

AN INSTITUTIONAL APPROACH TO GOVERNANCE AND CORRUPTION IN KOSOVO

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Abstract

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The main purpose of this paper is to analyze the activity of various state bodies which by implementing the law and bylaws protect the rule of law, democracy and human rights, honesty and social justice, and how these bodies are influenced by factors of various aspects of corruption, such as incompatibility between holding public office and carrying out profitable activities for officials, restrictions on the acceptance of gifts related to the performance of official duties, supervision of their assets and persons in close contact with them. Although corruption is widely and publicly discussed, the clearest definition is that corruption constitutes an abuse of office for private gain (The World Bank Group, 1997). To analyze this phenomenon, we will analyze the data published by the Anti-Corruption Agency (ACA), the data published by the Kosovo Special Prosecution Office, the data published by the EU progress report on Kosovo, as well as the published data by the Courts. Data analysis concludes on descriptive statistics, tables, and graphs of criminal reports, processed cases, and court decisions. Given that, corruption is severely damaging the country, we believe that corruption is the main obstacle for Kosovo to move forward in the dialogue on visa liberalization and get a positive response regarding the Stabilization and Association Agreement (SAA) (Transparency International, n.d.). The study concludes that corruption is widespread in the main institutions of the country and its high presence in the judiciary is a very worrying issue. This paper is of great importance for policymakers, officials, scholars as to the processing, publication, and sanctioning will enable this phenomenon that has become a new way of governing to be stopped and the state to be built for society and to belong to society (Bekim, 2017).

Keywords: Law, Legal Institutions, Law Enforcement, Corruption, Republic of Kosovo

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1. INTRODUCTION

Although corruption is a worldwide phenomenon, it has received particular attention in transition economies perceived as countries with high levels of corruption (Borošak & Šumah, 2018). This paper focuses on the patterns of corruption in the post-

transition economy as a separate and independent part of the Serbian regime, sharing the initial institutional framework at the beginning of the transition process. The evolution of countries has been diverse, offering interesting opportunities to discuss potentially different avenues of corruption and its manifestation as corruption is extremely

difficult to assess due to its elusive nature. Due to its elusive nature, the measurement of corruption also attracted considerable attention for research among scholars (Ledeneva, Bratu, & Köker, 2017). Corruption and money laundering are key indicators of bad governance, economic stagnation, and social injustice whose effects severely damage the country's economy (Ullah, 2020). They are universally seen as threats to democracy, human rights, and the rule of law — threats so great that they are not defined as criminal offenses in the Criminal Codes of the member states of the Council of Europe. However, corrupt behavior is very resilient and tends to present in various forms. Therefore, the successful fight against economic crime requires unwavering commitment and a sustained effort on the part of public authorities. Corruption continues to be a challenge to institutions and society in Kosovo and a major obstacle on the path to achieving sustainable political, economic, and social development of a state. The prevention and fight against corruption which will empower and empower the rule of law (Discretion, n.d.) is an obligation arising from Kosovo's membership in international anti-corruption organizations, such as the United Nations Convention against Corruption, the Council of Europe Criminal Law Convention, the Council of Europe Civil Anti-Corruption Convention, and other anti-corruption standards.

Despite the progress made so far, Kosovo, like other countries in the region, continues to face difficulties in the Rule of Law sector, namely with shortcomings in the judicial system, internal affairs, and access to justice. Deficiencies in law enforcement cause the emergence of irregular functioning of state institutions which is manifested in activities that are not based on provisions and principles but on the subjective preference (unconsciousness) of officials who with their illegal decisions and actions seriously violate the interest and purpose public. Weaknesses in law enforcement and misuse of the law is an attempt to bring to light the situations that are present in the decision-making process which is a complex process that always involves illegal elements, while control by various institutions can be a step to end this phenomenon that has invaded all state institutions and bodies (Pečarić, 2018).

Various international reports (Technical Documents of the Kosovo Economic Crime Project (PECKII) and Progress Reports on Kosovo by the European Commission) and national strategic documents highlight the need for a proactive state including the contribution of citizens and civil society through various mechanisms of influence engagement in improving the efficiency of the police, prosecution, and the judiciary in general, especially in preventing and combating corruption and organized crime (Pečarić, 2020), as an attractive foreign investment policy which has spread to transition economies and especially to Southeast Europe, while corruption is their main obstacle (Apostolov, 2016).

In the global ranking of the index regarding the perception of corruption in the countries of Europe and the Western Balkans, Kosovo ranks in an unfavorable position with 36 points and now ranks 95th out of a total of 176 countries. Therefore, the topic raised in this study is essential because it

addresses the problem of governance and the obstacle to its economic growth. It is, therefore, in Kosovo's interest to improve its image in the fight against corruption and the prevention of corruption.

