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STATE CAPTURE IN KOSOVO

TRADING PUBLIC HEALTH FOR PRIVATE GAIN

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TRANSPARENCY AND ANTI-CORRUPTION

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TABLE OF CONTENTS

EXECUTIVE SUMMARY

A clear definition of the concept of state capture is somewhat elusive. In the academic literature, the term capture, in the broadest of senses, refers to illegitimate (not necessarily illegal) practices or outcomes that undermine core democratic values to benefit a particular – usually vested and powerful – particularistic interest(s). In practical terms, classifying a particular situation as capture is difficult, but there are a few common characteristics that indicate when it is taking place. This includes an entanglement between political, economic, and social power which is systemic and structural, and which persists over an extended period of time. Furthermore, a situation is classified as capture if this "entanglement" is associated with a lack of effective democratic control mechanisms and if it causes significant social, economic, and/or environmental harm.

This paper attempts to argue that state capture is taking place in Kosovo by identifying its existence in particular dimensions of the public health care system. There is a general tendency of that system to divert citizens towards private operators, as a result of which they have to pay for costlier services and for medical products. In the case of those who cannot afford these products and services, this leads to poorer health outcomes. The specific mechanisms of how this is done are illustrated in this report through a review of specific processes: namely: a) a specific case of referrals from public health institutions towards private operators; and b) public procurement practices for medicines and medical supplies, which causes under-supply in public health facilities and forces citizens to buy privately. The mechanisms used are in many cases illegitimate but legal, indicating a mixture of institutional failures and regulatory capture.

The key finding from this report is that, due to the large scale and diversity of the health sector, there can be no talk of sector-level capture by a single particularistic interest or actor. Instead, we find that centralised political control over public health care institutions and a situation of judicial impunity create an enabling environment for commercial capture by particularistic interest(s) in specific sub-components. The examples provided are the purchase of certain medications or the provision of cardiology services.

Several years of political influence in civil service appointments in the Ministry of Health (MoH) have impacted policy formulation, regulatory, and monitoring functions, including a supervisory role over the Hospital and University Clinic Services of Kosovo (HUCSK), which manages service delivery. While civil society and media, including administrative review mechanisms such as the Procurement Review Board, have sometimes shown to be effective in bringing abuses to light, the same cannot be said of the judicial system. Some charges for abuse of power or corruption have been filed, including for high-level officials, but indictments are rare or non-existent, and as such they have built a climate of impunity which suggests the situation is one of capture rather than of mere corruption.

INTRODUCTION

The current paper attempts to explain, or at least to describe, governance practices that, for the most part, fall short of fulfilling the needs of communities, or indeed an entire society, and that are detrimental to further democratic developments. Social scientists, donors, and civil society organisations increasingly refer to a relatively new concept **– capture** **–** and its different forms: **state capture, policy capture, and regulatory capture.** Like most concepts deno¬ting processes, a definition of capture is somewhat elusive, yet there are a few common chara¬cteristics that help in identifying when it is taking place.

Likely indications of capture include, cumulatively, the following:

- occurs in the context of often entangled political, economic, and social **power and influence**
- is **systemic and structural** in nature
- persists over an **extended time period**
- includes **a lack of effective democratic control mechanisms** – political opposition, civil society organisations, and independent media
- induces significant social, economic, and/or environmental **harm and undermines core democratic values**

For the purpose of this research, capture is defined as a set of processes and/or set of outcomes that include the control of public resources and their allocation for the benefit of particularistic interests. The goals of the research are to:

- **identify actors and power networks** involved in capturing chosen sectors
- **describe the practices and mechanisms** they use in order to extract benefits for their particularistic interests
- identify harmful **consequences** to the public good and/or democracy
- propose **recommendations** to effectively remedy the situation.

In the literature, the term *capture*, in the broadest of senses, refers to illegitimate (not necessarily illegal) practices or outcomes that undermine core democratic values in order to benefit a particular – usually vested and powerful – particularistic interest(s). It is a deeply rooted, long-term, systemic deviation from the democratic norm, sometimes disguised through pseudo-democratic processes.

Researchers have coined different terms to differentiate between several types (or scales) of capture, including state capture, policy capture, and regulatory capture, each of which has a somewhat overlapping definition. Thus, the term state capture usually denotes large-scale capture of all central government institutions, including the parliamentary law-making process,8 to enable the appropriation of public resources across all sectors for the benefit of a small, powerful group of people. Policy capture usually denotes "... undue influence of vested interests on public decision making", in other words it implies a somewhat narrower scale, restricted to a particular policy area where interest groups systematically manipulate the entire policy cycle – from agenda setting to policy evaluation – for their own benefit. However, if policy capture takes place in a number of different policy areas, it may also, depending on the scale, denote state capture. Regulatory capture sometimes refers specifically to the capture of regulated sectors, such as energy or telecommunications, the agencies that regulate those sectors, or regulatory processes themselves. In the latter sense, it is a sub-type of policy capture.

Furthermore, the definition of capture can be refined according to the types of institutions that are subject to capture (legislative, executive, judiciary) and the types of actors involved in capture (large private businesses, political leaders, high ranking officials, interest groups).12

Evidently, state capture does not have a single definition, so for the purposes of researching and analysing it, it can be viewed as both a process and a set of outcomes resulting from situations where parts of – or the entire – political and economic system is "appropriated by powerful individuals, groups or networks in other to fulfil their particularistic interests".14

In terms of processes, state/policy capture denotes the "ability of actors to shape institutions, the rules of the game and norms of behaviour in their own interests."15 In other words, by intent, the actors consistently and repeatedly direct policy decisions towards their own specific interests.16 In terms of outcomes, captors gain control of institutions and/or resources, distributing them through a series of exchange relations, using both formal (for example, lobbying, campaign financing, formal discretionary powers) and informal (for example, nepotism, clientelism, revolving door) mechanisms17. The mechanisms tend to be quite contextualised,18 in the political or sector-specific sense.

Depending on the specific sector concerned, the mechanisms employed may include the following:

FINANCE: preferential credit, channelled subsidies, selective bail-outs

COMPETITION: illicit protection of rents and markets against competition through various industry/ infrastructure/trade policies

CONTRACTS: preferential access to public contracts, concessions, licences, and sales of publicly owned real-estate below market price

REGULATION AND ENFORCEMENT: structuring regulatory oversight to ensure ineffective enforcement; inducing a lack of political will/resources to carry out reform; police and investigative sector dependence

JUDICIAL RECOURSE: courts leaned on to not effectively sanction related wrongdoing

BROADER CHECKS AND BALANCES: various tactics employed to stymie and/or discredit the watchdog function of media and civil society.

