveys that were conducted so far entirely and partially on researching the perceptions of respondents belonging to various categories of corruption in Kosovo.³

Several fundamental characteristics of corruption in Kosovo that arose from opinion polls are described below.

The understanding of corruption

The success rate in preventing and combating the corruption hinges greatly upon an understanding of corruption by the public at large and its willingness to take part in these activities. Different nations have different mentalities regarding the corruption as various definitions of this phenomenon exist (see framework 2).

Despite the relevance of the understanding of the corruption by the public at large, the corruption has been subject to thorough research only in 2004 as part of a larger research conducted by UNDP.⁴ The results of the survey have been exhibited in Table 1.

Table 1. Opinions of respondents regarding what constitutes corruption

Action	Yes (%)	No (%)
Offering money to the police officer for the purpose of preventing the seizure of driving licence by the police officer	89	9
Receiving money from officials for the purpose of tax evasion	85	8
Exerting pressure on voters during elections through a physical threat or offering gifts in exchange for a vote	85	8
Providing additional money for lawyers that help the suspect to terminate his/ her case	82	11
Provision of money or service for public officials to "accelerate the process "	81	15
Abusing the official duty for the benefit of private business	78	11
Provision of information that should not be made available to the public at large for personal benefit	71	14
Intervening with the high executive official for the employment of a relative	68	29
Offering gifts to the doctor so he can provide special care for patients	64	35
Giving an to the municipal official for the purpose of obtaining a construction permit	57	34
Providing service for the purpose of taking an annual leave	57	35

Source: Combating corruption in Kosovo, UNDP, 2004.

¹ Government of Kosovo, Strategy against corruption in Kosovo, 2004.

² 10 cases have been solved, 15 cases are pending, whereas 10 have been transferred since 2004; *Koha Ditore*, 15 March 2006.

³ In Kosovo several opinion polls have been conducted: Corruption in Kosovo - Observations and Implications for USAID (MIS, 2003); Corruption and its impact on Kosova economy (Riinvest, 2003); Fight against corruption in Kosovo (UNDP, 2004); Mosaic of Kosovo – Perception of municipal government and public services in Kosovo (UNDP, 2003); Early Warning Reports (Riinvest, 2002-2005); IFES: Assessment and enhancement of civic knowledge on the legal system – Public opinion polls in Kosovo 2005 (USAID, 2006).

⁴ Combating corruption in Kosovo, UNDP, 2004.

Provided that the public at large has a sense to distinguish the corruption as an understanding, it is worrying the fact that every tenth respondent does not consider any of the actions listed in Table 1 as a corruption act! Especially the fact that a great percentage of respondents does not consider the interventions to employ their relatives, offering gifts to the doctor for the sake of special care, and provision of offer to obtain the building permit as a corruption act.

Relevant data exhibited in Table 1 indicate that Kosovo society is prone to be more corruption tolerant. Such a consideration is also corroborated by corruption index for Kosovo and several other Balkan states as exhibited in Table 2. The present table indicates that only in Albania and Macedonia the corruption is more emphasized than in Kosovo.

Table 2. Corruption indexes in several Balkan countries*

	Tolerance of society towards corruption	Propensity for compromise towards corruption	The pressure of civil servants for corruption	Personal inclusion towards corruption acts	Scope of corruption	Assessment of practical effectiveness of corruption	Expectations for coping with corruption
Albania	2.4	4.5	3.4	2.0	7.0	6.6	5.5
Bosnia and Herzegovina	2.0	2.9	2.5	1.5	6.0	5.9	5.0
Bulgaria	1.3	2.7	1.0	0.3	6.4	6.9	5.8
Macedonia	2.4	3.0	2.3	1.6	6.8	6.1	6.1
Romania	1.9	3.7	1.9	1.1	6.9	7.1	6.2
Croatia	2.2	2.6	1.4	0.6	5.3	5.8	4.8
Serbia	2.0	2.7	2.2	1.4	6.0	6.5	5.1
Montenegro	1.5	2.6	1.8	1.0	6.0	6.7	4.5
Kosovo	2.1	2.8	1.1	0.7	4.9	3.9	3.8

Source: MSI Corruption Survey, May 2003, and SELDI Corruption Index Report, April 2002

* Corruption indexes range from 0 to 10. The closer to 10 the corruption index is the worse the corruption situation is; the closer to value 0 the index is the better is the prognosis.

Corruption perceived as a societal problem

Some of the opinion polls that were implemented so far indicate that the Kosovar opinion perceives the corruption as one of the most important societal problems. The following are some of the perceptions.

In the question “which are three key problems that Kosovo is faced with?”, respondents of the survey conducted in 2003 as part of USAID project identified without doubt the unemployment as the biggest problem (85.8% of respondents). Corruption was ranged in the second place of the ranking order according to the relevance of the problem (38.9%), before poverty (32.9%), low income (30.9%) and high prices (30.3%).⁵

In December 2005, among 18 opinions that were provided as part of Early Warning Report (EWR),⁶ in the question regarding the greatest problems that Kosovo is faced with, Albanian respondents rank the corruption in the fourth place (6.3%), after unemployment (30.7%), Kosovo status (29.3%) and poverty (15.6%); Serb respondents do not perceive this as a problem at

⁵ MSI Corruption Survey, USAID, 2003.

⁶ Early Warning Report #12, Riinvest, 2005

all, whereby non-Serb minorities respondents rank it in the sixth place (2.1%) – see Table 3. As part of another opinion survey conducted by UNDP,⁷ respondents have ranked the corruption in the sixth place as one of the largest problems that Kosovo is faced with, much closer than the ranking that was ascertained by EWR.

Table 3. Opinions on the problems that Kosovo is faced with (%)

	Albanians	Serbs	Others
Infrastructure (roads)	1.4	1.9	1.4
Power supply	5.0	0.5	2.8
Urban planning (illegal construction)	0.5	0.5	0.7
Environment	0.3	0.0	0.0
Poverty	15.6	4.8	14.9
Prices	0.8	0.0	0.7
Healthcare services	0.3	0.5	1.4
Public and personal security	0.2	62.8	0.7
Education	1.1	0.0	1.4
Inter-ethnic relations	0.2	9.2	3.5
Unemployment	30.7	8.2	52.5
Uncertainty regarding Kosovo final status	29.3	7.2	14.9
Social problems	2.6	0.0	0.7
Missing persons' fate	2.3	1.0	0.7
Organized crime	0.8	2.4	0.7
Unsolved murder cases	2.2	0.0	0.0
Corruption	6.3	0.0	2.1
Antisocial behaviour (prostitution, drugs)	0.2	0.0	0.0
Other	0.1	1.0	0.7
Total	100.0	100.0	100.0

Source: Early Warning Report #12, Riinvest, 2005

Since EWR-të have been developed constantly since 2002, respective data indicate how the perception of respondents regarding the corruption as one of the largest problems that Kosovo is faced with changed over time. Figure 2 exhibits the relevant results of the surveys conducted with Albanian respondents during the period August 2004 – December 2005. This figure indicates that the percentage of Albanian respondents that perceive the corruption as one of the biggest problems has increased during 2005.

⁷ Combating corruption in Kosovo, UNDP, 2004.

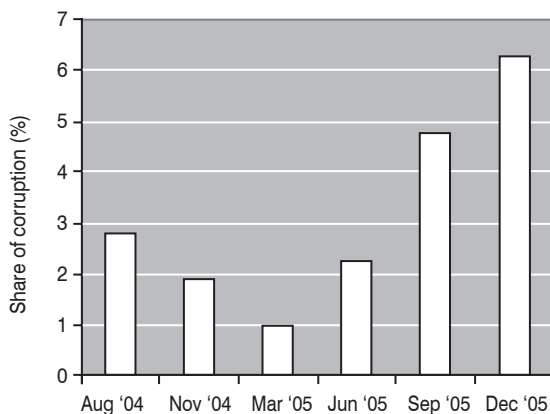


Figure 1. Corruption as one of the biggest problems in Kosovo
 Source: *Early Warning Reports, Riinvest, August 2004 – December 2005.*

Dimension of the corruption problem in Balkan countries

Although corruption problem is considered as one of the largest problems that Balkan countries are faced with, the intensity of the perception of respondents towards this problem varies from one country to another. According to a survey conducted in 2002 by SELDI in eight Balkan countries (Albania, Bosnia and Herzegovina, Bulgaria, Macedonia, Romania, Croatia, Serbia and Montenegro), corruption is dominant as a problem in Albania (69.4%), Romania (56.9%) and Bosnia and Herzegovina (48.3%)⁸. It must be emphasized that the unemployment problem is dominant in most of these countries and that the political stability is a great problem for these countries except Bulgaria, Romania, and Croatia. It is worth to note that inter-ethnic problems are greatly emphasized only in Albania.