Regarding the various local and international reports regarding corruption and perception of corruption in Kosovo, the Kosovo Anti-Corruption Strategy 2019-2023 has been drafted within the Kosovo Anti-Corruption Agency (ACA), which has divided the primary sectors to which it will be requested. Greater accountability and full transparency in the performance of duties and mandates of the respective institutions. Also, based on the identified problems and challenges, measures and activities have been proposed which have not more effectively envisaged the means and methods of preventing and combating corruption. As a result of the problems and challenges identified and based on the activities and measures set out to combat and prevent corruption in Kosovo, the Strategy is divided into the following sectors:

1. Public Political Sector.
2. Public Administration (State Administration and Local Government).
3. Law Enforcement and Judiciary.
4. Public Procurement and Public Finance Management. With decision No.

The strategy has been prepared based on the legal provisions of Administrative Instruction No. 02/2012 on procedures, criteria, and methodology for the preparation and approval of documents and strategic plans for their implementation and pursuant to Article 16 of the ACA Law, No. 03/L-159, in cooperation with the Government of the Republic of Kosovo and other governmental and non-governmental institutions.

The paper aims to examine comparative analysis of the contribution of different forms of corruption in different bodies and institutions. The main purpose of this study is to analyze the efficiency and impact that the competent authorities have in preventing corruption, starting from the criminal charges of the Anti-Corruption Agency to their processing and their sanctioning by the competent courts.

Research questions in this study include:

RQ1: Are the competent bodies for the prevention of corruption ineffective in preventing corruption?

RQ2: Will the processing of corruption cases before the court end with convictions or will they be acquitted considering that corruption is considered a criminal offense and for the same is punishable by imprisonment under the Criminal Code of Kosovo?

The hypotheses of this study are:

H1: The bodies in charge of preventing the phenomenon of this phenomenon have not been shown to be effective, considering that this phenomenon is growing and not being eradicated from the system of government.

H2: Criminal charges for corruption before the repressive courts end with acquittals or are replaced by fines or parole.

H3: The citizens of Kosovo believe that only with the influence of the international factor will Kosovo be built as a state of law and the rule of law.

The confirmation of the hypotheses is done by analyzing the various reports of national and international bodies, as well as by analyzing the decisions of the courts after the conclusion

of the court proceedings initiated on the basis of the criminal charges of the Prosecution and the Anti-Corruption Agency.

The structure of this paper is as follows. Section 2 reviews the relevant literature. Section 3 analyzes the methodology that has been used to conduct an empirical analysis on the presence of corruption in certain bodies by certain actions. Section 4 presents the data and results. Section 5 presents the discussion and Section 6 presents the conclusion of the study.

2. LITERATURE REVIEW

Many authors are of the opinion that anti-corruption bodies represent a “new kind of institution” which in the last four decades has increased globally. Then there are some features that are common to all of them, including the following.

Anti-corruption bodies, public or publicly funded, established as permanent bodies with concrete and sole purpose, to fight corruption, institutions that have repressive and preventive measures (Meagher, 2005). Their last characteristic is also the basis for their division into two types of organs, repressive and preventive (de Sousa, 2010).

Anti-corruption bodies carry out their task of preventing corruption through education and spreading awareness among citizens, while repressive anti-corruption bodies have not only educational and preventive but also investigative authorizations, respectively authorizations to detect and prosecute perpetrators of criminal offenses related to corruption (ACA, 2017). Even in cases where anti-corruption bodies are authorized to conduct certain investigations, there is a lack of measures they can take. At the end of their investigative proceedings, they submit the data and findings to other public bodies or prosecutors who decide independently whether to initiate an indictment based on the knowledge obtained in that form (Quah, 2009). On the other hand, there are examples when the preventive bodies against corruption can take personal measures, such as issuing public warnings, respectively initiating the initiative for dismissal of the official to the body that appointed him, or conducting the misdemeanor procedure (Quah, 1999). But the difference between these measures and prosecution is obvious.

Speaking of anti-corruption bodies of other countries as preventive bodies we can count:

- Special Prosecution Office against corruption and organized crime and the Independent Investigation Unit, as constitutional bodies (Law No. 95/2016 on the Organization and Functioning of Institutions to Fight Corruption and Organized Crime);
- Commission for Prevention of Conflict of Interests of Croatia (Law on Prevention of Conflicts of Interest, Croatia¹);
- Commission for Prevention of Corruption in Slovenia (Act on Integrity and Prevention of Corruption²);

- Anti-Corruption Agency in Montenegro (Law on Prevention of Corruption, Montenegro, Sl. List CG, No. 53/2014 142/2017 — Decision of the US (Prevention of Corruption Act of Montenegro));

- State Commission for Obstruction of the Commission in Northern Macedonia (Law on Prevention of Corruption and Conflict of Interest (“Official Gazette of RM” No. 12/2019)).

In Kosovo, the Anti-Corruption Agency is an independent body established by law. The Agency was established in July 2006, and became operational on February 12, 2007, and is responsible for implementing the state policy for preventing and combating corruption in Kosovo. The mandate and competencies of the Agency are defined in Article 6 of the Law on the Anti-Corruption Agency (Law No. 03/L-159 on the Anti-Corruption Agency).