Furthermore, capture may be political (actor) or regulatory (administrative), and often involves the two working in conjunction Thus, capture can be facilitated or made more likely through:

- **policy design** benefiting primarily particularistic interests
- **a non-transparent processes** of policy development
- **the absence of clearly defined policies,** thus opening up the space for discretionary non-transparent decision-making (non-decisions) the process of implementing, or indeed, not implementing, policy
- **the appointment of powerful individuals** over whom captors have control – to decision-making positions
- **all, or any combination,** of the above

What differentiates state capture from individual incidences of corruption, such as bribery, is its more systemic and structural nature, which enables the captors to maintain their positions of power and influence over an extended period of time. Power is thus the key concept in understanding capture, and may take the form of political, economic, or social power – or very often, an entanglement the three.

Apart from its systemic and long-term nature, capture is much more significant, in terms of scale and scope, as well as its impact on society, than corruption – it undermines core democratic values and/or induces significant social, economic, and/or environmental harm; it involves significant amounts of finances and is an endemic issue in the sector/country. Furthermore, it usually involves actors from at least two sectors – the public and the private.

Rather than involving a "captured sector" in its entirety, it is far more likely that certain aspects/processes taking place in the sector will be captured. For instance, in the public health sector, it is unlikely that the process of patient care will be captured – not least because this process is performed by doctors and nurses, who are often largely disempowered24. By contrast, the process of acquiring medical equipment or pharmaceuticals in the health sector is much more prone to capture, as here the resources and potential gain on both sides are much bigger, there are big economic interests at stake, and the process necessarily involves a relational transaction between policymakers and big (international) capital – both having significant amounts of power, albeit one has the political and the other the economic power. It is the fusion of those powers that can lead to capture.

Furthermore, although the negative effects of state capture in Kosovo have so far been mostly focused on the loss of public goods in terms of taxpayers' money being abused for particularistic material interests, there is also a big risk to liberal values, as understood in contemporary liberal democracies. Namely, captors can and sometimes do appropriate parts of the system for their own gain in terms of advancing or imposing a specific worldview. Thus, again, for example, the capture of the health sector may be taking place in the area of protection and promotion of sexual health and rights. Specifically, the decision-making positions may have been overtaken by individuals with the power to amend existing legislation and policies to restrict or limit access to contraception or abortion, or the rights of transgender people in relation to medical procedures. Similarly, a parallel process may be taking place in the education sector, whereby the decision-making positions are given to individuals who advance a retrograde approach to education, focusing on traditional and/or religious values and nationalism, rather than a universally accepted human rights-based approach, multiculturalism, and scientifically proven truths (e.g. evolution vs. creationism, climate change, etc.).

Methodological note

The report was produced based first and foremost on an extensive review of secondary sources. The issues discussed in the case studies have been covered systematically by the media, from when the problems were first uncovered to eventual prosecution. Two of the platforms with the highest coverage of the cases were *Koha Ditore* and *Kallxo.com*, as they were the ones that raised the alarm about the cases to begin with.

The second main source in the desk review were reports prepared by various civil society organizations during their monitoring activities, especially in the field of procurement. This review allowed for a more intricate understanding of the problem. The third main source was original legal and administrative documents, such as laws and by-laws which have enabled bad practices.

All of these secondary sources were supplemented by carrying out three interviews with journalists and civil society representatives in the health sector, Ms. Saranda Ramaj (*Koha Ditore*), Mr. Isuf Zejna (Democracy Plus) and Mr. Arton Demhasaj (Çohu), as well as two representatives of international organisations – one working more directly with the health sector and another working with the judicial sector – who preferred to remain anonymous.

RELEVANCE OF THE HEALTH SECTOR

The health sector in Kosovo was deemed relevant for this study for several main reasons. The most important reason is the historically low levels of public funding for public health and chronic mismanagement (as illustrated by this paper) in the provision of public health care services and medication, which has forced citizens to seek costly goods and services from private operators. The poor health outcomes and costs incurred by citizens deserve an investigation into the potential role that institutional capture plays in the failure of goods and services to deliver to citizens.

Kosovo has the **lowest per capita expenditure on public health** in the region: five times lower than in Albania, seven times lower than in Macedonia, and nine times lower than in Monte¬negro, Bosnia and Herzegovina, and Turkey.[1] Kosovo still does not have a functional health insurance system in place (one is expected to be rolled out at the end of 2018[2]). Low funding has led to, among other things, a low number of physicians – 1.2 doctors per 1,000 inhabitants (compared to a European Union (EU) average of 3.2 for countries in the region – for example, Montenegro's 2.1).[3]

Kosovo also faces chronic mismanagement of its public health care system. Public hospitals face chronic shortages of medicines from the Essential List of Medications (ELM), and thus citizens are forced to purchase these medicines privately. Hospitals often are unable to deliver certain services, and patients are therefore referred to private operators

Low funding and mismanagement in a context of non-existent public health insurance benefits private providers while causing damage to citizens' health and/or finances. While public health expenditure has been around €160–180 million per year in recent years, it is estimated that Kosovars spend around €200 million annually to private health care providers in the region.[4] Public opinion survey data confirm that Kosovo citizens are much more dissatisfied with the costs of medicines than with any other dimension of the health sector (for example, the quality of service etc).[5] This has a tremendous impact in entrenching inequality, as the poor are disproportionately hurt. It also contributes to the fact that Kosovars have the **poorest health outcomes in the region**, with a life expectancy at birth of 71 years (compared to Albania's 78, Bosnia's 77, Macedonia's 76, and Serbia's 75).[6]

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1 United Nations Development Program, "Corruption Risk Assessment in the Health Sector", 2014. www.ks.undp.org/content/kosovo/en/home/library/democratic_governance/saek-corruption-risk-assessment-in-health.html
2 "Ismaili: Sigurimet shëndetësore në vitin 2018, nuk e tolerojmë korrupsionin", Telegrafi, 18 October 2017, https://telegrafi.com/ismaili-sigurimet-shendetesore-ne-vitin-2018-nuk-tolerojme-korrupsion/
3 Ministria e Shëndetësisë. Strategjia Sektoriale e Shëndetësisë (2017–2021). Link: www.kryeministri-ks.net/repository/docs/Strategjia_sektoriale_e_shendetesise_final-nentor_2016_ENG.pdf
4 "Kosovarët shpenzojnë 200 milionë euro për shërim jashtë vendit", Koha.net, www.koha.net/arberi/36084/kosovaret-kane-shpenzuar-200-milione-euro-per-sherim-jashte-vendit/
5 United Nations Development Program, "Kosovo Mosaic 2015", 2016.
6 World Bank, "World Development Indicators". Link: https://data.worldbank.org/indicator/SP.DYN.LE00.IN?locations=XK&view=chart

CASE STUDIES

The big picture: Political control over resources and a climate of impunity

In the introductory section capture was defined as a "set of processes and/or set of outcomes that include the control of public resources and their allocation to the benefit of particularistic interests". The public health sector in Kosovo offers several classical examples of such processes and outcomes across many of its components and sub-components.