Relevant data that are available for Kosovo regarding this matter are not entirely comparative with those of SELDI, since the number of offered opinions was not the same, whereas several questions although similar in meaning shared a different formulation.⁹ However, for the sake of comparison, the same opinions were taken from SELDI and EWR #12 and were rendered a common comparative denominator (entirety of options 100%). The outcome of this comparison was exhibited in Figure 2, whereby for abovementioned Balkan countries their average value was taken into consideration. The figure indicates that as far as in Balkan countries the corruption is ranged in the second place in the ranking order within comparable options in Kosovo, the corruption is ranged in the fourth place. This is because the unemployment, political stability, and poverty are considered as greater problems than corruption, respectively they are considered more dominant.

⁸ Corruption Index Report, SELDI, 2002.

⁹ In the SELDI questionnaire as an option of greatest problems that the country is faced with was offered the “political stability”, whereas in the questionnaires of EWR regarding the same phenomenon in Kosovo “uncertainty regarding the final status of Kosovo” was noted as significant.

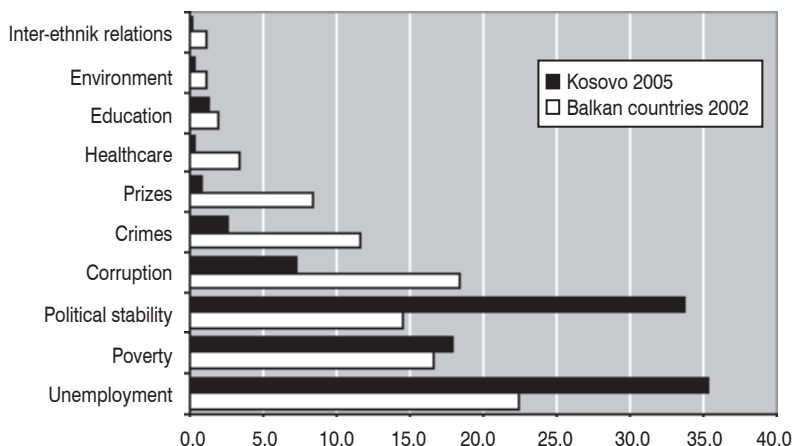


Figure 2. Greatest problems that Kosovo and other Balkan countries are faced with
Source: Corruption Index Report, SELDI, 2002; EWR #12, Riinvest 2005

Scope of corruption in public entities and institutions

Although public perception regarding corruption in different entities was subject to survey, there is no standardized form of research to ascertain these perceptions in a coherent way.

According to the MIS survey, the Kosovo Energy Corporation is perceived as the most corrupted public enterprise in Kosovo (around 78%).¹⁰ Among public enterprises the Post and Telecommunications of Kosovo is considered as very corrupted (55.2%). Perceptions regarding the corruption in other entities are also very high according to this survey – see Table 4. As seen from this Table, respondents are considered as business runners, lawyers, and political party leaders as very corrupted.

Table 4. Corruption perceptions in other entities and institutions

KEK	78.2
Business runners	57.0
PTK	55.2
Customs service	54.9
Hospitals	45.6
Lawyers	43.3
Political party leaders	33.7
Tax offices	31.8
UNMIK administration	31.0
Local courts	28.2
Judiciary	27.7
Prosecutors	25.2
UNMIK Police	24.5
University/ schools	23.0
Local administration	22.6

Source: MSI Corruption Survey, USAID, 2003

¹⁰ MSI Corruption Survey, USAID, 2003.

A significant part of these institutions are perceived as very corrupted by the business community as well. According to the research implemented in 2006 with the business community, in particular small and medium enterprises, among eight most corrupted entities the following were identified: KTA (64%), UNMIK (49%), Customs (48%), and international organizations (40%). However, as “very corrupted” the courts (38%) and healthcare (38%) have also been identified.¹¹

There are few polling activities that systematically registered the public opinion regarding the corruption in Kosovo in time frame for a long period in order to detect the changes of the public perception on this occurrence in different institutions , as well as the changes on the scale of corruption in general. Such changes of time frames could be followed only by realized polling activities performed by Early Warning Report (EWR) and Riinvest research SMEs.

The changes of public perception about corruption can be noticed on the table 5, where the polling results are shown for the period from November 2004 and December 2005 in the EWR. The figures on perception are shown as per ethnic background of the respondents. As it is shown in this table, KEK, KTA, PTK and Health are perceived by the Albanian respondents as most corrupted in both the November 2004 polling and December 2005 polling. The only difference is that in the December 2005 polling survey the Custom Services are ranked in the fifth place and International Organization in the sixth place, though in October 2005 the International Organizations in the fifth place, and the Custom Services in the sixth place. As in other area and in other different point of views, regarding the corruption there is a difference between the Albanian and Serbian respondents-see the Table 5. The difference between the Albanian and other members of ethnic communities (non-Serbian) is lesser.

Table 5. The respondent’s opinions regarding the corruption in Institutions –the corruption that appears in “high level” (%)

	November 2004			November 2005		
	Albanians	Serbs	Other	Albanians	Serbs	Other
KEK	64.1 (1)	56.6	41.3	65.5 (1)	60.6	64.0
KTA	55.8 (2)	3.46	19.4	37.9 (2)	63.0	30.1
PTK	42.0 (3)	33.7	8.9	37.7 (3)	54.2	37.0
Health	38.0 (4)	10.8	23.0	30.7 (4)	10.7	17.5
Customs	33.3 (5)	30.7	12.0	23.9	48.6	13.2
International Organizations	29.2	42.7	13.1	25.4 (5)	55.4	11.6
Courts	25.3	34.0	5.4	14.0	47.0	7.1
Central level Administration	24.1	25.5	5.0	14.4	52.9	5.6
Local Administration	21.4	16.1	7.1	11.8	26.3	5.6
UNMIK Police	21.8	24.7	7.1	19.9	47.3	3.5
NGO-s	15.7	36.3	5.5	9.5	51.7	12.1
Education	13.8	6.0	5.0	16.7	8.4	6.9
Banks	13.5	27.0	9.3	7.0	47.4	17.7
KPS	3.9	41.2	3.8	4.0	51.0	2.2

Source: Opinion Research, November 2004 and December 2005, Riinvest

The public perception regarding the corruption in the Governmental Institutions are in the high level comparing it with the law public perception regarding the corruption in the Public Service Institutions.

¹¹ 600 SMEs Survey, Riinvest 2006.

Based on the MSI polling of the year 2003,¹² around 40% of the respondents believe that all, or almost all the Governmental officials are involved in the corruption activities and around 55% of the respondents believe that the respondents are to offer some favour (bribe) to the public officials to resolve the personal problems successfully.

Regarding the UNDP research report on corruption in the Governmental Institutions, the respondents were very high for central level as well as for local governance. According to this research,¹³ the presence of the corruption in the Kosovo Government and the Presidency are evaluated to be at the same level, about 42% of the surveyed persons consider that these Institutions are “corrupted” 13% as “very corrupted.” The Kosovo Assembly is considered to be “corrupted” around 38% of respondents, and 11 % consider it as “very corrupted”. The level of perception about corruption in the local level is similar with the central Government: around 48% of the respondents consider their Municipal Government as “corrupted”, though 12% consider as “very corrupted.”

The circumstances that are in favour of corruption

Some of the polling surveys of the public opinion have performed research of the cause (source), respectively the circumstances that are in favour of corruption in the Kosovo society.

According to the 2004 UNDP research,¹⁴ the surveyed respondents have identified as primary cause of corruption low salaries of the officials in the public sector and that this causes corruption (around 63%) – see the table 3. other factors as options are offered and identified as almost inconsiderable: the desire of the officials to become rich very quickly (10%), the morale crises (7%), the legal system non efficiency (6%) and incomplete legislation (5%).