The scope of the Agency is focused on drafting and monitoring the implementation of the Anti-Corruption Strategy and Action Plan, investigating and detecting cases of corruption, efforts to prevent corruption, and raising public awareness on the progressive steps towards creating a society where rule of law. The competencies of the Anti-Corruption Agency are:

- initiates and conducts the procedure of detection and preliminary investigation of corruption and forwards criminal reports for cases of suspected corruption in the competent public prosecutor’s office, if for the same case no criminal procedure is conducted;

- supervises and prevents cases of conflict of interest and takes measures provided by special law;

- supervises the assets of senior public officials and other persons, as provided by special law;

- supervises the acceptance of gifts related to the performance of official duties and undertakes the measures provided by law;

- the agency conducts the preliminary investigation procedure in case of suspected corruption ex officio or according to information received from natural or legal persons, whose investigations must be completed within 6 months from the moment of initiation of the investigation;

- the agency in the exercise of its function if it encounters difficulties seeks assistance from the police;

- if after the completion of the preliminary investigative procedures it is ascertained that there is sufficient data and/or reasonable suspicion that the case may constitute a criminal offense, the Agency shall forward the case to the competent prosecution for further proceedings.

Pursuant to Article 12 of Law No. 03/L-159 on the Anti-Corruption Agency, the Agency submits the annual work report for the previous year to the Assembly of the Republic of Kosovo at the Committee on Legislation, Mandates, and Immunities. The purpose of the annual report is to present the activities, achievements, and challenges of the Association of Kosovo Municipalities (AKM) Anti-corruption agency for 2019.

The activities that this report focuses on are as follows (Anti-Corruption Agency, 2019):

- Implement the legal framework in the field of anti-corruption.

- Results from the process of declaration of assets of senior public officials and registration of received gifts, publication of registers of forms of

¹ Act on Prevention of Conflicts: <https://www.zakon.hr/z/423/Zakon-osprije%4%8Davanju-sukoba-interesa>

² https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Slovenia_Integrity%20and%20the%20Prevention%20of%20Corruption%20Act_2010_en.pdf

declaration of assets by senior public officials on the official website of the AKM.

- Prevention and treatment of cases of conflict of interest during and after the exercise of public office of senior public officials and other officials.

- Results of corruption prevention during the monitoring of public procurement activities.

- Law enforcement and handling of cases in the field of signal protection.

- Forwarding criminal reports to the competent prosecutor's offices, forwarding requests for initiating disciplinary proceedings for suspected administrative violations.

- Education of public officials and awareness-raising activities for citizens on the legal framework and current mechanisms responsible for preventing and combating corruption.

In carrying out its mandate and exercising its competencies, the ACA is based on the primary and secondary legal framework.

The basic legal framework, but not limited to, according to which the ACA carries out its mandate is as follows:

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

- Law No. 04-L-050 on the declaration, origin, and control of property of senior public officials and declaration, origin, and control of gifts for all officials.

- Law No. 04/L-228 on amending and supplementing Law No. 04-L-050 on declaration, origin, and control of property of senior public officials and declaration, origin and control of gifts to officials.

- Law No. 06/L-011 on the prevention of conflict of interest in the exercise of public office.

- Law No. 06/L-085 on signal protection.

The bylaws on the basis of which the work of ACA is organized and which are approved by ACA are as follows:

- Regulation No. 01/2013 on internal organization and systematization of jobs in the Anti-Corruption Agency.

- Code No. 03/2013 on ethics for employees of the Anti-Corruption Agency.

- Regulation No. 01/2014 of the work of the Anti-Corruption Agency.

- Regulation No. 02/2014 on the organization, functioning, and management of the archive of the Anti-Corruption Agency.

- Regulation No. 01/2018 on amending and supplementing Regulation No. 01/2014 of the work of the Anti-Corruption Agency.

- Regulation No. 01/2019 on amending and supplementing Regulation No. 01/2013 on the internal organization and systematization of jobs in the Anti-Corruption Agency.

3. METHODOLOGY

This scientific research is based on the empirical analysis of the reports of the relevant state institutions competent for the prevention of organized crime and corruption until their prosecution before the repressive judicial

institutions and holding them accountable. The revised literature is of international level by numerous indexed platforms. To analyze the phenomenon of corruption in the system of government of Kosovo institutions and how much this phenomenon is present and where the official function is most abused, we have analyzed the data obtained from the reports of the Kosovo Anti-Corruption Agency, data obtained from reports of the State Prosecution of Kosovo as well as data obtained from the reports of the Court on criminal charges by the Prosecution which have been accepted as grounded by the Court, namely: a number of convictions, acquittals, rejections as and the number of judgments which were rejected by the Court as unfounded, we also analyzed the court decisions based on the regions and based on the professions which bodies and which professions are most corrupt as well as the abuse of position by of the Official Authority which according to the Criminal Code of Kosovo (CCK) is considered a criminal offense and corruption.

There are different ways of reporting corruption where citizens can report, and we have analyzed the cases submitted through the toll-free hotline 0800 10 800, reporting by mail and via e-mail online from www.aak-ks.org. We have also conducted an analysis of persons who in good faith have disclosed information about the existence of corruption and in order to prevent harmful consequences to them Alliance for the Future of Kosovo (Albanian: *Aleanca për Ardhmërinë e Kosovës* [AAK]) has enabled them to file suspected cases of corruption anonymously in order to preserve and encouraging citizens to report these cases.