As illustrated by the two case studies (elaborated in more detail below), the health sector is characterised by a systemic tendency of public health care providers to create circumstances where citizens have no other choice but to obtain services and medication through out of pocket expenditure through private providers. **Private profits are obtained while causing harmful consequences for citizens**, in the form of unaffordable costs or poor health outcomes, hurting the most vulnerable social groups the most, while private interests enjoy almost absolute impunity from law enforcement and the judicial system.

The root cause of this reorientation of citizens towards the private sector for health services and medication is the **chronic mismanagement of the public health care system**, which results from central-level clientelistic practices, regulatory capture, and corruption. At the centre of the cycle of mismanagement is the MoH, which performs many standard policy, regulatory, and management functions.

For the purpose of this paper, it is relevant to focus on only three of the MoH's key functions. The first is its **supervisory role in managing secondary and tertiary public health care institutions**, especially through the HUCSK. The latter has the autonomy to manage secondary and tertiary care facilities, but it operates under a Board that is appointed by the MoH.[7] The second is the **regulation of pharmaceuticals** through the Kosovo Medicine Agency (KMA), which is part of the MoH. The third key function is the **procurement of medicines and medicinal supplies for public health institutions**, which is done through the central MoH procurement agency.

The chronic mismanagement in the public health care system is largely the result of political influence. From a political economy perspective, the MoH is an important ministry, in terms of the opportunity it provides for political parties to influence the allocation of resources. The MoH is projected to have an annual budget of €70 million in 2018,[8] whereas the HUCKS has an annual budget larger than the MoH (€85 million in 2018)[9]. These values are overshadowed by the **commercial impact that public health management and the MoH's regulatory functions have on private operators**, such as medical services providers, pharmaceutical companies, suppliers of medical equipment, etc. Health and social work activities account for 4.8 per cent of Kosovo's GDP.[10]

As a result of the opportunities it creates for control over resources, just like many other public institutions in Kosovo, **the MoH is also plagued by clientelistic practices and attempts to assert political control**. According to a study by the non-governmental organisation Çohu, out of 114 civil servants working in government ministries who are deemed to have political backgrounds, the largest number were found to be employed in the MoH (30 in total, and 17 at director level).[11] During the last decade the MoH has seen three political parties take control over the institution, and each change was usually followed by changes of key civil servants in accordance with the political preferences of the leading parties.[12]

The intention of political parties to assert political control over key functions managing public health care is illustrated by two documented examples. One relates to the appointment of the Executive Director of HUCKS, and the second relates to the process of selecting staff responsible for the management of the new Health Insurance Fund.

7 Article 64 of the Law on Health. Link: www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20Health.pdf
8 Kosovo Consolidated Budget 2018. Link: https://mf.rks-gov.net/desk/inc/media/E0061CF0-F406-4F16-B1E6-E4BD3E8E5762.pdf
9 Ibid.
10 Kosovo Agency for Statistics, GDP by economic activity, 2016.
11 Cohu, "Patronazhi Politik" 2014, http://opendata.cohu.org/en/patronazhi-politik
12 Interviews with Saranda Ramaj, Isuf Zejna, and Arton Demhasaj.

These cases are presented in the boxes below.

Case 1: Political control over HUCKS

In 2014, HUCKS obtained a **high degree of autonomy in managing all secondary and tertiary care institutions**, including, for a while, procurement management through framework contracts.[13] In May 2014 Dr Curr Gjocaj was appointed as its Executive Director. The political affiliation of Mr Gjocaj with the governing Democratic Party of Kosovo (PDK) became publicly known in 2012, when leaked conversations were published in the media between Kosovo's then-Prime Minister Hashim Thaçi and the head of his PDK Parliamentary Group Adem Grabovci. In one of the conversations, Grabovci reminded Thaçi that he had neglected his uncle (i.e. Gjocaj) when making public sector appointments.[14] The "political importance" of controlling HUCKS was highlighted again in 2015 when a new coalition government came to power and the leadership of the MoH was taken over by the PDK's new coalition partner, the Democratic League of Kosovo (LDK). This led to **turf wars regarding control over HUCKS and its autonomy**. The new Minister of Health, Imet Rrahmani, changed the HUCKS Board, publicly threatened to sack the previously appointed director Gjocaj[15] and took away procurement powers from HUCKS, returning them to the control of MoH. This turf war led to constant public demands for the resignation of Rrahmani by influential PDK MP Bekim Haxhiu, even though they were coalition partners.[16] [17]

Case 2: Political control over the Health Insurance Fund

A very close relative of Prime Minister Ramush Haradinaj was appointed to a key position for the management of the soon-to-be-created Health Insurance Fund.[18] Media reports suggest the relative is an inexperienced 27-year-old and that the MoH has refused to provide access to his file.[19] This is particularly important having in mind the amount of resources to be controlled by the Social Insurance Fund, which will receive 7 per cent of every employee's gross personal income.[20] As such, researchers and experts working in the sector expect that the Health Insurance Fund will soon become the third largest revenue-managing body, after the Kosovo Customs and Tax Administration.[21]

13 Ibid.
14 "Daja i Grabovcit i lënë anash nga Thaçi", Telegrafi, 09 December 2012. Link. https://telegrafi.com/daja-i-grabovcit-i-lene-anash-nga-thaci/
15 "Ministri Rrahmani përzgjedh anëtarët e rinj pa u shkaruar Bordi actual i SHSKUK-së), 20 January 2016. Link: http://archive.koha.net/?id=27&l=94365
16 "Bekim Haxhiu insiston në shkarkimin e ministrit të Shëndetësisë", Telegrafi, 18 December 2015. Link: https://telegrafi.com/bekim-haxhiu-insiston-ne-shkarkimin-e-ministrit-te-shendetesise/
17 "Haxhiu vazhdon t'i kërkojë dorëheqjen Imet Rrahmanit", Zëri, 17 February 2017. Link: http://zeri.info/aktuale/130875/haxhiu-vazhdon-t-i-kerkoje-doreheqjen-imet-rrahmanit/
18 "Dhëndri i Haradinajt do t'i menaxhojë paratë e Sigurimeve Shëndetësore", Koha.Net, 11 November 2017. Link: www.koha.net/arberi/56586/dhendri-i-ramush-haradinajt-do-ti-menaxhoje-parate-e-sigurimeve-shendetesore/
19 "MSH-ja fsheh dosjen e dhëndrrit të Haradinajt", Koha.Net, 17 November 2017. Link: www.koha.net/arberi/57811/msh-ja-fsheh-dosjen-e-dhendrit-te-ramush-haradinajt/
20 MoH: Administrative Instruction 07/2016, "Premium Collection for Mandatory Health Insurance". Link: http://msh-ks.org/wp-content/uploads/2016/01/Udhezim-Administrativ-07-2016.pdf
21 Interview with Saranda Ramaj and with a high-level official from an international organization which works with the health sector.