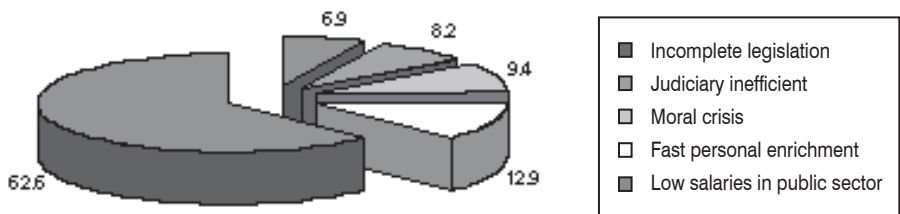


Figure 3. Causes (sources) of corruption

The 2003 MSI Corruption Survey has surveyed the public regarding the factors that are in favour of corruption.¹⁵ The results show that the reason for corruption is the low salaries of the public officials. Almost 91% of the respondents claimed that this is the main source of corruption, and regarding other issues the respondents were less stressed: lack of strict control of administration (34%), un efficiency of legal system (31%), the problems caused by the communist system era, (30%) and the motive to become rich in quicker way (30%). The standings show that, the low salaries are the reason and the possible cause for corruption about 42% of respondents.

¹² MSI Corruption Survey, USAID, 2003.

¹³ Kosovo Mosaic – Municipal governance perception and the perception of Public services in Kosovo, UNDP, 2003.

¹⁴ Combat of Corruption in Kosovo, UNDP, 2004.

Low salaries are identified as a circumstance that is in favour of corruption. Table 6 the indicators show the results of research performed by Riinvest with the business community in years 2003, 2004, 2006. as it is shown in this table, throughout these years, the low salaries are identified to be the possible cause of corruption (in 2006 around 32%). In 2006 non application of Law is considered to be one of the cause (around 29%), as well as the lack of Institutional mechanisms to combat corruption (18%).

Table 6. Business Community opinion regarding the source (cause) of corruption*

	2002*	2003	2005
Low salaries	40.9	43.0	32.2
Lack of ethics	9.4	8.1	13.2
Lack of Institutional mechanisms	20.0	20.8	17.8
Non application of Law	22.7	20.8	28.7
Other reason	0.4	0.3	2.0
No answer	6.6	1.8	6.1
Total	100	100	100

Source: MSI Corruption Survey, Riinvest, 2003- 2006.

**Analysis of Riinvest publications are dealing with data from surveyed persons regarding the business of MSI in the previous year.*

In 2005 a polling process is performed in order to realize the difference between broad public opinion and users of judicial services.¹⁵ While broad public opinion and opinion of users of judicial services on many views vary in small percentages, differences in terms of sources of corruption in courts are bigger. A greater consistency is shown in terms of payments or gifts made by ordinary people to turn cases to their benefit, where 49% of both categories believe that this factor constitutes a source of corruption – See table 7.

Bigger differences were expressed regarding influence of criminal groups, where on this influence were pronounced 58% of broad opinion and 27% of users of court services, where respective percentages were 38% and 12%.

¹⁵ MSI Corruption Survey, USAID, 2003.

¹⁶ IFES: Assessment and improving of citizens' knowledge on judicial system – Public Opinion Survey in Kosovo 2005, USAID, 2006.

Table 7. Broad public opinions and opinion of users of court services regarding sources of corruption in the Kosovo judicial system (%)

	Service users	Broad public
Payments or gifts made by ordinary people to turn cases to their benefit	49	49
Payments or gifts by lawyers	31	47
Influence of criminal groups	27	58
Influence of political parties	17	25
Influence of Government	12	38
Influence on ethnic basis	6	20
Influence of international organisations	4	13
Other	7	1
Don't know/ rejects	27	16

Source: IFES: Assessment and improving of citizens' knowledge on judicial system – Public Opinion Survey in Kosovo 2005, USAID, 2006.

Perceived and experienced corruption

In almost all public opinion polls or business community polls to date, can be noticed a great difference between the level of corruption perceived and personal experience related to corruption. Also, questions posed to respondents vary, thus there is no sound basis to compare different polls.

In MIS Survey 2003, asked whether they're asked any payments in exchange for providing services, the majority of respondents (32.2%) stated that doctors asked from them non-official payments, gifts or favours.¹⁷ After doctors, it is municipal officials (16.7%), lawyers (11.2) and judges (10.5%). However, asked about, if they gave payments by themselves in exchange for something, 3.5% of respondents stated that they gave cash to public officials, 2.3% that gave gifts, whereas 5.3% made some other favours.

Surveys conducted within Early Warning System in Kosovo has conducted polls on this issue from two point of views: putting conditions for providing services by public officials and level of corruption based on personal experience of respondents. In Tables 8 and 9 are presented relevant data about one year time period: July 2004 – December 2005.

Table 8. Putting conditions for providing services by public officials with the bribery, gifts or other favours (%)

	Albanians	Serbs	Others
July 2004	8,5	26,5	10,9
November 2004	11,8	23,7	8,3
March 2005	11,0	28,0	-
June 2005	15,7	26,1	11,4
December 2005	11,5	-	16,0

Source: Riinvest Surveys, July 2004 – December 2005

¹⁷ MSI Corruption Survey, USAID, 2003.

Table 9. Level of corruption based on personal experience of respondents (%)

	Albanians	Serbs	Others
July 2004	11,7	21,0	12,1
November 2004	12,1	14,8	15,0
March 2005	15,0	29,6	12,8
June 2005	18,3	25,0	11,1
December 2005	14.1	17.1	19.1

Source: Riinvest Surveys, July 2004 – December 2005

According to claims of Albanian respondents, level of corruption based on their personal experience within over one year time period has increased from 11.7% in July 2004, to 18.3% in June 2005 and then it marked a decrease to 14.1%. The similar situation is when it comes to putting conditions for providing services by public officials by giving bribes, gifts or other favours – compare Tables 8 and 9.

Also, according to UNDP Survey, only 15% of respondents base their assessment of corruption at various institutions on their personal experiences, while citizens are more likely to create their perceptions based on conversations with their friends and relatives (32%) and based on information received from media (29%).¹⁸ It should be noted that the difference between perceived corruption and that personally experienced is not the same about all institutions. In figure 4 are illustrated these differences. There need to be pointed out data on personal experience of respondents related to corruption in hospitals and local governments, where they go more frequently and there they've faced more corruption in these institutions.

Surveys with business community show that relation between a personally experienced corruption and of perceived one is almost twice as large as that in broad public. According to these surveys, in 2003, experienced corruption was counted to 26%, in 2004 around 30%, while in 2006 above 32%.¹⁹ This data is of particular importance, as corruption in field of business hinders economic development, hereby the general social development as well.

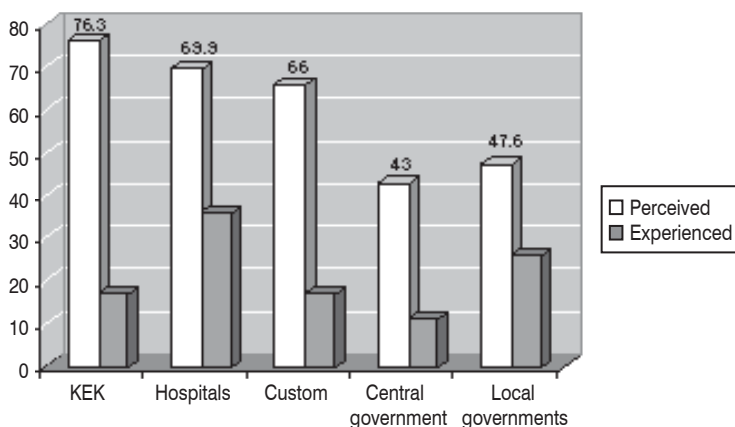


Figure 4. Differences between perceived and experienced corruption in respondents (%)

¹⁸ Combating Corruption in Kosovo, UNDP, 2004.

¹⁹ Survey with 600 SMEs, 2003-2006, Riinvest.