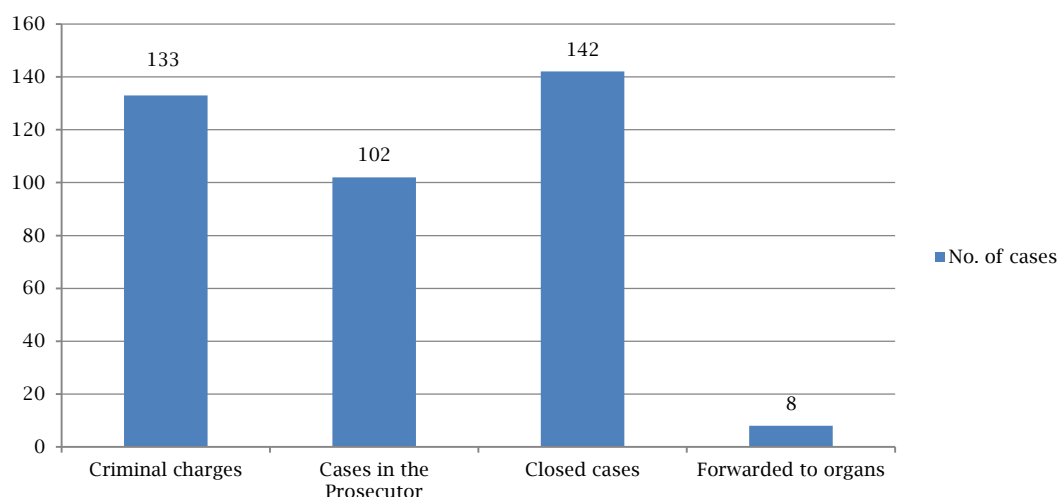
4. DATA ANALYSIS AND RESULTS

ACA during the reporting year received information regarding suspicions of corrupt practices through various reporting methods. Citizens can report suspected corruption cases in several ways. Direct reporting through the toll-free hotline 0800 10 800, reporting by mail and e-mail online from www.aak-ks.org. For persons who have confidently disclosed information about the existence of corruption and in order to prevent ACA has enabled them to file suspected corruption cases anonymously in order to protect and encourage citizens to report these cases.

During 2019, ACA has conducted the investigation procedure in a total of 385 cases, of which 102 were transferred from the previous year, while during 2019 another 283 cases were received. Out of them, 102 cases were forwarded to the Prosecutor's Office, the Police for further proceedings, 8 cases were forwarded to the competent administrative bodies with a request to initiate disciplinary proceedings, 142 cases were closed, while 133 cases are pending. The total number of anonymous information handled is 35 (ACA, 2019a). During the reporting year, the Agency reported a total of 141 cases initiated ex officio.

The following graph (Figure 1) reflects the processing of 385 cases handled during 2019.

Figure 1. Proceeding of 385 cases handled in 2019



During the reporting period, 102 criminal information and reports were forwarded to the competent institutions for further proceedings.

From them, 89 criminal reports were forwarded to the Office of the Chief State Prosecutor, for which the Office of the Chief State Prosecutor announced that they were delegated to the competencies of the respective prosecutions (State Prosecutor, 2020).

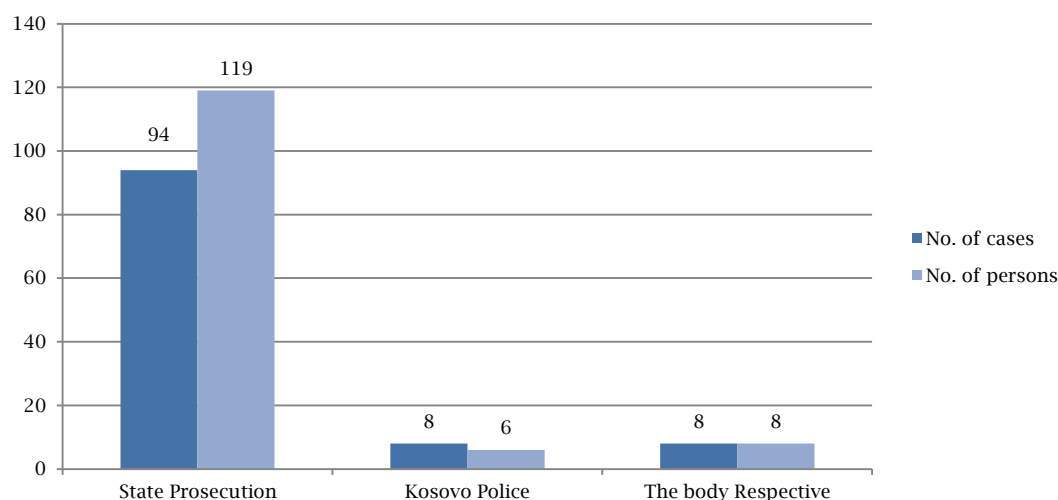
In the Directorate for Investigation of Corruption and Economic Crimes, Police, 8 pieces of information were forwarded, while 5 pieces of information were forwarded to the State Prosecutor's Office. In 8 cases, after the completion of the preliminary investigation procedures, it was found that there is insufficient data or reasonable doubt that the case may constitute a criminal offense but is suspected of administrative violations. The Agency forwarded these cases to the competent administrative body with a request to initiate

disciplinary proceedings. The value of the damage caused according to the cases forwarded to the competent Prosecution, the police from case to case has not been clarified.