How does this political control over public health care institutions and resources involved in the health sector interplay with private sector actors? And how does it favour particular interests? The health sector is broad so these dynamics become visible only when looking at specific processes and sub-sectors, such as, for example, cardiology services (Case Study 1) or procurement practices (Case Study 2). At these levels, we find that institutions create an enabling environment for particular interests to dominate and act with impunity.

At these specific levels we find that the most powerful actors seem to be commercial service providers and medicines importers, and even smugglers of illegal medicines (see Case Study 2), including regional actors, such as hospitals and importers.[22] There are many importers of medicines and many service providers; political control of institutions determines which particular interest dominates where. The involvement of a wide range of institutional actors in schemes, either directly or through silent complicity, suggests an influence over multiple administrative processes that is bound to have some kind of political background (see Case Study 1). In some cases these micro-captures by particularistic interests in the health sector are legal, entailing regulatory capture by private operators (see Case Study 2).

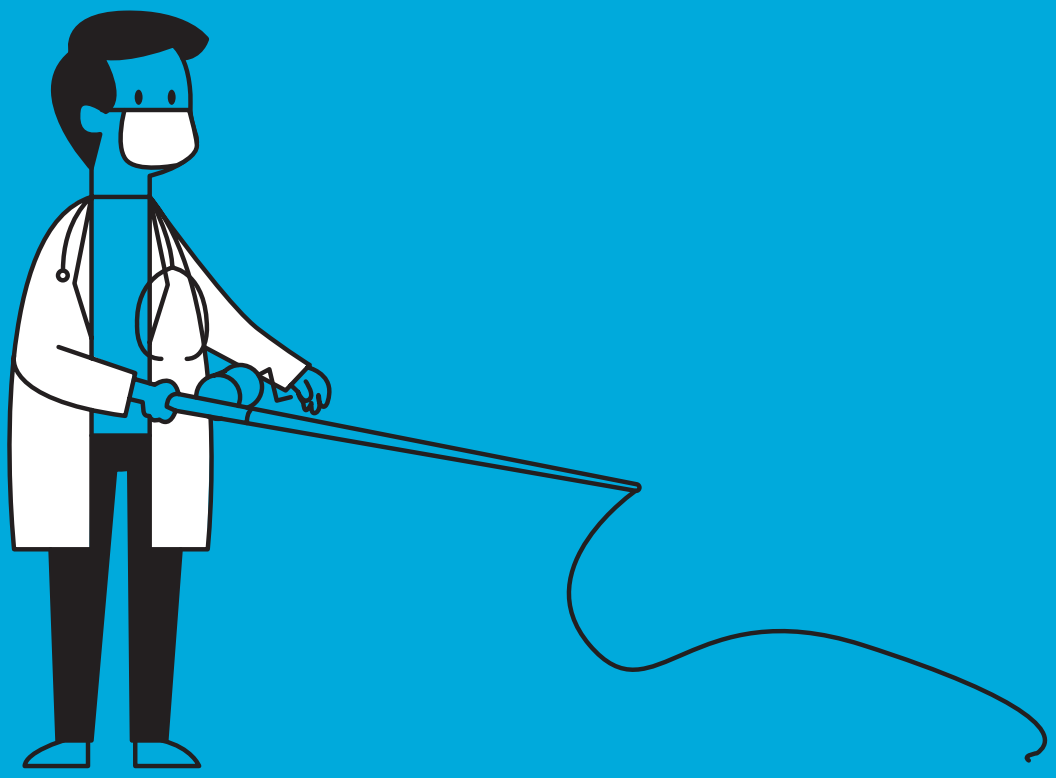
As noted in the introductory section, capture is defined as an entanglement of power and influence that is systemic and structural, and that extends over a period of time, and which causes harm to citizens. Broadly speaking, these features apply to the health sector for the reasons elaborated above. However, alone they are not enough to classify a situation as capture. There also has to be a lack of effective democratic control mechanisms.

To this end, political influence in the health sector extends beyond decision-making bodies and towards oversight ones. On many issues, the Health Inspectorate is the first line of defence, but it operates with the MoH and is susceptible to political influence. In general in Kosovo, oversight power and independence of inspectorates is weak.[23] In terms of procurement oversight mechanisms, the Procurement Review Board (PRB) regularly receives complaints about the MoH (16 complaints in 2016, seven of which were returned for re-evaluation[24]). The PRB has been shown to be a useful mechanism for accountability. However, integrity "in continuity has been damaged by the accusations of corruption which included the board of this institution".[25] Also, procedural delays to PRB reviews are in some cases favourable to commercial interests, as delays caused by a lack of public supply often force clients to purchase them privately. [26]

The only democratic oversight mechanisms that have been shown to be a factor of resilience towards capture in the health sector are the media and civil society (see Case Study 1 and Case Study 2), as they have drawn public attention to cases of abuse, and have even led to charges being brought by the prosecution authorities. However, as the case studies will show, even when there is a reaction by media and civil society **attempts at ensuring accountability reach their limit at the point at which prosecution authorities file charges: following charges, convictions are almost inexistent**. This happens either because of low technical capacity to prosecute medical cases, or due to a lack of courage in regard to challenging powerful interests.[27] This systematic inability of the judiciary to secure convictions in high-profile cases is illustrated by several examples. For example, the former Chairman of the Board was initially found guilty on charges of abuse of power[28] but was then released on appeal.[29] . The former head of the Constitutional Court was one of the rare officials to be found guilty of corruption, but was given a conditional sentence of only one year in prison. [30]

22 This is an assumption / conclusion made by the author based on interviews.
23 Gap Institute, "Inspectorates in Kosovo: organization and functioning", March 2014. Link: www.institutigap.org/documents/34615_ALB-Inspektoriatet.pdf
24 PRB, "Annual Report 2016", page 16. Link: https://oshp.rks-gov.net/repository/docs/Annual-report-2016.pdf
25 Democracy Plus, "The Public Procurement Knot: Monitoring Report of PRB", March –June 2017. Link: www.dplus-ks.org/wp-content/uploads/2017/11/02-Raporti-i-OSHPse-Mars-Qershor-ENG-V1-Inside.pdf
26 Interview with Arton Demhasaj.
27 Conclusion based on interviews and review of research on the judiciary in Kosovo.
28 "Denohet Hysni Hoxha", Kallxo.com, 23 December 2016. Link: http://kallxo.com/denohet-hysni-hoxha/
29 "Apeli liron nga akuza kryetarin e OSHP-së Hysni Hoxha", Koha.net, 28 July 2017. Link: www.koha.net/kronike/34457/apeli-liron-nga-akuza-kryetarin-e-oshp-se-hysni-hoxha/
30 "Denoher Enver Hasani", Kallxo.com, 18 October 2017. Link: http://kallxo.com/denohet-enver-hasani/

However, as the case studies will show, even when there is a reaction by media and civil society **attempts at ensuring accountability reach their limit at the point at which prosecution authorities file charges: following charges, convictions are almost inexistent.**



Case Study 1: Hospital referral system for cardiology services

An illustrative example of the phenomenon of the diversion of citizens from public institutions towards private operators is the "referral system" for cardiology services, such as the placement of heart valves and coronary artery scans. Through an Administrative Instruction that was first approved in 2012 and then modified in 2013[31], the MoH created the Programme for Treatment Outside Public Health Care Institutions (PTOPHCI). The programme **enabled clients to get subsidised treatment outside of public health institutions for services that the public health system was not able deliver**. According to the Administrative Instruction, to obtain this treatment clients first had to obtain a referral from a doctor. The Instruction stated that the MoH would cover 70% of expenses in private institutions (with welfare beneficiaries getting 100%). The MoH signed memorandums of understanding with those private operators who were part of the PTOPHCI.