3. Challenges of Corruption

From the data provided above, which is analysed from surveys, we can notice that there are a lot of issues to combat in the sphere of corruption. Success in combating corruption largely depends upon political will and institutional mechanisms built for this purpose. In this sense, we cannot say that there is either lack of political will, or part of anti-corruption mechanisms, especially articulated and established during and after 2004. So far the following steps have been undertaken in building legal and institutional infrastructure in the area of combating corruption:

- In December 2003, was established Anti-Corruption Inter-ministerial Working Group;
- In March 2004, was approved Anti-Corruption Strategy in Kosovo;
- In May 2005, the Assembly of Kosovo has adopted Law on Anti-Corruption, also signed by SRSG;
- In early 2006, is approved Anti-Corruption Action Plan;
- Numerous laws are adopted relating to combating corruption;
- In April 2006 was constituted the Council of Kosovo Agency for Anti-Corruption.

In addition to this, in the function of combating corruption are also the Office of Auditor General and Ombudsperson as oversight entities.

In this view, we can say that significant steps have been taken, however, legal framework needs to be completed and amended in parts where their weaknesses have been noticed.

The current concept for combating corruption in Kosovo, represents a model of preventive policies, supposedly even various institutions themselves at central or local level and civil society in a broad sense should combat corruption in accordance with existing legal infrastructure. The largest part of activities to be undertaken have been specified in the Anti-Corruption Action Plan (further in the text: the Plan). In this Action Plan were outlined several tenths of various measures which need to be fulfilled within time period 2006-2007, and also stakeholders that need to implement the Plan have been identified. The Plan contains:

- Specific anti-corruption measures;
- Legislative anti-corruption measures;
- Judicial and law enforcement measures;
- Measures to reform public administration;
- Measures in the field of public finance and economy;
- Media, civil society and public participation;
- Capacity building and education measures;
- Other measures of institutional reform.

As you can see, the Plan has a preventive character and it covers all spheres where corruptions needs to be prevented. However, in current circumstances of social and institutional development in Kosovo, a large part is considerably falling behind in implementing this. Thus, constitution of the Council of the Anti-Corruption Agency itself, an essential entity for combating corruption has been delayed for about six months, while appointment of a Director of the Agency for a month later. In addition to this, the Agency is not yet equipped, neither with premises where it needs to carry out its activity, nor with financial means necessary for conducting its activities. Taking into account the fact that almost none of the ministries have fulfilled half of the measures outlined in the Plan, it is clear that preventing/combating corruption in Kosovo is still to face big challenges ahead.

Framework 4. Scope of Activities of the “RIINVEST” Institute

Institute for Development Research “RIINVEST” is a private non-for-profit research organisation, which conducts its activity from 1995. Its mission is to promote modern economic development of Kosovo based on entrepreneurship philosophy. As the first research institute “think tank” in Kosovo, RIINVEST has established a strong position, partnership and alliances with various segments of society in Kosovo, as well as with various international partners and organisations. Research activities and other services of RIINVEST are conducted according to international standards.

Number of employees has increased from 5 at the beginning to 29 employees. So far 15 young researchers have been supported for their Masters and PHD degrees in universities in Great Britain, Sweden and Germany.

Research activities: 45 study reports on various aspects of development and economic policies; 30 researches and surveys in the field with more than 26.000 respondents and 6 annual reports on development of SMEs; 17 municipal strategies of local economic development.

Conferences and meetings: 6 international conferences, 24 sessions of RIINVEST International Forum and Roundtables with around 2.900 participants.

Education activities: 8 summer schools with 200 participants, 24 workshops and training seminars with about 2.900 participants.

Other activities: 12 business plans and feasibility studies for Kosovo and foreign companies.

Publications: 57 reports and other publications in Albanian and 37 in English with a circulation of 28.450 copies.

Combating Corruption in Kosovo

By Fron Nahzi, Vice President for Programs, East West Management Institute, Inc.

By the end of this year Kosovo is expected to become an independent state. Like many newly independent states in the region, Kosovo will face its share of challenges in establishing a legally and fiscally sound state. A land-locked country situated in one of the most underdeveloped regions of Europe, Kosovo will be vying for much needed investment and international aid. Given this competition, Kosovo cannot afford to repeat its neighbors' mistakes of government corruption, incompetence and intolerance.

In the last decade of Western economic, political and military investment in the southern Balkans, the international community and local leaders have emphasized regional stability, but failed to address some of the specific destabilizing problems facing the region, including corruption. High unemployment combined with corruption has created a fertile recruiting ground for both militias and organized crime groups. Most people cannot survive economically without links to organized crime. With little, if any, prospect for employment or available markets, the public is held hostage to multi-million dollar mafia-run businesses. Gangsters are increasingly asserting themselves in the region and are poised to extend their influence further into Western Europe. Most profits come from moving illegal goods (drugs, cigarettes and people) with safe passage through the various regional fiefdoms.

Kosovo is faced with many of the same corruption issues found in most developing societies. However, Kosovo is more prone to corruption due to its uncertain governing structure, complicated by the unresolved status of Kosovo. Since 1999 Kosovo can be described as a stateless state governed by United Nations Mission in Kosovo (UNMIK), which is mandated by UN Security Council Resolution 1244. The resolution provides the Special Representative of Secretary General (SRSG) with absolute administrative power, and, in accordance with 1244, the SRSG is accountable only to the UN Secretary General. The parliamentary elections further complicated matters: newly elected officials are accountable to both the general public and to UNMIK, but lack the legislative powers found in most parliamentary systems. Consequently, elected Kosovars have complained that the transfer of power was too slow; yet they have failed to address such issues as the shortage of electricity, unemployment (an estimated 55%) and the rise in crime and corruption, especially trafficking of drugs, gas, cigarettes and humans.

Despite the aforementioned problems, there have been some positive developments. The NGO community has taken a pro-active approach to combating corruption. At the municipal level, NGOs have successfully pressured their elected officials to hold more public debates and public briefings. At the central level, NGOs have led campaigns that resulted in the adoption of a more transparent budget process. NGO coalitions have successfully advocated for the opening of parliamentary commissions to the public and have led to the adoption of a freedom of information law. While the media has actively reported on corruption, most journalists, fearing reprisal, have failed to name names in their reports. But for the most part many anti-corruption initiatives ran out of steam, due in part to frustration with navigating the complexities of Kosovo's unique governing structures combined with the lack of response from both the PISG and UNMIK. The apathy of both the local (PISG) and the international (UNMIK) governing bodies towards citizen efforts to demand accountability and failure to take action against corrupt officials has dampened enthusiasm to actively combat corruption in Kosovo.

In the past year Kosovo has accelerated the privatization process and more powers have been transferred to the PISG from UNMIK. With this we have also witnessed an increase of accusations of corrupt government officials in awarding contracts and licenses, and trafficking cigarettes. Unless Kosovo takes immediate steps to combat corruption, Kosovo could fall into the same pit as many of its neighbors where the principal power is no longer the government or the people it represents but rather it is “the money power”. The people of wealth are the same as those who control the government. To prevent the same fate in Kosovo, it is necessary to establish and implement a significant framework of laws, practices, governance procedures and controls along with a mobilized civil society, private sector and mass media. Kosovo has the opportunity to learn from its neighbor’s mistakes and success in combating corruption. Most successful anti-corruption programs are characterized by three key elements:

- I. Effective prosecution and punishment of corruption-related phenomena
- II. Prevention, i.e. the enactment of sound laws
- III. Social education in the widest possible sense of the term

Below are sample lists of common problems and best practice solutions that may be undertaken by Kosovo’s private and government sectors in combating corruption at the central and local government levels, business sector and at the parliamentary level²⁰.

The final status of Kosovo is expected to be resolved by the end of the year. This will result in a dramatic increase in the workload and responsibility of Kosovo’s government. The new Kosovar government, tasked with implementing the policies derived from the agreements reached in Vienna and building governing institutions, must take immediate action to prove that it is committed to combating corruption at levels.

²⁰ Portions from the sample lists of problems and solutions and key elements developed by the working groups at the EWMI/USAID March 2002 conference *Fighting Corruption in Kosova: Lessons from the Region*.