ACA, in 102 cases forwarded to the Public Prosecutor's Office and the Kosovo Police for further criminal proceedings after finding that there is sufficient data or reasonable suspicion of involvement in corrupt practices, has denounced 119 persons; 113 of them were forwarded to the Office of the Chief State Prosecutor and 6 persons to the Directorate of Investigation of Economic Crimes and Corruption (DHKEK) — Kosovo Police.

ACA also during the reporting period has forwarded 8 cases to the competent administrative bodies with a request to initiate disciplinary proceedings against 8 officials of the institutions of the Republic of Kosovo.

Figure 2. Coverage of criminal reports and the number of persons involved referred to the relevant institutions



Among the 102 cases forwarded to the Prosecutor's Office, 8 to the Kosovo Police for further proceedings, and 4 to the Office of the Chief State Prosecutor, for the suspected actions it

was not possible to qualify which criminal offense figures they represent due to exceeding of the possibility and investigative competence of the Agency.

The structure of criminal offenses forwarded to the competent institutions and the level of suspected officials is as follows:

- *Non-reporting or false reporting of assets, income, gifts, other material benefits, or financial liabilities*: the largest number of cases forwarded to the Prosecutor's Office constitute sanctioned actions under Article 437 of the Criminal Code of Kosovo (Criminal Code of Kosovo No. 06/L-074).

- *Abuse of official position or authority*: Of the total number of cases forwarded to the Prosecution and DHKEK — Kosovo Police, the second-largest number are corrupt actions provided under Article 422 of the Criminal Code of Kosovo. In 2 cases this criminal offense was accompanied by the criminal offense of fraud (Article 335 of the Criminal Code of Kosovo).

- *Conflict of interest*: According to this criminal offense defined in Article 424 of the Criminal Code of Kosovo, 2 cases have been forwarded to the competent Prosecution.

- *Fraud*: Charged with this criminal offense, which is defined in Article 335 of the Criminal Code of Kosovo, was forwarded 1 case.

The persons involved in these cases belong to different levels, such as MPs, advisers to ministers, general secretary of ministries, advisers in embassies, mayors and former mayors, chiefs of cabinets of mayors, chairmen of municipal assemblies, deputy mayors of municipalities, councilors and former councilors of municipal assemblies, chairpersons, deputy chairpersons and members of governing councils in public universities, vice-rectors, former vice-rectors, deans and vice-deans in public university faculties, public university secretaries, judges, prosecutors, chiefs, former chiefs or directors of executive agencies within ministries, members of steering councils of subordinate institutions within ministries, directors of departments in ministries, managers and procurement officers, directors of directorates in municipalities, heads of sectors at the municipal level, financial leaders in central level, hospital directors, clinic directors, directors, members and former board members of public enterprises, director of the sports center, etc.

Regarding 8 cases followed by requests for initiation of disciplinary proceedings by the AKM, the competent administrative institutions in 3 cases have imposed the disciplinary measure verbal reprimand, while in 1 case the competent institutions have rejected the requests of the AKM to obtain disciplinary measures on the grounds that the conditions for imposing a disciplinary measure provided by Regulation No. 04/2011 on Disciplinary Procedures in the Civil Service have not been met and in 1 case disciplinary proceedings are being conducted while in 3 other cases the ACA has not received any information.

Characteristics of investigated cases related to the criminal offense of Abuse of Position or Official Authority under Article 422 of the CPC (Criminal Code of Kosovo No. 06/L-074) is the use of official duty or authority by an official person who by action or omission violates applicable laws for the purpose of gaining any benefit to himself or another person, or for the purpose of causing harm to other persons

or certain business or who seriously violates the rights of the other person exceeds the competencies and does not fulfill official duties.

Actions or not mentioned refer to violations such as:

- Temporary re-appointment from position to position without meeting the conditions and selections without a candidate.

- Engagement of persons in employment without announcing a vacancy.

- Recommendation of the candidate in violation of the law as a senior official in a public enterprise.

- Employment without meeting the conditions of the competition.

- Permanent transfer from position to position in violation of applicable law.

- Transfer and placement in a certain position without announcing a vacancy.

- Participating personally in a certain official matter, enabling financial gain for oneself.

- False filing of the affidavit concealing the fact that he is allegedly not a high-level employee in the public enterprise in which he has competed or has not served as a high-level employee within the past three years.

- Recommendation of the candidate for the position of candidate without verifying the applications of other candidates who have applied in public enterprises.

- Permission to execute the monthly supplement by misinterpreting the set regulation without meeting the required conditions.

- Failure to open a specific competition in order for the potential candidate to meet a certain condition of work experience being assigned as acting.

Conflict of interest — from Article 424, is a new criminal offense which is defined in the Criminal Code of Kosovo which entered into force on January 1, 2013, this criminal offense is characterized by the participation of the official in-person in certain official matters by enabling financial gain for oneself through decision-making, as well as informal matters of employment of one's family members.