In order to be eligible for the programme, patients had go through several verification steps. They first needed to get a signed report by a Consular Commission (three specialists at a public health institution), which verified that the disease could not be treated in public health care institutions. They also needed to provide a pro forma invoice from the private health institution with which the Ministry had an agreement. These had to be sent (together with other administrative documents) to the MoH for review by a Commission for Medical Evaluation, composed of five specialist doctors appointed by the MoH with a three-year mandate. The decision by the latter was then reviewed by a permanent Executive Board, consisting of five people appointed by the MoH (again, with a three-year mandate). The decision of the Executive Board was then signed by the Permanent Secretary for costs lower than €9,999, and co-signed by the Minister for larger amounts.[32]

Regardless of the many layers and actors involved, **the scheme led to systematic abuse**, causing financial damage to consumers and taxpayers, and in some cases even death due to malpractice. Public outcry over the abuses began in late 2014, after a series of media reports about abuses and whistleblowing by clients seeking heart valves and coronary artery scans at the Cardiology Unit of the Central Hospital in Pristina. Media outlets showed text messages between doctors working in public hospitals and fixers for private hospitals in which deals were made for referrals of patients (usually €500 for heart valve placements and €150 for coronary scans).[33]

The media reports led to the arrest of 11 doctors in October 2014. Almost two years later, in June 2016, the prosecution filed an **indictment for abuse of power and bribery** against 64 people.[34] The list included former Minister of Health Ferid Agani, Permanent Secretary Gani Shabani, as well as 44 doctors from public health institutions and 13 workers at private health care providers. Two particular hospitals (IMH) and (EDA) were also charged for benefiting from the scheme in the amount of €4.5 million.

The official reasoning for the referrals was the lack of medical supplies, including heart valves, which constituted the majority of referrals. An additional reason (especially for coronagraph scans) was dysfunctional equipment in the public hospital. The dysfunction of the machine for carrying out coronary scans is a "legendary" case of mismanagement. The expensive scanner (with a cost of €1.4 million) was received brand new as a donation in 2004, but stayed in a warehouse outside Pristina until 2012, for reasons that have not been adequately explained.[35] A researcher of the sector who was interviewed noted that ever since it became operational at the Cardiology Unit, the device had frequent malfunctions and the procurement of maintenance services was frequently delayed or failed.[36] The same researcher and a representative of an international organisation that works with the health sector both believe this was done intentionally to favour private providers.[37]

The fact that the referral case was eventually covered by the media and prosecuted might suggest that it was more akin to a corruption case, rather than a case of capture, which by definition involves a lack of democratic oversight mechanisms. To this end, it is worth noting that the Minister who was charged came from a smaller coalition partner[38] that had less sway over other key disciplinary institutions, such as the media and the judiciary, and less control over administrative leaks. Furthermore, the practice would likely have continued if the consequences had not been so horrific (i.e. involving the death of clients), which increased the likelihood that the victims' families would speak out.

31 MoH, "Administrative Instruction 10/2013: For the Medical Treatment Outside of Public Health Institutions". Link: http://msh-ks.org/wp-content/uploads/2013/11/Udhezim%20Administrativ%2010-2013.pdf
32 Ibid.
33 "SMS-të e mjekëve të arrestuar", Kallxo.com, 10 October 2014. Link. http://kallxo.com/sms-te-e-mjekeve-te-arrestuar/
34 "Aktakuzë kundër 64 të pandehurve, ndër ta edhe Ferid Agani", Telegrafi, 15 June 2016. Link: https://telegrafi.com/aktakuze-kunder-64-te-pandehurve-nder-ta-edhe-ministri-ferid-agani/
35 Interview with Saranda Ramaj and official from international organisation working with the health sector.
36 Ibid.
37 Ibid.
38 The Justice Party had three MPs in the 2014–2017 legislature.

The first key feature that suggests that this case is an example of capture was the collusion between a wide range of actors within and outside of the public health chain, which, as illustrated earlier in the report, is under political control. The involvement of so many actors **indicates a sophisticated organisation which was able to penetrate and overcome the barriers within a range of disparate institutions**. The power structure and network involved in this case included a mix of private operators, doctors (cardiologists), and political figures who made sure that various parts of the MoH hierarchy signed off on referrals and favoured the two particular hospitals. In addition, according to the prosecution, the MoH approved referrals to the two public hospitals despite the fact that at certain points they were shown to have operated without licences and to have hired unlicensed doctors[39], indicating a wider regulatory failure that includes inaction by health inspectors and the Licensing Board appointed by the same power structure within the MoH.

The second and perhaps most important key feature that qualifies the "referral case" as an example of capture is the fact that a verdict against those who have been indicted does not seem likely. Since the announcement of the indictment almost two years ago, **there have been five changes of prosecutors handling the case**.[40] The case has not even reached the point where the indictment has been read out to the defendants, after the Appeals Court found there were procedural breaches in the first opening session.[41] One interviewed source familiar with the case suggests that the prosecution is showing signs of negligence and technical incompetence in dealing with the case.[42]

Subsequent to the indictment, the Administrative Instruction on referrals has since been slightly modified (in 2016) to clarify the administrative procedures for case handling and to strengthen client rights.[43] The media pressure and the charges brought by the prosecution have seemingly had an impact in the sense that no further "blatant cases of abuse with referrals" have publicly emerged. However, the equipment in the Cardiology Unit (coronagraph scanner, CT, and angiograph) has remained dysfunctional for much of 2016 and servicing tenders have frequently been annulled. In just the first nine months of 2016 the MoH paid €600,000 to private hospitals for such services.[44] The coronagraph scan was reinstated in February 2016[45], but past practice and impunity provide grounds for scepticism that unnecessary referrals are a thing of the past.

The media reports led to the arrest of 11 doctors in October 2014. The list included former Minister of Health Ferid Agani, Permanent Secretary Gani Shabani, as well as 44 doctors from public health institutions and 13 workers at private health care providers.