Fighting Corruption at the Municipal (Local Government) Level

Problems	Solutions
<ul style="list-style-type: none"> • Lack of transparency in: <ul style="list-style-type: none"> ➤ Drafting the budget in absence of public debate ➤ Lack of transparency in decision-making ➤ Tenders ➤ Misinformation given to citizens with regard to municipal property and the regulations • Low salaries • Unresolved property issues <ul style="list-style-type: none"> ➤ Legalization of illegal construction ➤ Unregulated public procurement ➤ Lack of documentation and urban plans within the municipalities • Lack of transparency in the work of political and financial committees • Business permits issued by the municipality • Nepotism – Employment of family members • Lack of laws • Lack of monitoring of the local government by citizens • Citizen awareness and education regarding authority of the local governments • Engaging in conflict of interest activities • Government bureaucracy 	<ul style="list-style-type: none"> • Modify the rules and procedures of the municipal assembly to allow public participation in budget planning. • Publish the municipal budget in the media • Adopt a law on public procurement • Adopt a law on corruption and define sanctions against individuals involved in corruption • Define through an act what constitutes a conflict of interest for municipal officials • Define through a specific act what measures are to be taken against officials who hire administrative personnel on the basis of family or party affiliations • Create a committee, external to the Municipal Assembly, to monitor budget implementation • Incorporate into the Municipal regulations a requirement that the members of oversight committees for projects financed by the Municipal Assembly must not be employees of the municipal administration. • Adopt a regulation that prohibits the Central Fiscal Authority from working as book-keepers/accountants for private businesses • Require the municipality publish quarterly expense reports • Provide anti-corruption training for the administration • Identify private versus state owned property

Fighting Corruption in Central Government

Problems	Solutions
<ul style="list-style-type: none"> Lack of transparency 	<ul style="list-style-type: none"> Adopt a freedom of information law that ensures public access to government information, government decision-making, except when there is a clear reason why this information should not be released
<ul style="list-style-type: none"> Financial disclosure 	<ul style="list-style-type: none"> Adopt a financial disclosure law. Public employees would be required to disclose on a yearly basis all of their financial interests. This would apply to managers and directors of government run utilities and government funded utilities Conduct an audit of government owned enterprises to ensure that they are being run properly.
<ul style="list-style-type: none"> Procurement law 	<ul style="list-style-type: none"> Divide the regulatory function from the operational function; the person or organization responsible for enforcing procurement rules should not be engaging in any procurement activities themselves.
<ul style="list-style-type: none"> Tenders 	<ul style="list-style-type: none"> Selection committees at the operational level, i.e. the committees that are actually selecting the winning tender, should be staffed by government representatives and independent NGO observers, to open up the process and ensure that the process is being conducted legitimately.
<ul style="list-style-type: none"> Independent regulatory agencies 	<ul style="list-style-type: none"> Should include some observers from NGOs and civil society, to see that regulations are being properly enforced.
<ul style="list-style-type: none"> Transparency 	<ul style="list-style-type: none"> Provide public clarity about who within Central government is responsible for what; Dissemination of information on the organization and operations of Central government to the public so they know whom to address when they have a problem or issue.
<ul style="list-style-type: none"> Lack of accountability 	<ul style="list-style-type: none"> Creation of an independent Auditor General and creation of departments on anti-corruption within each ministry to police ministries. The Auditor General will have the authority to police the ministries and the government and report directly to the Parliament. Ministries and agencies Central government should be held more responsible to report to an Auditor General or in the case of procurement to a procurement regulator.

Fighting Corruption at the Parliamentary Level

Problem	Solutions
<ul style="list-style-type: none"> • Conduct of members of Parliament – MPs must be ethical and transparent in all their actions. 	<ul style="list-style-type: none"> • Code of conduct for MPs, with enforcement power • Establish an Ethics Committee to ensure enforcement • Require financial declarations by MPs and include penalties for providing false information on the financial declaration
<ul style="list-style-type: none"> • Conflict of interest 	<ul style="list-style-type: none"> • Create conflict of interest statutes • Establish a gift ban – public officials should not be allowed to accept gifts or they should at least be required to disclose this information to the public and let the public decide
<ul style="list-style-type: none"> • Corruption of public companies and public officials 	<ul style="list-style-type: none"> • Bribery statutes and a code of conduct, enforceable for all people that are associated with agencies that take public money; if convicted of an act of bribery, that person would never again be allowed to work in a public agency
<ul style="list-style-type: none"> • Parliamentary oversight UNMIK and the Executive Branch 	<ul style="list-style-type: none"> • Question time- MPs can ask questions of the government; • Auditing Committee with the authority to question the executive branch agencies regarding expenditures • Whistle-blower statutes that protect those people who expose corruption and ensure that they do not lose their jobs • Sunset legislation – every two to three years, programs funded by the government should undergo a performance evaluation to ensure that these programs are effective and that money is being well spent through these programs.
<ul style="list-style-type: none"> • Funding of political parties 	<ul style="list-style-type: none"> • Create an independent agency to review the actions of parties and candidates
<ul style="list-style-type: none"> • Business practices – contracts and procurement 	<ul style="list-style-type: none"> • Assembly should have clear guidelines regarding contracts and procurement; government oversight of this process
<ul style="list-style-type: none"> • False documents – building permits, IDs, vehicle registrations 	<ul style="list-style-type: none"> • Incorporate into the criminal code; criminal sanctions, fines and penalties; ensure strict enforcement and adherence to these regulations

<ul style="list-style-type: none"> • Money laundering 	<ul style="list-style-type: none"> • Strong regulations and criminal penalties for money laundering violations
<ul style="list-style-type: none"> • Monopolies and price fixing 	<ul style="list-style-type: none"> • Adopt adequate legislation on anti-competitive practices, monopolistic practices, price fixing and collusion; requires an oversight function to monitor and police these kinds of activities

Fighting Corruption in the Business Sector

Corruption increases costs for enterprises, and at the same time decreases profits, this decrease in profits decreases the motivation to continue in business and the businessman and may eventually decrease the level of staff or close the enterprise completely.

Problems	Solutions
<ul style="list-style-type: none"> • Delays in receiving permits • Relations with the tax officials and the corruption involved • Corruption in the tendering process • Lack of urban strategic plan, which results in ambiguities regarding property and awarding of permits; those seeking permits usually try to resolve the ambiguities in a corrupt manner. • Privatization process may be accompanied by a high level of corruption • Lack of effective governance at the municipal level 	<ul style="list-style-type: none"> • Impose transparent regulations with regard to giving of permits, establishing clearly defined time frames, respecting the established time frames, and providing the reason when a permit is denied. • The business community, i.e. the private sector, needs to point out to government agencies cases of corruption ; businesses that refuse be included in this practice, may pay a high price by being denied access to certain markets • Raise the level of information and quality of corporate governance enterprises, by insisting on the development of management functions within these enterprises. • Clearly define the concepts of partnership and conflict of interest. • Ensure that property rights and the rights of shareholders, especially minority shareholders i.e. those who have fewer shares, are respected. • Develop reporting instruments and internal audit procedures, as well as undergo independent external audits. • Create a web page concerning the issue of corruption. • Encourage dialogue between government and the business community.

Combating Corruption in Kosovo

Franklin De Vrieze

Kosovo's governing system

Kosovo is being administered under the civil authority of the United Nations Interim Administrative Mission in Kosovo (UNMIK), pursuant to U.N. Security Council Resolution 1244. UNMIK was established in June 1999, following the conclusion of the NATO military campaign that forced the withdrawal of Serbian military, police, and paramilitary forces from Kosovo.

After a period in which UNMIK constituted the only governing authority in Kosovo, parliamentary elections were held in October 2001 and an inclusive government took office, bringing together all major Kosovo-Albanian political parties. The first transfer of competencies from UNMIK to the Provisional Institutions of Self-Government (PISG) allowed for the creation of key ministries such as Education, Finance and Economy, Energy and Mining, Trade and Industry, and Public Services. Following the second parliamentary elections in October 2004, a new coalition government took office, while a vocal opposition in the Assembly scrutinized the performance of the government. In March 2006 the government was enlarged with the new Ministers of Interior and Justice.

The political situation in Kosovo remained stable in 2005 as United Nations (UN) Special Envoy for Standards Kai Eide worked to complete his review. Under the leadership of UN Special Envoy Marti Ahtisaari the process for determining Kosovo future political status started in November 2005, with the expectation that the determination of Kosovo's status by the end of 2006 will contribute to economic recovery, political stability and enhanced accountability by the PISG.