Failure to declare or falsely declare assets, income, gifts, other material benefits or financial obligations — from Article 437, is also a new criminal offense which is defined in the Criminal Code of Kosovo which entered into force on January 1, 2013. Characteristic of the investigated cases which are related to this criminal offense is the non-declaration of assets within the time limits set by the law in force (according to the regular annual declaration, the declaration with the receipt of duty, declaration after termination or dismissal from the office) and failure to submit the required data such as real estate, movable property worth over 3000 euros, ownership of shares in companies, annual income.

ACA has continued to work closely with law enforcement institutions. The State Prosecution on the basis of its mandate has continued to seek additional evidence to go beyond reasonable and grounded suspicion regarding the constitutionality of the elements of the criminal offense.

From the information received from the Repressive Courts regarding cases of suspected corruption according to the indictments filed by the competent Prosecution Offices on the basis of criminal reports of the ACA over the years, we were

informed that 84 indictments were issued for 90 indictments, 14 acquittals, 19 rejection judgments, and 2 dismissal rulings. Tabularly, these data according to the courts look like in the following table.

Table 1. Court decisions regarding Article 437 of the CCK

No.	Institutions	Conviction judgment	Acquittal	Rejection judgment	Decision on rejection
1	Prishtina	50	4	16	-
2	Prizren	6	3	3	-
3	Gjilan	6	2	-	2
4	Gjakova	13	1	-	-
5	Mitrovica	3	2	-	-
6	Peja	2	1	-	-
7	Ferizaj	4	1	-	-
Total		84	14	19	2

With prison judgments, the Courts have mainly considered suspended judgments (fines and imprisonment). Fines are reduced from 100 euros to 1600 euros, while prison judgments range from 3 to 6 months.

Fines are set to be paid mainly without the finality of the judgment and in some cases in installments of 4 to 7 installments, with the possibility of revocation of the prison judgments where 20 euros will be calculated with one day of imprisonment if the accused does not pay it and the same cannot be enforced.

Conviction judgments have been imposed by the courts as suspended judgments, ordering that they not be executed if the convicts do not commit another criminal offense for the period of verification starting from 1 month to 15 months, or have converted them into fines. There are cases when the Court has imposed a judgment of effective imprisonment, which by agreement between the Court and the convicts have been replaced by a fine.

Due to the Article 437 of the Criminal Code of Kosovo, there were pursuant 66 convictions from them: 45 issued for non-regular annual declaration of assets, 3 of them were issued for non-declaration of assets upon taking office, 18 of them were issued for non-declaration after the termination of office, 18 cases for false declaration of assets, 2 penalties for the incorrect presentation of annual income, 10 penalties for non-presentation of business, 1 penalty for the incorrect presentation of movable property, and 5 penalties for the incorrect presentation of assets real estate. There were also decisions or acquittals, the courts acquitted the charges for non-declaration of all declaration of assets, 1 case for non-declaration after the termination of office, 7 cases for false declaration of assets, 3 cases for the inaccurate presentation of annual revenues, 2 cases for non-presentation of business, 2 for the inaccurate presentation of immovable property, and 2 for the criminal offense of abuse of official position or authority.

Rejection judgments were issued in 19 cases, 18 for the criminal offense under Article 437 of the Criminal Code of Kosovo. Respectively, 13 from paragraph 1 of this article (7 for failure to declare in due time, 3 for failure to declare upon taking office,

and 3 for non-declaration after the termination of office); as well as 5 from paragraph 2 of this article (3 for incorrect declaration of annual revenues, 1 for non-presentation of business (ownership of shares in companies)) and 1 for the incorrect presentation of movable property (car), while, 1 for the criminal offense of abuse of official position or authority.

During this reporting period, ACA, after conducting preliminary investigation procedures, closed 142 cases. The reasons for their closure are as follows:

- 123 cases were closed because after the preliminary investigation procedure it was found that there is insufficient data and/or reasonable suspicion that the case may constitute a criminal offense or administrative violation.

- 4 cases were closed in accordance with the legal framework in force because the Agency did not have the competence to conduct the preliminary investigation procedure.

- 15 cases were closed because criminal proceedings were being conducted by the competent bodies, where of them: 2 from the Basic Prosecution in Peja, 2 cases from the Basic Prosecution in Prizren, 1 from the Basic Prosecution in Prishtina, 1 case from the Basic Prosecution in Gjakova, 9 cases from DHKEK — Kosovo Police.

Law No. 04/L-050 on the declaration, origin and control of assets of senior public officials and the declaration, origin and control of gifts for all officials and Law No. 04/L-228 on amending and supplementing Law No. 04/L-050 defines the following types of declarations:

- Regular annual declaration;
- Declaration upon taking office;
- Declaration at the request of the Agency;
- Declaration after termination or dismissal from office.

Senior public officials are obliged to declare their annual assets regularly from October 1 to March 31 of each year for the previous year from January 1 to December 31. For 2019, 4819 senior public officials were obliged to make a regular annual declaration. Of this number, 4759 officials have declared assets or 98.75%, 60 senior public officials have not declared assets, 34 have declared assets after the deadline, 12 have not declared assets, 14 have not declared assets with reasons or 1.25%.