39 "Lista me 100 mjekët nën hetime", Zëri, 29 January 2016. Link: http://zeri.info/aktuale/73965/lista-me-100-mjeket-nen-hetime Link: http://zeri.info/aktuale/73965/lista-me-100-mjeket-nen-hetime

40 Interview with official working for international organisation in the health sector.

41 "Apeli e kthen në rivendosje rastin Stenta", Telegrafi, 02 November 2017. Link: https://telegrafi.com/apeli-e-kthen-ne-rivendosje-rastin-stenta

42 Interview with international legal expert who closely follows the work of the judiciary in Kosovo.

43 MoH, "Administrative Instruction 03/2016: For the Medical Treatment Outside of Public Health Institutions". http://msh-ks.org/wp-content/uploads/2016/01/Udhezim-Administrativ-3-2016.pdf

44 "QKUK lë apraturat pa servisim, MSH për 6 muaj çon 600 mijë euro në spitale private", Koha, 27 October 2016. Link: http://archive.koha.net/?id=27&l=139375

45 "Pas rregullimit të aparaturës kursehen 2 milionë Euro në QKUK", Kallxo.com, 18 July 2017. Link: http://kallxo.com/pas-rregullimit-te-aparatures-kursehen-2-milione-euro-ne-qkuk/

Case Study 2: Supply of essential medicines and disposable materials

Out of the total budget expenditures in the health sector (€180 million in 2016), around €21 million are used to supply public health care facilities with medicines that are part of the ELM, and another €6–7 million are used to purchase from the List of Disposable Materials.[46] Nonetheless, this amount is insufficient and health facilities continue to face chronic shortages of products on the essential lists.[47] Stories of patients having to go to pharmacies and purchase basic things such as infusions and gloves for doctors to operate, not to mention costly cancer medicines, are not just anecdotal but almost a daily occurrence. Every year, the ELM meets only around one-third of patient needs.[48]

Shortages in the medicines found in public health facilities occur for a variety of reasons related to **procurement planning, implementation, and management**. A United Nations Development Programme (UNDP) report describes the procurement system as follows: "Hospitals estimate the quantities and types of medicines needed, and submit their requests to the Health Financing Agency (HFA), whereas the facilities at the primary health care level submit their needs through the MoH Pharmaceuticals Division, which sends the request to HFA. The HFA consolidates requests, makes sure that the medicines are registered and on the EDL, assures that financial resources are available, and then initiates procurement procedures through the MoH Procurement Division."[49]

Supply targets are not met due to a long list of negative practices, some of which are more systematic and others more sporadic. We list here some of the practices identified during the research:

1. The inclusion in the ELM, and the subsequent purchase of, higher value options, regardless of the medical benefits, which reduces the amount available in the pharmaceutical budget for those and all other medicines.
2. The submission by facilities of procurement requests that are lower than needs.
3. The limitation of competition in bidding due to new regulations that request documentation that is difficult to obtain for certain providers, or due to narrow technical specifications during the bidding process.
4. The disappearance and siphoning off of procured medicines from the Central Pharmacy towards private pharmacies.

The procurement of cytostatic, used to treat cancers, perfectly exemplifies how the purchase of a high-cost product, and in many cases procurement requests that are lower than demand, leads to unmet needs that force citizens to purchase privately, and often to purchase contraband goods. The Oncology Clinic in the Central Hospital in Pristina faces chronic shortages of cytostatic. Experts estimate that somewhere between 30 and 40 per cent of needs are met[50] and citizens are forced to purchase some of the most expensive drugs from alternative sources.

One of the key problems in the planning stage of medicine procurement, including for cytostatic, is the **inclusion in the ELM, and the subsequent purchase, of higher cost products** from the World Health Organization Model List of Essential Medicines, which then consumes the pot of funds available for other medications even beyond cytostatic. The result today is that a small number of medicines, especially cytostatic, consume a disproportionate share of the budget. In 2013, the procurement of only 11 types of cytostatic cost the MoH around €8.4 million, which is 40 per cent of the total MoH budget for medicines.[51] The new Minster of Health, Uran Ismaili, recently reported that 10 per cent of the medicines (30 medicines) on the ELM consume 60 per cent of the pharmaceutical budget.[52] Procurement practices with regard to these drugs therefore have a disproportionate effect throughout the sector.

46 Kosovo Consolidated Budget 2017.
47 "Spitalet pa Barna", Kallxo.com, 02 December 2017. Link: http://kallxo.com/spitalet-pa-barna/
48 Interview with Saranda Ramaj.
49 UNDP, "Corruption Risk Assessment in the Health Sector", 2014. Link: www.ks.undp.org/content/kosovo/en/home/library/democratic_governance/saek-corruption-risk-assessment-in-health.html
50 "Rruga e citostatikëve deri te pacientët kosovarë", Koha Ditore, 29 July 2015. Link: www.surroi.net/uploads/files/2016/April/25/13_saranda_ramaj1461601643.pdf
51 MoH, "Lista Esenciale sipas VEN dhe ABC Indikatorëve". http://msh-ks.org/wp-content/uploads/2013/11/Lista-Esenciale-sipas-VEN-dhe-ABC-Indikatoreve.pdf
52 "Ismaili: Nga 300 barna nga lista esenciale, 30 marrin 60% te buxhetit", EkonomiaOnline, 07 December 2017. Link: www.ekonomiaonline.com/nacionale/shendetesi/ismaili-nga-300-barna-nga-lista-esenciale-30-marrin-60-te-buxhetit/

Take the case of Trastuzumab, which is a cytostatic that is used to treat breast cancer and that is included in the ELM. Doctors have questioned the reasons for the choice of such an expensive drug in Kosovo's context, as it costs around €1,500–1,800 per ampule.[53] It is not only expensive but it is also poorly planned, in terms of procurement amounts. In 2012, the Oncology Unit requested the purchase of 2,285 ampules of the drug, to meet its needs. Three years later, in 2015, despite the increase in need, the request for procurement was three times lower, thus leading to unmet needs[54] In 2015, Kosovo Democratic Institute (KDI) had reviewed the procurement practices at the MoH for several medicines on the ELM, including Trastuzumab. While the procurement processes did not have major procedural problems, the monitoring report did note in the case of Trastuzumab – a product patented by Roche – that the MoH could have skipped the competitive bid and entered into direct negotiations to secure a lower price.[55]

The impact of shortages of cytostatic on citizens and the massive profits for private operators, including contraband ones, was illustrated by an award-winning investigative report by journalist Saranda Ramaj from *Koha Ditore*.[56] The report noted that with only 30–40 per cent of the need for cytostatic met, citizens purchase privately more than double what is procured, and at higher prices – estimated in 2015 at €15 million.[57] In addition, the prices in the black market shift dramatically, depending on their availability at the Central Hospital. Ramaj's report took the example of Avastin (bevacizumab), an expensive cytostatic which in 2015 was bought by the MoH for €1,000 per ampule. The report followed a patient needing that medicine who reported that the price of the medicine in a private pharmacy was €700, when it was available at the Central Hospital. A week later, when the Hospital ran out of Avastin, the same product was sold at the pharmacy for €1600.[58]