Corruption in Kosovo

Substantial democratic and bureaucratic deficiencies hamper the performance of the PISG. The existence of corruption has been an issue of concern for some time. In 2003, an USAID commissioned report stated: *"Despite public opinion and discussions in the mass media that presume very high levels of public corruption, it does not appear that corruption is a pervasive force in the governance process and it does not appear to significantly undermine the capacity of government to perform its duties and to deliver services in a significant way."* However, the survey specified that Kosovo's public opinion perceived as the most corrupted bodies: KEK (the electricity company), the business community, PTK (post and telecommunication), customs, hospitals and lawyers. The Serbian population believes that many Kosovo institutions are more corrupted than does the Albanian population and other communities. An optimistic approach remains evident in 2003, as suggested by the authors of the same report: *"Corruption does not appear to be as widespread among public officials, the demands of corrupt officials are lower and the extent of citizen involvement in corrupt transactions is lower in Kosovo than in other countries of South Eastern Europe."* However, a clear warning was put forward, that corruption problems may intensify as more powers are transferred to the Kosovo Provisional Institutions of Self-Government from UNMIK. On the other hand, it was also noted that the UNMIK administration was a poor role model when it comes to transparency and accountability.

Three years later, in January 2006, in a recent analysis on Kosovo's investment climate,

the U.S. State Department sounds less optimistic and assessed that corruption seems to be widespread and that there is a lack of cohesive and forceful action against it, although the Kosovo government did launch an anti-corruption campaign in August 2005. It is said: *“Corruption in Kosovo is widespread at all levels throughout government and private industry, and adversely impacts commercial development. There are frequent reports about irregularities in public tendering procedures. Tax evasion is high, and many local and foreign businesses are deeply concerned about the professional ethnics of government officials who allegedly take bribes or extort firms in exchange for licenses, permits, movement of paperwork or routine public services. Traditional lending and business practices tend to favor connections and nepotism over creditworthiness. Rumors of politically motivated racketeering abound.”* In its recent report on transition in Kosovo, the International Crisis Group points at *“cronyism which seems to inform government choices of candidates for the new boards of the public utilities and regulatory bodies”*.

Within the next couple of years, Kosovo society will be faced with the choice to bring corruption under control, or it will be so entrenched that it will become impossible to tackle. During last year, substantial political will in the PISG was noted to tackle the corruption problem before it gets out of control. UNDP’s anti-corruption survey in Kosovo, based upon the Corruption Perceptions Index of Transparency International, gives insight into the population’s awareness of existence of corruption, its negative impact on economy and political life and the popular support to combat it. Also Kosovo media and civil society become more insisting to deal with the issue, revealing certain corrupt practices. *“Corruption is neither so pervasive nor so deeply ingrained as to render anti-corruption efforts hopeless,”* concludes the UNDP report.

Combating Corruption

In March 2004, the Government adopted a well elaborated “Anti-Corruption Strategy”, which is ambitious and comprehensive. The Government’s Anti-Corruption Strategy has recently been put in practice through the Anti-Corruption Action Plan, a 25 pg. detailed matrix of measures linked to target groups and stake holders, responsibilities, timelines, indicators of success, obstacles and challenges. The Action Plan is aiming at new legislation, law enforcement, public awareness and civil society involvement, and is to be realized during 2006-2007. The Office of Good Governance in the Office of the Prime Minister is coordinating and overseeing the initiatives.

Taking into account the Government’s Action Plan and other existing instruments against corruption, the following overview of initiatives to combat corruption in today’s Kosovo can be put forward.

Anti-Corruption Legislative Measures

As part of Anti-Corruption Strategy, the Assembly of Kosovo adopted the Anti-Corruption Law in April 2005, which was promulgated by the SRSB in May 2005. The Law foresees measures against corruption in the field of administrative investigations of public corruption, publicizing most serious violations of the law, nepotism in recruitment, conflict of interest, standards on giving/acceptance of gifts in public administration, etc. The Law also foresees the establishment of the Kosovo Anti-Corruption Agency. This Executive Agency will have a Council overseeing its work. Membership of the Council of the Anti-Corruption Agency has been voted upon by the Assembly in February 2006. The effective functioning of the Anti-Corruption Council is to be scrutinized closely, possibly by one of the Committees of the Assembly of Kosovo.

Many recent regulations and laws are relevant for an anti-corruption policy, such as Laws on Foreign Investment; on Payment Transactions; on Standards for Financial Reporting; on Liquidation and Reorganization of Legal Persons in Bankruptcy Transformation. Related to problems with tendering procedures one needs to point at the recently proposed revision of the Public Procurement Law. The revision reflects EU standards in defining a clear division between the executive and regulatory functions and is yet to be passed by the Assembly of Kosovo.

In addition, the Government's Anti-Corruption Action Plan foresees, amongst others, legislation enabling extra-budgetary funding of public administrative bodies with specific auditing procedures, law on financing of political parties, law on money laundering, comprehensive legislation on stock market, insurances and gambling, banking system and accounting, law on conflict of interests, law on economic competition, cartels, monopoly and price fixing, secondary legislation on witnesses' and whistle blowers' protection. The Government also intends to systematically analyze the existing and proposed legislation regarding their compatibility with the anti-corruption legislation.

Judicial Measures and Law Enforcement

Since 2003, a Financial Investigation Unit (FIU), staffed by Italian *Guardia di Finanza* officers, has the mandate to conduct financial inspections of public bodies and public enterprises as well as other organizations receiving public funds and launch criminal investigations. The FIU is a specialized law enforcement unit with full police powers that investigates and prosecutes corruption and other economic crime in public and publicly-funded. According to the European Anti-Fraud Office (OLAF) and UNMIK Pillar I, the *Guardia di Finanza* is the most appropriately qualified and experienced specialized EU police service to operate the FIU in Kosovo. The FIU operates under the reserved powers of the Special Representative of the UN Secretary General under UNSCR 1244.

The Government's Anti-Corruption Action Plan foresees a series of measures to strengthen the judicial system in dealing with corruption challenges, amongst others, strengthen the public prosecutor's position in pre-trial corruption investigation proceedings, provide policy advice to relevant agencies with reference to strengthening judiciary reform process, increase the number of judges and increase number of police officers dealing with corruption and ensure their proper qualifications, revise remuneration systems for police officers, public prosecutors and judges.

Public Administration Reform Measures

A vital component of an effective anti-corruption strategy is the development of functional complaints mechanisms and appeals procedures in the area of civil administration. In terms of senior public servants in Ministries, the Senior Public Appointments Committee (SPAC) and Independent Oversight Board (IOB) have been set up.

The Government's Anti-Corruption Action Plan foresees initiatives to ensure and protect the independence and autonomy of these bodies. The plan also foresees drafting of internal rules for reporting of acts of corruption within public administration bodies, establishing or appointing bodies that will decide on violations of code of ethics, and consistent use of public tenders in personnel administration for senior professional posts in administration and public companies.

Public Finance and Economy Measures

Transparency and accountability in dealing with public finances are central to any anti-corruption strategy. The Government's Anti-Corruption Action Plan dedicates a special chapter to this, and foresees, amongst others, initiatives to encourage/oblige business to work with receipts, to connect all business with Kosovo's Tax Administration through an electronic billing system and periodical analysis of procedures for public arrangements, bilateral and multilateral assistance, subsidies, loans or other usage of public funds.

In line with recent proposals of Transparency International it is suggested to initiate "integrity agreements" between Kosovo's administration and public funds acquirers. It means an agreement is signed between the administration and the bidder's CEO not to pay or offer any bribes. Bidders who violate their commitment will be sanctioned with loss of contract, liability for damages and the government could also blacklist the offender from all government business for a certain period of time.

The Office of the Auditor General is a Kosovo institution under the Constitutional Framework, established in 2003, which evaluates and audits spending by budget organizations under the Kosovo Consolidated Budget. During 2005, the Office of the Auditor General performed confined audits of procurement and asset management in most of the municipalities and in several Ministries. The Office of the Auditor General conducted an extensive audit of the 2004 KCB, published in February 2006. The Government's Anti-Corruption Action Plan expects the Auditor General to conduct financial audits of governmental agencies (currently underway in the Assembly of Kosovo) as well as public corporations (PTK, KEK, RTK, etc.)