Table 2. Regular annual declaration

<i>Institutions</i>	<i>No. of officials</i>	<i>Declared</i>		<i>They have not declared</i>			
		<i>Declared</i>	<i>Percentage</i>	<i>Have declared after the deadline</i>	<i>They have not declared the property</i>	<i>Not declare with reason</i>	<i>Percentage</i>
Presidency	23	22	95.65%	1	0	0	4.35%
Assembly	153	152	99.34%	1	0	0	0.66%
Government	1713	1696	99.00%	12	1	4	1.00%
Court	464	464	100%	0	0	0	0%
Prosecutor	199	199	100%	0	0	0	0%
Independent institutions	293	289	98.63%	2	0	2	1.37%
Municipalities of Kosovo	1581	1550	98.03%	15	10	6	1.97%
Publicly owned enterprises	393	387	98.47%	3	1	2	1.53%
Total	4819	4759	98.75%	34	12	14	1.25%

Senior public officials who start working in the public service in a full and realistic manner declare their assets in writing within the legal deadline. The contact officer is obliged to notify the ACA within 15 days of the commencement or completion of the work of a senior public official, while the senior public official is obliged to declare

assets within a period of 30 days from the day of taking office. During the reporting year, 302 senior public officials were obliged to declare their assets upon taking office, 274 senior public officials declared their assets, while 28 senior public officials did not declare their assets, 22 cases were processed and 6 were transferred for the year.

Table 3. Declaration upon taking the duty

<i>Institutions</i>	<i>No. of officials</i>	<i>Have declared wealth</i>	<i>Have not declared the wealth</i>	<i>Were forwarded to 2020</i>	<i>Are proceeded to</i>	<i>Percentage</i>
Presidency	1	1	0	0	0	100%
Assembly	1	1	0	0	0	100%
Government	111	101	10	6	4	90.99%
Court	1	1	0	0	0	100%
Prosecutor	11	11	0	0	0	100%
Independent institutions	45	44	1	0	1	97.77%
Municipalities of Kosovo	57	49	8	0	8	85.96%
Publicly owned enterprises	75	66	9	0	9	88%
Total	302	274	28	6	22	90.72%

ACA may at any time require the senior public official to declare assets and the sources of their creation in accordance with the law. During

the period of 2019 ACA has requested from 82 senior public officials the declaration of assets upon request.

Table 4. Declaration according to the request of AKM

<i>Institutions</i>	<i>No. of officials</i>	<i>Have declared wealth</i>	<i>Percentage</i>
Presidency	1	1	100%
Assembly	0	0	100%
Government	29	29	100%
Court	3	3	100%
Prosecutor	1	1	100%
Independent institutions	6	6	100%
Municipalities of Kosovo	35	35	100%
Publicly owned enterprises	7	7	100%
Total	82	82	100%

Upon completion of work in a senior public position, senior public officials are required to declare assets within a period of 30 days. During this period, the declaration of assets after leaving the public office, out of 195 senior public officials,

159 senior public officials declared their assets, while 36 senior public officials did not declare their assets; 28 cases were processed and 8 were carried over to the following year.

Table 5. Declaration of assets after termination or dismissal from public office

<i>Institutions</i>	<i>No. of officials</i>	<i>Have declared wealth</i>	<i>Have not declared wealth</i>	<i>Have been transferred to 2020</i>	<i>Proceeded in DH</i>	<i>Declaration percentages</i>
Presidency	1	0	1	0	1	0%
Assembly	1	1	0	0	0	100%
Government	94	75	19	8	11	79.78%
Court	0	0	0	0	0	0%
Court	4	1	3	0	3	25%
Independent institutions	26	23	3	0	3	88.46%
Municipalities of Kosovo	23	19	4	0	4	82.60%
Municipalities of Kosovo	46	40	6	0	6	86.95%
Total	195	159	36	8	28	81.53%

Based on the data reported during 2019, for all types of declaration, the declaration has been obliged to make the declaration 5398 senior public

officials. The reflection of the annual declaration for all types of declaration of assets is presented in the following table.

Table 6. Declaration of assets 2019

<i>Type of declaration</i>	<i>Obliged</i>	<i>Have declared</i>	<i>Do not have declared</i>
Regular annual declaration	4819	4759	60
Upon taking duty	302	273	29
Upon request	82	82	0
Upon termination or dismissal from office	195	158	37
Overall number	5398	5272	126

ACA during March 2019 has received notifications from 32 institutions, who have stated that they have received gifts, 11 of these institutions have announced that they have received gifts

according to the table below, while 21 have stated that they have not received gifts during the previous year, 58 gifts are protocol, while 12 gifts are random.

Table 7. Gift catalog by institutions

<i>Institution</i>	<i>Protocol</i>	<i>Case</i>	<i>No. general</i>
Presidency	8	2	10
Assembly	14	1	15
Office of the Prime Minister	18	0	18
Ministry of Foreign Affairs	1	0	1
Ministry of European Integration	9	0	9
Ministry of Agriculture, Forestry and Rural Development	0	1	1
Constitutional Court of Kosovo	2	0	2
State Prosecution	2	0	2
National Audit Office	4	0	4
Transmission, System and Market Operator KOSTT J.S.C.	0	1	1
Deposit Insurance Fund in Kosovo	0	7	7
Anti-Corruption Agency	0	2	2
Total	58	14	72

ACA has prepared requests for budget allocation based on internal assessments by organizational units. The Government and the Assembly of the Republic of Kosovo have approved the request by allocating the budget for 2019.

Budget allocations for the period of January-December 2019 is in the amount of €584,642.55.

The following table reflects the budget allocations by economic categories.

Table 8. Statement of budget allocation by economic categories

<i>No.</i>	<i>Economic categories</i>	<i>Approved budget (initial)</i>	<i>Revised budget (final)</i>
1	Wages and salaries	437,234.55	395,994.20
2	Goods and services	138,908.00	133,908.00
3	Utility costs	8,500.00	5,500.00
Total		584,642.55	535,402.20

Following the review, the budget has undergone changes. In all categories of expenditures, funds were reduced but did not have any negative effect.

The following table shows the budget allocations and expenditures, after the budget review.

Table 9. Statement of expenditures after budget review

<i>No.</i>	<i>Economic categories</i>	<i>Budget provided</i>	<i>Expenditures</i>	<i>Budget realized in percentage</i>
1	Wages and salaries	395,994.20	395,994.20	100
2	Goods and services	133,908.00	101,140.68	75.53
3	Utility costs	5,500.00	2,446.26	44.47
Total		535,402.20	499,581.14	93.30

The final budget for 2019 was €535,402.20. Out of this amount, a total of €499,581.14 were spent or expressed as a percentage of 93.30% of the budget.

5. DISCUSSION

This study is of great interest to academics, researchers, and policymakers because of its nature. Through this study, we analyze a key indicator that hinders the economic development and legal institutional building of the country such as

corruption. Since Kosovo is a new state with new state institutions, its goal and the goal of the international factor is for this country to rise institutionally and economically by implementing and respecting the law of all those who have decision-making authority. We find that the main obstacle of the country that hinders the economic development of the country and that presents in the future the main obstacle for its non-membership in the European Union is corruption and organized crime at all levels of state bodies and officials. In accordance with our findings, we have found

that the Anti-Corruption Agency after investigative procedures has closed 142 cases due to lack of evidence as such cases do not constitute a criminal offense under the Criminal Code of Kosovo.

The most important finding in this study, among others, is that the sentences of imprisonment have been considered by the Courts as conditional sentences, ordering that they not be executed if the convicts do not commit another criminal offense for the time of verification starting within 1 month to 15 months, or have converted them into fines. There are cases when the Court has imposed a sentence of effective imprisonment, which by agreement between the Court and the convicts have been replaced by a fine.

6. CONCLUSION

Corruption as a phenomenon that hinders and negatively affects the economic development of the country and social welfare remains a major challenge for Kosovo that continues to affect and produce its consequences in the daily lives of citizens. Kosovo, as a new state with new institutions, will take a long time to change this phenomenon in order for the country to be offered to European standards in the fight against corruption and money laundering. The economic development of the country depends on the maximum commitment of state institutions to be more committed and efficient in law enforcement in areas related to the prevention, investigation, and fight against corruption, origin, and declaration of assets, prevention of conflict of interest, protection of whistleblowers, declaration of gifts, prevention of corruption in public procurement activities, and other aspects in the field of anti-corruption, in order for the country to become a future destination of foreign investors.

The study analyzes that factors that will affect the prevention of organized crime and corruption are: full implementation of applicable law in all

areas related to the prevention, investigation, and fight against corruption and full implementation of the law on Prevention of Interest, adoption of by-laws, approval of internal regulations in all public institutions and public enterprises as well as further strengthening of all responsible authorities, appointment, strengthening, and training of all officials responsible for signal protection in all public and private institutions, proceeding with the amendment of the Law on the Anti-Corruption Agency and the Law on Declaration, Origin, and Control of Assets of Senior Public Officials and the Declaration, Origin, and Control of Gifts for all Official Persons according to the Legislative Agenda of the Government of the Republic of Kosovo, drafting the new draft of the National Anti-Corruption strategy and Action Plan for the period of 2020-2025, the creation of a common "database" from the mechanisms whose mission is to prevent and fight corruption.

The study analyzes the abuse of official position manifested through various forms of corruption and this paper is very important for future research as it specifies precisely the weaknesses, irresponsibility, and irresponsibility of organs which instead of persecuting and stopping this negative phenomenon that harms the same state and society are corrupted to remain silent. The main limitation of this study is the anonymous survey of private entities who have participated in various tenders in state bodies to understand the price paid by the same as it is well known that tenders are not won by respecting legal procedures but are earned in the way of who gives the most. Thus, in further studies, more specific data can be used that reflect the interconnectedness of the functioning of the private sector and state bodies as the main source of corruption is collected again by the company, which means that the company pays its liabilities to the state twice, after corruption to get a job done or get a job.

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