These procurement practices (planning, procurement process), which lead to shortages, might be unprofessional, but they are legal, as it is within the discretion of the MoH to decide which specific types of medicine to procure from the ELM, how much to procure, and how to procure it. The purchase of higher prices or the supply at lower amounts is therefore caused not necessarily by corrupt procurement processes but rather is the product of predetermined outcomes enabled by the ELM. The assessment of procurement at the MoH carried out by KDI[59] and interviews[60] indicate that there was no proper initial study behind the compilation and reviews of the ELM, **indicating the possibility of capture by commercial interests at the policy formulation level**.[61]

An attempt to engage in such capture became public in 2014, when the ELM was reviewed. The working group for the review was chaired by the head of the MoH Pharmacy Unit, Enkelejda Gjonbalaj. Two lower-cost products used to prevent nausea and vomiting after chemotherapy (*ondansetron* and *granisteron*), were removed from the essential list of medicaments and replaced by another product, *palonosetron*, which was around 60 times more expensive. In addition, the product was also classified in the new list of essential medicaments as a cytostatic, or a medicine for use against cancer (which it is not).[62] When the tender was announced, KDI objected and reported that this would increase the price of the tender by a staggering 15,000 per cent, from €7,920 to €1.2 million.[63] The problem was not only the increase in the price but also the quantity requested, which was double the usual quantity. **The tender process was annulled after the KDI's objection was raised**.

In September 2014 the prosecution filed a lawsuit against Mrs. Gjonbalaj for abuse of power. The prosecution claimed that she had lobbied for this change in the ELM without consulting the Oncology Unit of the HSCUK, with the aim of profiting for herself and "Global Pharm", which was the only company licensed to sell the newly added product *palonosetron*.[64] Nevertheless, almost three years later, in June 2017, **Ms. Gjonbalaj was acquitted by the court of the charges against her**.[65] While the verdict on the guilt of Ms. Gjonbalaj requires legal interpretation, which is beyond the scope of the report, the verdict by itself strengthens the perception of impunity. The verdict does not change the objective fact that a lower-cost medicine was replaced by one that was 60 times costlier.

53 "Rruga e citostatikëve deri te pacientët kosovarë", Koha Ditore, 29 July 2015. Link: www.surroi.net/uploads/files/2016/April/25/13_saranda_ramaj1461601643.pdf
54 Ibid.
55 Kosovo Democratic Institute, "Transparentitis Virus: Public Procurement in the Ministry of Health", March 2016. Link: www.kdi-kosova.org/publikime/74-2016-03-31-virusi-transparentitis_eng_final_isbn.pdf
56 "Rruga e citostatikëve deri te pacientët kosovarë", Koha Ditore, 30 July 2015. Link: www.surroi.net/uploads/files/2016/April/25/13_saranda_ramaj1461601643.pdf
57 Ibid.
58 Ibid.
59 Kosovo Democratic Institute, "Transparentitis Virus: Public Procurement in the Ministry of Health", March 2016. Link: www.kdi-kosova.org/publikime/74-2016-03-31-virusi-transparentitis_eng_final_isbn.pdf
60 Interview with Saranda Ramaj and Isuf Zejna.
61 Author's own conclusion based on assessment of desk research and interviews.
62 Kosovo Democratic Institute.
63 Ibid.
64 "Gjykimi i drejtoreshës për tenderin e shtrenjtë të barnave", Kallxo.com, 10 March 2017. Link: http://kallxo.com/gjykimi-drejtoreshes-per-tenderin-e-shtrenjte-te-barnave/
65 "Drejtoresha e barnatorës e pafajshme për tenderin e barnave", Kallxo.com, 16 June 2017. Link: http://kallxo.com/drejtoresha-e-barnatores-e-pafajshme-per-tenderin-e-barnave/

Regulatory capture through influence in predetermining outcomes through the ELM is not the only form of capture that reduces the public supply of medicines. A new form of regulatory capture has recently **reduced competition in public procurement bids and caused yet another massive spike in the price of publicly procured medicines**. This monopolisation occurred in 2016, with the modification of the Administrative Instruction for Marketing Authorisation for Medicinal Products.[66] The new rules make it more difficult for certain producers to sell their products in Kosovo. Considering the small size of the market and the lack of local representatives, as a result of the new rules many serious producers have stopped competing in public tenders.

The impact of this new competitive restriction on prices has been staggering. Researchers have found that in 2016 there were huge price spikes in the procurement of 205 products, the smallest being 300 per cent and the largest 2,000 per cent.[67] The financial damage is estimated at €15 million in 2016 alone.[68] For example, in a review of a framework contract with LiriMed for 16 products (16 lots) in 2016, only one was found not to have a price change compared to 2015. The prices of the other 15 products were higher by 100 to 800 per cent.[69]

As such cases have become more common, they have drawn increased media attention, as the purchase prices are easy to compare with prices in local pharmacies. For example, in October 2017, media reported that the MoH procurement office recommended the signing of a €650,000 purchase contract for Imatinib – pills used for the treatment of leukaemia – for a price that is 300 per cent higher than the price of the same medicine in a pharmacy. The recommended bidder, Redoni HM, offered a price per tablet of €24, whereas media reports suggest the same pill costs €7.5 in a local pharmacy.[70] After a public outcry over the case, the Minister of Health, Uran Ismaili, refused to sign the contract, despite the recommendation of his procurement office.[71] Such reactions, however commendable, do not solve the problem of supply in the short-term, as these are emergency products and hospital clients will still need to purchase them privately.

Researchers monitoring MoH procurement as well as decisions by the PRB have also highlighted other systemic problems with procurement practices at the MoH.[72] A good proxy for these problems is the lack of transparency. Between August 2015 and March 2016, KDI requested access to 11 contracts, but received access to only six.[73] A report by Democracy Plus on the activities of the PRB during the months of March–June 2017 noted that the MoH was the contracting authority that received the fourth largest number of complaints, and the University Clinical Centre of Kosovo was the fifth.[74] Out of the 11 cases reviewed, the PRB decided in favour of the economic operators in 10 cases. The reasoning behind the decisions in the case of health vary. In many cases PRB decisions reject decisions because technical specifications favour certain bidders.[75] Technical specifications are also a chronic problem in the purchase of disposable materials, as they allow for the purchase of sub-standard gloves or scrubs[76], which patients are then forced to purchase privately.