Media, Civil Society and Public Participation

A crucial element of an anti-corruption campaign is to raise public awareness. Based upon the Law on Public Access to Official Documents, civil society and journalists can gather a lot of information relevant to identify possible corruption patterns. Secondary legislation enabling the effective implementation of the Law has recently been issued.

Strengthening investigative journalism is vital to bring corruption cases to the forefront. The Government's Anti-Corruption Action Plan mentions analysis of legal possibilities for strengthening the independent position of journalists and emphasizes their responsibility in case of violations of the law.

Another essential part of preventing corruption is engaging civil society into a broad based anti-corruption campaign. Municipalities could hold consultations to adopt and implement local anti-corruption action plans. The campaign can focus on collecting and distributing accurate data on corruption in a local area. UNDP also suggests conducting public outreach activities to increase the legitimacy of PISG towards the Kosovo-Serb community.

Implementing the Action Plan

The Government's Anti-Corruption Action Plan is comprehensive and based upon extensive consultations in the political arena and with specialized international organizations working in Kosovo. However, its full implementation is not guaranteed. It will require that needed funds are being made available, and that the political commitment and interest within the PISG is being kept and increased. Identifying qualified human resources and proper coordination between

responsible institutions will be necessary to keep the timeline for implementation by end of 2007.

It goes without saying that addressing the root causes of corruption patterns is vital to ensure sustainability of all mentioned anti-corruption initiatives. To improve economic situation in Kosovo is a condition to enable addressing the root causes of corruption. In practical terms, this means enabling higher public servants' salaries, more targeted funding of Kosovo entrepreneurs and the development of commercial skills for Kosovo's youth. Improved access to higher quality public services such as primary health care and education is vital to address the conditions generating corruption in Kosovo's society.

The “Accountability Policy” as the International Community Approach in Kosovo

Kosovo has a complex governing structure, with local and international actors having mandates which sometimes overlap or are unclear. Consequently, citizens are not always able to determine who to hold accountable for corruption allegations.

As part of the democratization process in Kosovo, the international community supports PISG anti-corruption initiatives. However, it is worthwhile to take note of the experiences in Bosnia and Hercegovina where the process of frequently imposing decisions that the international community feels are in the public interest is being evaluated as doing little to promote the aims of democratization, either in strengthening political institutions or in encouraging public participation in the political sphere. In an article on anti-corruption strategies and democratization in Bosnia and Hercegovina, David Chandler warns that *“anti-corruption strategies can easily neglect the political realities of coalition- and consensus building necessary to political life. The public interest is shaped through the democratic process and is not something that can be decided or defined by an international administrator, no matter how well-intentioned.”* The author stresses that the process of externally imposing policy on political representatives, through economic sanctions and the dismissal of non-cooperative elected officials ensures that there is no possibility of an emerging public interest as there is no negotiation between representatives.

Taking into account “lessons learned” from the interventionist policy in Bosnia and Hercegovina, the international community took a more cautious approach in Kosovo. Economic sanctions and the dismissal of non-cooperative elected officials rarely takes place in Kosovo. Instead, a combined set of policies has been deployed, aimed at building capacity, setting a comprehensive legal framework and ensuring accountability.

In order to develop a framework to improve the functioning of society and enhance its living conditions, a series of “Standards” were designed. Implementation of the Standards is aimed to give direction to the development of the society in the years to come.

The “accountability policy” currently in place in Kosovo measures the progress, achievements and obstacles in the implementation of the standards of good governance. The accountability policy aims to encourage PISG to take the lead in policy development and implementation, while holding the PISG accountable to specific standards of good governance and respect for minority rights. The international community monitors the PISG performance, assists in building capacity of its structures, advices on policies and policy frameworks, and – only as a last resort – intervenes in specific cases. The assumption underlying the accountability policy is that local ownership is absolutely essential for the sustainability of governance in Kosovo.

As part of the process in determining the future status of Kosovo, an international civilian presence will continue to operate in Kosovo in the years to come. The international civilian presence will operate within the framework of decisions to be taken at the UN Security Council later this year. Preliminary consultations between UNMIK, EU, OSCE and NATO/KFOR give indications that most likely the future international civilian presence will be a light presence that works in partnership with the people, leaders and institutions of Kosovo. A key priority for the future presence, next to the implementation of the status settlement, will be working with institutions in fulfilling the Standards in line with the accountability policy.

In this framework, it is possible that an international police presence will be needed in Kosovo, for a limited period of time, beyond a determination of the status. Such presence would then focus on some key areas, such as, but not limited to, organized crime and high level corruption. The EU is currently looking into resources and time-line for deploying an EU-police force in Kosovo, which would gradually take over from the current international UNMIK-police.

The continued presence of international judges and prosecutors might be essential in the same sensitive areas for a certain period to come. These international persons will deal with the sensitive cases which local judiciary is not yet able to address, while also building up the capacity of selected local prosecutors and judges to deal with these cases in the future.

Through the accountability policy, the international community in Kosovo tries to guarantee certain standards of rule of law and democratic functioning. In this framework, support and advice is given to the PISG anti-corruption initiatives. The transition to a future international civilian presence will most likely continue to put emphasis on anti-corruption measures, as outlined in the Government's Anti-Corruption Action plan, however with a firm lead and responsibility with the PISG. As is case for other Balkan countries, effective implementation of the anti-corruption policy is one of the key considerations for the EU to begin contemplating effective accession. With a Kosovo-wide consensus on the aim to integrate into the EU, anti-corruption needs to remain high on the agenda of political institutions, administration and judiciary, civil society, media and Kosovo's people at large.

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The danger from corruption: Opinions and reality

By Habit Hajredini, Director of the Office of Good Governance

Kosovo has faced a lot of challenges due to the economic and political changes that took place. It looks like both the Kosovo Government and the International Community are committed to combating and reducing corruption. Economic and social changes are slow and above politically the focus is on independence. Making the institutions more efficient is also a paramount objective.

Danger

The current economic and political situation in Kosovo has encouraged corruption to a certain degree and since neither civil society nor media are strong enough, they can not take full responsibility for combating corruption. The risk comes from the **economy** (overall privatization, denationalization, unregulated market), **high rate unemployment, lack of free market**, (monopolies, state owned company shares and activities of unregulated economy); **but it also comes from fragile institutions** (clientelism, nepotism, formalization, bureaucracy) and overall unsustainable social norms (values) (on employment, huge consumption and aspiration, lack of orientation). The corruption phenomenon reflects consequences, which are constantly growing because of the democratization. The corruption is not an incident but a perpetual hindrance and part of the system.

The problem of this phenomenon is unique in Kosovo because of the unresolved status. This problem has emerged due to the totalitarian regimes, the ethnic divisions in the past, but due also to international management and control of Kosovo.

In this perspective corruption is a real problem for Kosovo. This is why we have unregulated public appointments, scandals in media or external monitors. The fact that we can not measure the extent to which corruption is spread in Kosovo, does not mean that we can not be certain that it hampers the businesses, keeps the foreign investors out and discourages local entrepreneurs.

In addition, downplaying the negative role of corruption will discourage the politicians to implement the measures for fighting it: so, whether the corruption is inherited or created, whether it represents a moral erosion as well as who is to be blamed more, is not the real issue. What counts is what is being done to combat and eliminate corruption. Therefore, we are fully aware of the burden inherited from previous political systems, especially the dark systems: privileges granted to those who are obedient, benefiting of certain individuals in the name of ideals, the fact that everything can be achieved through connections and influence, since for those in power devotion and obedience mean more than work and innovation.

However, we also know that other countries have similar problems; corruption will never be completely eliminated, still we are confident that we will never sit and wait but we will fight it with all our might.

Corruption and its origin

Corruption has been part of the society ever since its existence. It has been part of our collective activities during different periods of our life. The reason why we spent time on studying the corruption as a practice is not only because it undermines the economic system of a society, but that it also destroys the moral foundations and values of a country. What does "corrupting"

mean – corruption means to spoil someone’s moral to achieve certain ends; to get someone to infringe the law and code of conduct in order to offer people illicit services.

There are various definitions of “corruption”. However, in most cases the term is vested with specific features of the country where it appears.

Many authors have compared it with the foul in football. Systematic corruption generates economic costs by eliminating positive initiatives, political costs by undermining institutions and social costs by unfair and unjust redistribution of wealth, enriching people who do not deserve to become rich. When corruption undermines the ownership rights and the rule of law, investment and social initiatives shrink. Corruption exists all over the world. However, corruption tends to be more devastating in poor countries, where they can undermine the ownership rights, law and investment initiatives.

Why has corruption become such a big issue in today’s world?

There are many reasons, but I would like to mention a few of them here : Corruption has become so widespread that it has caused a great dissatisfaction in public opinion. The situation may have deteriorated because the international trade and communication with the world has increased and as a consequence people and civil servants are exposed to economic and seductive opportunities, which are not well thought of in advance (issuance of licenses to foreigners). In most cases corruption appears because the changes implemented by institutions are ill-conceived, namely, they are not done through free and fair competition, but instead they are done with internal, illicit and dirty agreements through political trafficking. It may well be that corruption is at the same level as before, however our conscience and tolerance towards these practices has changed. On the other hand, it may be that, because it makes people feel better they tend to find justification for failing to implement the long awaited economic and democratic reforms by blaming corruption.

In the framework of building a democratic society in Kosovo, democratic and functional institutions, rule of law and legal state, the preventive measures and combating corruption as a form of organized crime are among the most important program priorities of Government, as these are the basic conditions for creation of legal state, functional institutions and democratic society.

In this context the government is cooperating with diverse institutions, agencies, donors, international organizations and local NGOs to address corruption on both local and regional level. This way they are trying to decrease corruption through drafting policies, establishing mechanisms and support to overseeing (monitoring) activities, as well as through education of its citizens about their role in preventing and combating corruption.

Controlling corruption is a precondition for good governance and it’s also a huge challenge for all government all over the world. Oftentimes in countries in transition corruption appears as a common (normal) phenomenon in the life of the citizens and this of course is a serious impediment for the functioning of public institutions.

In Kosovo, corruption has still not penetrated and been rooted in society as deep so as to make our efforts to combat it worthless. Even the surveys made with the citizens of Kosovo, show that, regardless of their ethnicity and socioeconomic status, they consider corruption as

unacceptable.

Therefore, corruption is defined as follows: *Corruption is a violation of duties of civil (public) servants or responsible persons in private and public sectors as well as the benefiting from such activities, caused directly or indirectly as the result of promise, offered, expected or given reward for yourself or other persons.*

Therefore, the Government of Kosovo is preventing and combating corruption through its policies in several ways:

- a. Adoption of proper legislation;
- b. Education (rising the awareness of the public opinion), and
- c. Establish new mechanisms for preventing and combating corruption.

Suffice to say that certain mechanisms have been created and certain measures have also been undertaken in order to effectively fight corruption.

Particular attention has been paid to the improvements (advancement) of the system for increasing transparency and accountability of governmental institutions. In order to increase transparency, the government has approved the Administrative Instruction on implementing the Law on Access to Official Documents.

Uprooting corruption in Kosovo requires not only institutional and legislative reforms, but also a long term engagement to change the culture (stance) against corruption in Kosovo. The efforts to reduce it will be integrated in the priorities of the Government of Kosovo in all of its sectors.

Both Government of Kosovo and Kosovars are aware that in the efforts to combat corruption many actors should be included in taking responsibilities to address various aspects of this complex problem. Therefore, this ought to be a real cooperation of all elements of the society be they in public sector, private sector or all other important sectors.

Taking into account the importance of building a democratic society in Kosovo, the proper representation of the will of Kosovo people in the process of building and developing functional and democratic institutions, rule of law and legal state, ensure equal treatment and protection of human rights and adopt regulations compatible with European and international standards and norms, the Government of Kosovo has acknowledged the need to establish legal instruments and government policies in our society where all citizens will be treated on equal footing.

Corruption is one of the main challenges and dangers which directly attack a democratic society and the rule of law. Therefore, controlling corruption is of a paramount importance and a great challenge to ensuring good governance for all governments of the world. Prevention and combating corruption as a form of organized crime, is one of the main priorities of the Kosovo Government.

The Office of Good Governance in the Office of the Prime Minister is mandated to monitor and advise ministries, create policies for good governance, human rights, equal opportunities, gender issues as well as to advise and give recommendations to the Prime Minister and other ministries on the aforementioned policies. It also has a crucial role in activities against corruption within the PISG.

ESTABLISHMENT OF INSTITUTIONAL ANTI-CORRUPTION MECHANISMS IN KOSOVO

The institutions of Kosovo have undertaken concrete steps on issues related to prevention and combating corruption as follows:

1. Drafting of an Anti-corruption Strategy
2. Establishment and functioning of anti-corruption inter ministerial working group
3. Anti-corruption legislation
4. Anti-corruption Action plan
5. Anti-corruption Public Campaign
6. Anti-corruption Agency

The Anti-corruption strategy

In March 2004 the Government of Kosovo approved the Anti-corruption Strategy, under the coordination of the Office of Good Governance/OGG, the working group, UNMIK structures, International Agencies, and civil society. This Strategy elaborates some 150 preventive measures in the fields of economy, legislation, public administration, politics, media, civil society etc.

The Anti –corruption interministerial working group

With the government decision of 09.10.2003 an anti-corruption interministerial working group was established. This working group includes representatives from all governmental ministries, including the Department of Justice and the UNMIK Legal Office. The working group is lead by the Director of the OGG/OPM and aims to draft anti-corruption policies and strategies.

The Law on anti-corruption

Kosovo Government approved the law on anti-corruption, as initiated by the OGG/OPM, and supported and facilitated by the European Agency, GTZ, local and international expertise.

Anti-corruption Action Plan

The OGG/OPM drafted the Anti-corruption Action Plan in partnership with the Council of Europe, UNMIK structures and Civil Society. Moreover, on 25/26 October 2004, the OGG/OPM, in association with the Paco Impact Project of the Council of Europe organized two days workshop on the development of the Action Plan for implementation of the Anti-corruption Strategy of Kosovo. Inception draft of the Action Plan was presented on 21/22 February 2005. So far local and international experts have contributed to these workshops. The Anti-corruption Action Plan in Kosovo was approved by the Council of Ministers. The Plan aims to implement the Anti-corruption Strategy, it anticipates objectives and concrete actions to prevent and combat the corruption, defines institutions in charge, timing to complete assigned duties and indicators of the success.

Anti-corruption public campaign

The OGG/OPM and its partners have launched a broad anti-corruption campaign to strengthen the role of civil servants and ordinary citizens in combating corruption. This campaign is a key aspect of a manifold approach on combating corruption. The campaign is lead by a Steering Committee under the leadership of OGG/OPM and a co-leader from Civil Society. The Steering Committee introduces foreseen cooperation between different actors interested in combating corruption in Kosovo, by including leaders within the Government and Civil Society. This Anti-corruption Public Campaign aims to assist the implementation of the anti-corruption Strategy. To this end subgroups were established to design and carry out activities in the fields of advocacy, education in municipal and central level as well activities enhancing media awareness, training of civil servants and forums in Municipalities to lay down local Action Plans to combat corruption.

Anti-corruption Agency Council

The Assembly of Kosovo in its session of 23 February 2006 (in conformity with Article 19.2 of the Law on Anti-corruption) made a Decision (no. 02-946-1/06) on appointment of the members of the Anti-corruption Council with two years mandate.

This Council is established to exercise direct oversight on the Agency. It consists of nine members, three of them appointed by the Assembly and one representative appointed by the President's Office, the Supreme Court, the Office of the Public Prosecutor, Local Authorities and Civil Society. The Council scrutinizes the work of the Agency on a regular and comprehensive basis and oversees assets of the officials working for the Agency. The Director of the Agency reports to the Council every six months in relation to the content and extension of the assets' oversight and the Agency findings related to conflict of interests, bestowals and completed enquiries. The Council is assigned professional duties and provided technical conditions for carrying out its work.

Anti-corruption Agency

The Assembly of Kosovo in its session of 17 July 2006 appointed the Director of the Agency. Pursuant to the Article 51.2. of the Law on Anti-Corruption the Agency shall start operating following the director's appointment.



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