Last but not least, the last part of the chain of problem relates **to deficiencies in procurement management**, which interviewees suggested might be one of the most problematic areas. There were several identified cases of siphoning off of medications from the Central Pharmacy to private pharmacies, including for cytostatic.[77] A UNDP report notes that in one period in 2014 the main warehouse was eight months behind in record-keeping, which creates vulnerability for theft."[78]

A classic case of poor contract management for medical supplies came under the national spotlight in September 2017, when three clients in the Gynaecology department died in mysterious circumstances. An investigation by the prosecution found that the cause of death was the sterilisation gas. The supplier who was awarded the contract provided a different unlicensed version of the gas, which was produced in Kosovo, instead of the Macedonian version specified in the contract. Responsibility for this lay with the Central University Hospital Clinic, which exercised poor contract management and supervision. The case and the public outcry it provoked led to the resignation of the HUCSK Executive Director, Curr Gjocaj, and to charges being filed against the owner of the supply company. However, as in other cases, an indictment might well be where the story ends.

66 Interview with Saranda Ramaj.
67 Interview with Saranda Ramaj, who has produced a report for the Columbus Institute in Pristina. This report is still at the draft stage.
68 Ibid
69 "Barnat për spitale publike 8 herë më shtrenjtë se deri tani", Telegrafi, 20 May 2016. Link: https://telegrafi.com/barnat-per-spitale-publike-8-shtrenjte-se-deri-tani/
70 "MSH-ja i paguan 300% më shtrenjtë barnat kundër kancerit", Zeri, 27 October 2017. Link: http://zeri.info/aktuale/168998/msh-ja-i-paguan-300-me-shtrenjte-barnat-kunder-kancerit
71 "Ismaili jashtë afatit ligjor anuloi tenderin që ia kursen MSH-së qindar mijëra euro", Koha, 28 October 2017. Link: www.koha.net/arberi/53680/ismaili-jashte-afatit-ligjor-anuloi-tenderin-qe-ia-kursen-msh-se-qindra-mijera-euro/
72 Interviews with Isuf Zejna and Saranda Ramaj.
73 Kosovo Democratic Institute, "Transparentitis Virus: Public Procurement in the Ministry of Health", March 2016. Link: www.kdi-kosova.org/publikime/74-2016-03-31-virusi-transparentitis_eng_final_isbn.pdf
74 Democracy Plus, "The Public Procurement Knot: Monitoring Report of PRB", March –June 2017. Link: www.dplus-ks.org/wp-content/uploads/2017/11/02-Raporti-i-OSHPse-Mars-Qershor-ENG-V1-Inside.pdf
75 "Ministria e Shëndetësisë, përgjegjëse për furnizimin e QKUK-së me barna", REL, 16 November 2017. Link: www.evropaelire.org/a/28738834.html
76 Kosovo Democratic Institute, "Transparentitis Virus: Public Procurement in the Ministry of Health", March 2016. Link: www.kdi-kosova.org/publikime/74-2016-03-31-virusi-transparentitis_eng_final_isbn.pdf
77 "Rruga e citostatikëve deri te pacientët kosovarë", Koha Ditore, 30 July 2015. Link: www.surroi.net/uploads/files/2016/April/25/13_saranda_ramaj1461601643.pdf
78 UNDP, "Corruption Risk Assessment in the Health Sector", 2014. www.ks.undp.org/content/kosovo/en/home/library/democratic_governance/saek-corruption-risk-assessment-in-health.html

GENERAL RECOMMENDATIONS

Reduce political and commercial influence in the MoH and other institutions responsible for public health. Political influence must be reduced in professional appointments, especially for key positions at the MoH, the HUCSK, and the newly established Health Insurance Fund. High-level civil service recruitment could be carried out in a more stringent way, possibly through the existing joint project with the British Embassy on public sector recruitments.[79] A thorough integrity plan should be developed to look at decision-making functions within the MoH and HUCKS that have a higher susceptibility and vulnerability to capture by commercial interests. Mechanisms should be developed to increase the number of stakeholders involved in decision-making in such cases.

Resolve the wide range of problems related to procurement of medicines and medical supplies which reduces their availability and/or quality. Conduct a thorough revision of the ELM to expand options and reduce costs. Eliminate regulatory barriers which discourage reliable producers from marketing their products in Kosovo and prevent the use of narrow technical specifications, both of which reduce competition in public procurement, increase prices, and reduce the supply of medicines. Ensure that procurement planning is done sufficiently in advance so as to leave time for potential disputes by the PRB, or ensure that changes to the Law on Public Procurement create exceptions for supplies of medicines in specific urgent situations. Ensure better contract management through better stock management and monitoring of standards of procured goods and supplies.

Strengthen mechanisms to identify, prevent, and report breaches of legal provisions by health care providers. The Health Inspectorate should be substantially empowered and its capacities strengthened in order for it to be able to fulfil its oversight mandate. Increased space for civil society and the media – through the creation of credible spaces for whistleblowing by clients, doctors, or other stakeholders – is essential to draw attention to cases, like the referral system, before they expand and cause serious damage. Civil society and the media have been shown to be a key factor in uncovering problems.

Support the technical capacities of the prosecution to try medical cases. The situation of capture cannot be tackled within a climate of immunity. Cases brought to court in relation to procurement of medicines or other crimes related to medical services often fail due to lack of capacity among prosecutors to comprehend technical medical subjects. Opportunities should be created for the prosecution to obtain specialised technical support in handling such cases.

Increase transparency related to campaign financing. The specific links between private suppliers of medicines and health services and political parties must be made clearer, through increased transparency over campaign financing. To this end, Kosovo must make sure that the campaign financing legislation that is in place is actually enforced, and that the legislation is reformed to clarify responsibilities for oversight mechanisms, including the competences of the Electoral Commission and the Anti-Corruption Agency.

Use EU integration commitments to pressure political elites to implement reforms. Several provisions in the Stabilisation and Association Agreement (SAA) between Kosovo and the EU oblige Kosovo to take action on health reform implementation. Article 106 ("Social Cooperation") commits the parties "to cooperate with the aim to improve health and prevent illness in the population, develop independent and effective administrative structures and enforcement powers to ensure essential health and safety requirements, safeguard patients' rights, protect citizens from health threats and diseases, and to promote healthy lifestyles."[80] Political influence in administrative functions runs counter to a commitment to merit-based human resource management and career development in the public service (Article 120). Some institutional practices might be stifling competition in the marketing and procurement of medications and as such are not in the spirit of the SAA's Article 75 ("Competition and other economic provisions") and Article 79 ("Public procurement"). The impunity of actors also implies a low level of commitment to Article 83 ("Reinforcement of institutions and the rule of law"), in which Kosovo and the EU pledged to "attach particular importance to the consolidation of the rule of law".[81]

79 "Përzgjidhet kompania që do të ndihmojë në rekrutimin për poste publike", Zëro, 23 October 2016. http://zeri.info/ekonomia/113569/perzgjidhet-kompania-qe-do-te-ndihmoje-rekrutimin-e-posteve-publike/

80 SAA between the European Union and Kosovo.

81 Ibid.

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The European Union is made up of 28 Member States who have decided to gradually link together their know-how, resources and destinies. Together, during a period of enlargement of 50 years, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders