

NATIONAL INTEGRITY SYSTEM ASSESSMENT KOSOVA

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The Kosova Democratic Institute is a branch of
Transparency International for Kosovo

KDI's mission is to support the
development of participatory
democracy and the fight against
corruption by promoting transparency,
accountability and integrity at all levels
and sectors of society.

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Kosova Democratic Institute is an NGO founded in 2005. The self-initiative of the local staff to contribute to the country's young democracy, combined with their experience in civic participation, advocacy, election and parliament monitoring, was paramount in driving the organisation to become what it is today – **one of the most credible, bold and influential NGOs in Kosovo.**

KDI's work is guided towards a corruption-free environment where institutions, business and citizens exercise their rights and roles with integrity and dignity. Its mission is to "support the development of participatory democracy and the fight against corruption through the promotion of transparency, accountability and integrity at all levels and sectors of society".

In 2015, KDI finally became accredited as a full member of Transparency International, a leading global movement against corruption. Being a member/chapter of TI, KDI's work is subject to a rigid and regular re-accreditation process. This process guarantees that the organisation is governed based on principles of impartiality, transparency, integrity, good governance and great working ethics.

The KDI's work is organised in four programmatic areas:

- 1) Democratisation and Parliamentary Practices,
- 2) Transparency and Anti-Corruption,
- 3) Local Governance and Civic Participation, and
- 4) Elections. Each of these four programmes is responsible for developing specific projects contributing to the implementation of the organisation's strategic priorities.

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LIST OF ABBREVIATIONS

AAK	Alliance for the Future of Kosovo
APC	The Agency for Prevention of Corruption
AJK	Association of Journalists of Kosovo
BIRN	Balkan Investigative Reporting Network
BPRG	Balkans Policy Research Group
CEC	Central Election Commission
CEFTA	Central European Free Trade Agreement
CMIS	Case Management Information System
CPA	Central Procurement Agency
CSO	Civil society organisations
DiA	Democracy in Action
DILC	Department for International Legal Cooperation
ECAP	Elections Complaints and Appeals Panel
EMB	Electoral Management Body
EU	European Union
EUROSAI	European Organisation of Supreme Audit Institutions
GDP	Gross Domestic Product
GIZ	German Agency for International Cooperation
GLPS	Group for Legal and Political Studies
IDFI	Institute for Development of Freedom of Information
IMC	Independent Media Commission
INTOSAI	International Organization of Supreme Audit Institutions
IOBKCS	Independent Oversight Board of the Kosovo Civil Service
IPA	The Instrument for Pre-Accession Assistance
IREX	International Research and Exchanges Board
ISSAI	International Standards of Supreme Audit Institutions
KBRA	Kosovo Business Registration Agency
KCSF	Kosovar Civil Society Foundation
KCSS	Kosovar Centre for Security Studies
KDI	Kosova Democratic Institute



KISCSC	Independent Supervisory Council for the Civil Service of Kosovo
KJC	Kosovo Judicial Council
KLA	Kosovo Liberation Army
KLI	Kosovo Law Institute
KP	Kosovo Police
KPC	Kosovo Prosecutorial Council
KPI	Kosovo Police Inspectorate
LDK	Democratic League of Kosovo
LVV	Self-Determination Movement
MP	Members of parliament
MTI	Ministry of Trade and Industry
NAO	National Audit Office
NDI	National Democratic Institute
NGO	Non-governmental organisations
OECD	Organization for Economic Cooperation and Development
OGG	Office for Good Governance
OGP	Open Government Partnership
OIK	Ombudsperson Institution of Kosovo
ORCA	Organisation for Increasing Quality of Education
OSCE	Organisation for Security and Co-operation in Europe
PCK	Press Council of Kosovo
PDK	Democratic Party of Kosovo
PE	Public Enterprises
PPP	Public-private partnerships
PPRC	Public Procurement Regulatory Commission
PRB	Procurement Review Body
RTK	Radio Television of Kosovo
SIGMA	Support for Improvement in Governance and Management
SL	Serbian List
SLAPP	Strategic lawsuits against public participation
SOE	State-owned enterprises
SPRK	Special Prosecutor of the Republic of Kosovo
UNDP	United Nations Development Programme
USAID	United States Agency for International Development





EXECUTIVE SUMMARY

In Kosovo, corruption remains a persistent challenge, reflected in its 2022 Transparency International Corruption Perceptions Index score of 41 out of the maximum possible index score of 100, placing it 84th globally. This marks an improvement from fluctuations in previous years, starting with a score of 36 in 2016 and reaching up to 39 in 2017 and 2021, with further progress in 2022.

Transparency International's Global Corruption Barometer 2016 notes a 10 per cent bribery rate for accessing government services within the last 12 months. High-profile corruption cases involve former government officials, judges and institutional figures, with prosecutions focusing on abuse of office, bribery, asset declaration failures, money laundering and organised crime, especially in public procurement.

While Kosovo has a robust legal framework, the challenge lies in effective implementation. Legal provisions include the Criminal Code, Code of Criminal Procedure and anti-corruption laws. A civil asset forfeiture law aims at confiscating unjustifiably acquired property, but its actual effectiveness remains to be demonstrated in practice.

Constitutional reforms for the vetting process are underway, with amendments addressing heads of the judicial and prosecutorial systems. However, deficiencies, such as an imprecise definition of the assessing authority's independence, by not defining its legal status as an independent, constitutional or governmental institution, and the absence of gender and community representation, pose challenges.

Kosovo's legal initiatives impacting the National Integrity System cover various aspects, from constitutional amendments, to political party financing, asset confiscation and the creation of anti-corruption agencies. These efforts, led by the Ministry of Justice, aim to enhance institutional integrity.

Despite government progress, a 2022 report by the Kosovar Centre for Security Studies indicates lingering concerns among citizens, with approximately 80 per cent viewing corruption as a significant threat and 36 per cent feeling the government's progress is insufficient. Challenges such

as political instability and an inefficient justice system persist, and international reports indicate ongoing corruption within the government paired with inadequate corrective actions.

Kosovo, as a young and evolving state, demonstrates a number of positive aspects in its National Integrity System, marked by a legal framework that theoretically upholds the principles of transparency, accountability and independence across various pillars. However, the practical implementation of legislation reveals several challenges that need urgent attention to fortify the country's governance structures and effectively combat corruption.

The legal framework ensures organisational, administrative, and budgetary independence for the legislature, executive and oversight bodies. However, most of the institutions are dependent on the Ministry of Finance budgetary projections and allocations, which usually are lower than the amounts requested. Notably, provisions regarding transparency do exist, allowing the public access to information about key institutions in a timely manner. Provisions for financial reporting, legal safeguards and comprehensive laws across multiple pillars underscore a commitment to integrity and accountability. The presence of active civil society organisations and a diverse media landscape contributes to accountability and the dissemination of information.

However, despite these strengths, critical challenges and loopholes persist. Under-resourcing, particularly in human and infrastructural dimensions, hinders the effectiveness of institutions. Undue political influence, especially from the executive, further diminishes the effectiveness and independence of key bodies like the judiciary, State Prosecutor and Assembly, among others. Transparency gaps, including confidential minutes of government meetings, and accountability deficiencies, such as undefined sanctions for judges, pose challenges. In addition, enforcement of integrity measures, such as codes of conduct, remains inconsistent.

Reforms are imperative to address the identified challenges in a comprehensive manner. Regarding resource constraints, the immediate focus should be on addressing resource gaps across institutions. Allocating adequate re-





sources is essential for optimising the performance of key institutions, including the judiciary. Mitigating external influences, especially political influences, is critical for upholding the independence of institutions. Strengthening legal provisions and enforcement mechanisms can safeguard decision-making authority, ensuring autonomy.

Moreover, transparency in decision-making processes must be enhanced, particularly in government meetings where confidentiality often persists, as well as in responsiveness to media enquiries. Opening up these processes and improving communication with the media not only fosters public trust but also contributes significantly to fostering more accountable governance.

Strengthening accountability mechanisms is also a vital step, involving clearly defining sanctions for judges and ensuring consequences for poor performance. Instilling public confidence requires robust enforcement of codes of conduct and the establishment of effective mechanisms for upholding integrity. This entails implementing measures to ensure the documentation and disclosure of interactions with lobbyists, thereby providing transparency in legislative processes.

In conclusion, comprehensive reforms are pivotal in fortifying Kosovo's National Integrity System. Collective efforts to bridge resource gaps, enhance transparency and enforce accountability measures will foster a resilient integrity framework, ensuring the effectiveness and credibility of Kosovo's institutions in combatting corruption.



INTRODUCTION

The National Integrity System (NIS) comprises the principal governance institutions in a country responsible for the fight against corruption. When these governance institutions function correctly, they constitute a healthy and robust NIS, effective in combatting corruption as part of the larger struggle against the abuse of power, misconduct and misappropriation in all its forms. However, when these institutions are characterised by a lack of appropriate regulations and by unaccountable behaviour, corruption is likely to thrive, with adverse ripple effects on the societal goals of equitable growth, sustainable development and social cohesion. Therefore, strengthening the NIS promotes better governance in a country and contributes to a more just society overall.

Transparency International (TI) developed the NIS as part of TI's holistic approach to combatting corruption. While there is no absolute blueprint for an effective anti-corruption system, there is a growing international consensus on the salient aspects that work best to prevent corruption and promote integrity. The NIS assessment evaluates the legal basis and the actual performance of institutions relevant to the overall anti-corruption system. The NIS comprises the institutions or "pillars" depicted in Figure 1, which are based on a number of foundations in terms of political, social, economic and cultural conditions.

The NIS is based on a holistic approach to preventing corruption as it looks at the entire range of relevant institutions and also focuses on the relationships among them. Thus, the NIS presupposes that a lack of integrity in a single institution would lead to severe flaws in the entire integrity system. Consequently, the NIS assessment does not seek to offer an in-depth evaluation of each pillar, but rather puts an emphasis on covering all relevant pillars and assessing their interlinkages.

TI believes that such a holistic "system analysis" is necessary to appropriately diagnose corruption risks and develop effective strategies to counter those risks. This analysis is embedded in a participatory approach, involving the key anti-corruption agents in government, civil society, the business community and other relevant sectors to build momentum, political will, and civic pressure for relevant reform initiatives.

The NIS assessment creates a sound empirical basis that adds to our understanding of strong or weak performers on a cross-country level. In addition, from a regional perspective, the results can create a sense of peer pressure for reform and an opportunity for learning from those countries in similar stages of development.



NATIONAL INTEGRITY SYSTEM

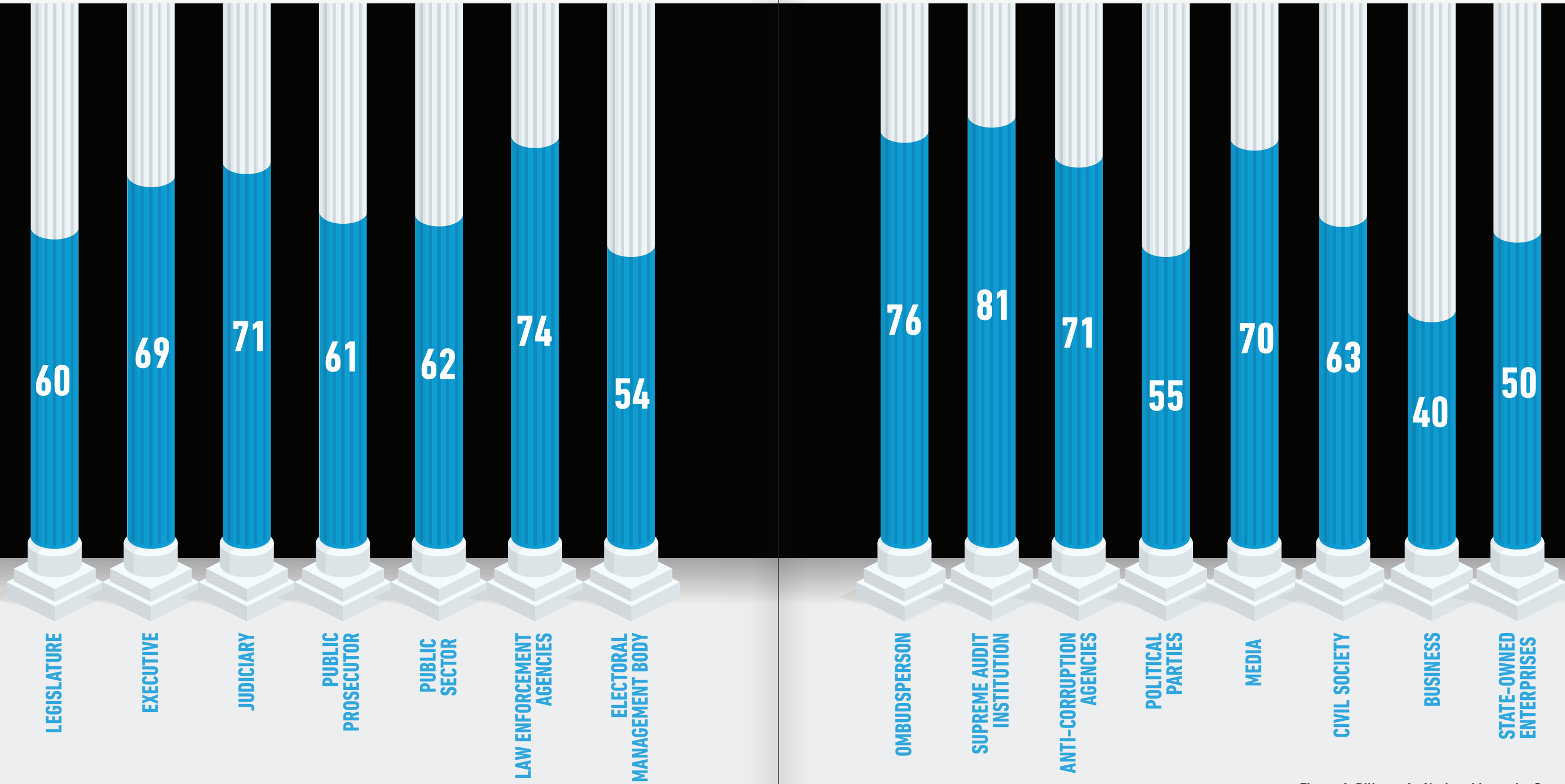


Figure 1: Pillars of a National Integrity System

COUNTRY PROFILE:

2.1 Foundations of the National Integrity System

1. GOVERNANCE & POLITICS

Kosovo is a parliamentary republic, adhering to the fundamental concept of the separation of powers and maintaining a system of checks and balances between them.¹ The people's sovereignty is exercised through their elected representatives,² with the Assembly of Kosovo serving as the highest authority responsible for both representation and legislation within the nation.³ Executive authority is wielded by the government, tasked with carrying out the enforcement of laws and other measures authorised by the Assembly.⁴ The President, while primarily holding a ceremonial role, serves as the symbolic head of state and is elected by the Assembly of Kosovo.⁵ The President is the sole position within the institutional hierarchy subject to a restriction, allowing for a maximum of only two terms in office.⁶

The government cabinet consists of the Prime Minister, three deputy prime ministers and 15 ministers. Seven of the 15 ministries in government are headed by women. The government is the authority that leads and manages the public and state administration.⁷ Since 2022, the government is led by the Self-Determination Movement and Lista Guxo parties under Prime Minister Albin Kurti and deputy prime ministers Donika Gërvalla, Besnik Bislimi and Emilja Redzeqi.⁸ The Assembly, based on the outcome of the 2021 parliamentary elections, is made up of the following parties: the Self-Determination Movement holds 56 seats, followed by the Democratic Party of Kosovo with 18 seats, the Democratic League of Kosovo with 16 seats, the Serbian List with nine seats, the Alliance for the Future of Kosovo with eight seats, and the Turkish Democratic Party of Kosovo with two seats. Additionally, the Unique Gorani Party, the Vakati Coalition, the Ashkali Party for Integration, the Civic Initiative for Freedom, Justice and Survival, the Social Democratic Union, the Progressive Movement of the Roma of Kosovo, the Roma Initiative, the New Initiative Democratic Party of Kosovo and the New Democratic Party each have one seat. Furthermore, there are two independent MPs who have separated from the parliamentary group of the Self-Determination Movement.

Kosovo boasts a vibrant democracy, exemplified by its frequent transitions of power. Since declaring independence in 2008, Kosovo has held five sets of early parliamentary elections (in 2010, 2014, 2017, 2019 and 2021). Over this period, Kosovo has seen six different Prime Ministers, underscoring the regularity of government changes. The electoral procedures in Kosovo have consistently received positive evaluations for being free and in accordance with fundamental rights. However, it remains worth noting that in municipalities with a Serbian majority, there are concerns about limited political competition.⁹

Kosovo's institutional authority extends across most of the country, except for municipalities in the northern region with a Serbian majority. In these northern areas, Serbia's influence is significant, and Kosovo's institutions do not maintain a robust presence.¹⁰

Kosovo still grapples with a persistent lack of adherence to the rule of law,¹¹ with corruption and state capture remaining the most prevalent and evident forms of this issue.¹² The deficiency in the rule of law is particularly evident in the northern Serb-majority municipalities of Kosovo.¹³ Since the ascent of the new government, led by the Self-Determination Movement, there has been a heightened focus on reforming the legal framework to enhance the effectiveness of the anti-corruption efforts. Nevertheless, concrete results have yet to materialise in practice.

2. SOCIETY & CULTURE

In general, legislation provides robust safeguards for the protection of human rights. The Constitution of Kosovo ensures comprehensive guarantees, promoting freedoms and human rights in Kosovo at an advanced level.¹⁴ Freedoms and human rights are interpreted in alignment with the rulings of the European Court of Human Rights, ensuring consistency and adherence to international standards.^{15,16}

Kosovo is distinguished as a democratic nation characterised by a lack of profound social divisions rooted in religious, ethnic or linguistic factors. Robust guarantees are in

place to ensure that society operates based on principles of non-discrimination and respect for all.¹⁷

The constitution and laws, as a general rule, safeguard the rights of minority groups.¹⁸ Nevertheless, despite the existing legal framework, the Serbian community continues to voice concerns about insufficient conditions and protection.¹⁹ However, decentralisation in Kosovo, along with the law on local self-governance, provides municipalities led by non-majority communities with ample rights to promote the development and enhancement of their cultural, educational, and economic freedoms and rights.²⁰

There is a commendable level of establishment of civil society organisations (CSOs), which play a crucial role in engaging with state institutions and overseeing their activities. Both civil society and the media have the legal space to operate freely, without external interference or imposition. Moreover, freedom of expression stands as a fundamental pillar of society and a key prerequisite for its advancement. These rights safeguard the dissemination of information or ideas that are acceptable to the public and are considered non-offensive,²¹ while also protecting information and ideas that align with the principles of pluralism, tolerance and open-mindedness – essential components for a thriving democratic society.²²

According to Freedom House's 2022 report, Kosovo guarantees freedom of the press, with several media outlets in operation, including the public television network, Radio Television of Kosovo (RTK). However, there have been concerns about undue influence on editorial decisions, including at RTK, stemming from government and business interests. Journalists have also reported frequent harassment and threats, with several instances of attacks against journalists while covering events in northern Kosovo occurring in 2021.²³

Nonetheless, the media landscape in Kosovo confronts multiple challenges when it comes to obtaining and disseminating information. Government interactions with journalists are often described as inappropriate and non-transparent by journalists and media leaders. Moreover, there is a noticeable absence of transparency concerning certain matters, such as the dialogue with Serbia and various aspects of daily government policy. Additionally, the appointment of the director of RTK has faced significant criticism, primarily due to the selection of an individual with close ties to the ruling party. This appointment is viewed as a form of interference and capture of the public television network by the governing party in Kosovo.²⁴

On the other side, the trust of citizens in the institutions of the Republic of Kosovo remains suboptimal. Findings from a report by the Kosovo Centre for Security Studies (KCSS) reveal that citizens of Kosovo view the security institutions as more dependable, with a higher level of trust placed in them compared to other public institutions in the country, particularly justice institutions, which are perceived as less reliable and lacking integrity. The trust of citizens in the Kosovo courts and prosecution is consistently on the decline, which is a cause for concern. Although citizens have shown a somewhat increased level of trust in central-level public institutions, especially in comparison to the previous year (2020), a sense of scepticism toward these institutions continues to prevail overall.²⁵

3. ECONOMY

Kosovo is categorised as a lower-middle-income country, and it has experienced steady economic growth since the conclusion of the war in 1998-99. With a population of approximately 1.8 million, Kosovo also boasts a substantial diaspora residing in Western European countries and beyond, which serves as the primary source of remittances for the country. According to the 2022 European Commission report on Kosovo, recent economic policies have centred on offering policy assistance to alleviate the effects of the pandemic and the high energy prices affecting households and businesses that have been most impacted. However, there has been limited progress in implementing structural reforms in the country.²⁶

In 2021, Kosovo's Gross Domestic Product (GDP) per capita stood at €4,456, marking a significant increase of 17.79 per cent compared to the previous year. In 2020, the GDP per capita was €3,783, representing a decrease of 4.08 per cent from the 2019 figures.²⁷ These statistics reflect the fluctuations in Kosovo's economic performance over the specified years.²⁸ According to the Kosovo Agency of Statistics data, the unemployment rate in 2021 was reported as 20.7 per cent.²⁹ Unemployment in Kosovo exhibits significant disparities, with women experiencing a higher unemployment rate of 25.0 per cent compared to men, who have a rate of 19.0 per cent. The 15-24 age group faces the highest unemployment rate at 38.0 per cent, indicating a particular challenge for young job seekers. Additionally, Kosovo has grappled with the issue of workforce migration and the



“brain drain” phenomenon, where skilled individuals leave the country for better opportunities abroad. Furthermore, the economic impact of the pandemic and inflation in the past two years has led to an increase in the poverty rate in Kosovo, compounding the challenges faced during the population.^{30,31}

In the social context, Kosovo fares relatively well in terms of ensuring basic living needs. As per statistics provided by international organisations, Kosovo has an unemployment rate of 29.9 per cent and the poverty rate stands at 21 per cent.³² The emigration of the labour force from Kosovo poses a significant challenge for the country, affecting its economic development, including sectors like construction and other economic resources. The departure of skilled workers can result in a brain drain and hinder the country’s progress. Additionally, the absence of a comprehensive health insurance system even 15 years after gaining independence is a notable issue.³³

Kosovo’s government allocates over €500 million annually to support 15 social schemes benefitting more than 400,000 citizens, reflecting its commitment to enhancing the well-being of a substantial portion of the population.³⁴ While the mining sector in Kosovo is recognised as having significant economic potential, it faces persistent challenges due to limited investments, hindering its development.³⁵ Conversely, the construction sector holds substantial importance for Kosovo’s economy, albeit accompanied by various issues, including informal employment, tax burdens, and non-taxed compensation, among others.³⁶ Kosovo exhibits stability when it comes to aspects like food, housing and access to drinking water. However, a significant concern arises from the lack of food security, which is regarded as a threat to public health in the country. Additionally, access to drinking water in Kosovo is projected to become a threat in the near future due to an anticipated shortage resulting from misuse.³⁷

2.2 Corruption & Anti-corruption

MAIN CORRUPTION ISSUES

Corruption in Kosovo remains a persistent and challenging issue. In 2022, according to Transparency International’s Corruption Perceptions Index, Kosovo received a score of 41 out of 100 points, placing it 84th out of 180 countries globally.³⁸



This outcome indicates a consistent and positive trend of progress in Kosovo’s Corruption Perceptions Index compared to previous years. Starting from 2016 when Kosovo was ranked as the 36th, the country saw fluctuations in subsequent years, including 39th place in 2017, 37th place in 2018, and then maintaining 36th place in both 2019 and 2020. In 2021, the ranking dropped to 39th place, although the scoring shows an improvement with 41 points.

In comparison to Western Balkan countries, Kosovo holds the second position in the Corruption Perceptions Index, with a score of 41, trailing behind Montenegro (45). Kosovo surpasses North Macedonia (40), Albania and Serbia (36), as well as Bosnia and Herzegovina (34). Nevertheless, Kosovo still lags behind the global average of 50 points and significantly trails the European Union (EU) average of 66 points.³⁹ The progress in Kosovo’s Corruption Perceptions Index is attributed to enhancements in the legal framework governing political party financing, along with the package of laws aimed at reforming the justice system. Additionally, the absence of significant corruption scandals in Kosovo can be attributed to the relatively low level of capital expenditures and investments, which has reduced the opportunities for large-scale corruption cases to emerge.

According to the United Nations Development Programme (UNDP) report “Public Pulse,” an average of 23.4 per cent of respondents indicated that they perceive significant corruption exists within public institutions in Kosovo. This figure reflects a decrease of 1.6 percentage points from May 2021 (25 per cent) and a more substantial decline of 4.6 percentage points from December 2020 (28 per cent).⁴⁰

As per the Global Corruption Barometer published by Transparency International, in Kosovo, the percentage of individuals who reported paying bribes to access various government services in the preceding 12 months stands at a total of 10 per cent.⁴¹

In Kosovo, the most significant instances of corruption tend to surface in what are commonly referred to as high-profile cases. These cases often involve allegations against former government officials, as well as individuals from other profiles such as judges⁴² and various institutional officials. The most frequently prosecuted crimes in Kosovo encompass offences such as abuse of office, bribery, failure to declare assets, money laundering and cases related to organised crime, including those involving narcotics and weapons.⁴³

The issue of corruption is most prominently concentrated in the realm of public procurement, particularly concerning mismanagement in tender procedures, involving both gov-



ernment officials and local authorities. Despite the initiation of cases such as “Brezovica” where a mayor and many public officials, along with several businessmen, have been accused of abuse of office and taking bribes for building villas illegally in the area of Brezovica,⁴⁴ and the “subsidies” case,⁴⁵ where some officials of the Ministry of Agriculture and the Agency for Agricultural Development along with some other private persons have been accused of abuse of official position (receiving and giving bribes) by the judicial institutions, the inefficiencies within the judiciary persist. This is characterised by a lenient approach to punishments and prolonged proceedings in major corruption cases, including the “hydropower plants” case, where several ministers of the former Thaqi 2 government were accused of abuse of official positions in connection with the privatisation of four hydropower plants in Kosovo.⁴⁶ In another case, “Land 1”, a former deputy of the Assembly of Kosovo and several other persons have been accused of organised crime and corruption related to the privatisation of some state-owned lands through the falsification of official documents, fraud, and other corrupt acts. The case in question, even after six years since the filing of the indictment, still does not have a final decision.⁴⁷ The “veterans” case also continues to be administered with procrastination and prolongation, where a former commander of the Kosovo Liberation Army (KLA) and several other persons have been accused of abuse of office in connection with the manipulation of the lists of veterans of the war in Kosovo.⁴⁸ In this case, it is worth noting that the indictment was filed in 2018 and has not yet received a definitive decision. Those accused were declared innocent by the Court in Pristina, but the Court, in the second instance, returned the case for retrial. Another case that was followed by numerous delays was “Stenta 1”, where the former minister of health and several doctors were accused of abuse of official position. After the indictment against them was filed in 2016, this process received a final decision six years later, where all the accused were acquitted.⁴⁹ Another example is the “€53 million” case,⁵⁰ in which a former minister of infrastructure in the Haradinaj government and three other officials of this minister were accused of abuse of official duties related to the construction of the highway called Hani i Elezit. It is worth noting that in this case, there was a delay regarding the scheduling of the initial hearing because it was held one year after the indictment was filed.

Corruption risks associated with capital investments in public contracts undermine these investments’ effectiveness and make them vulnerable to mismanagement. Furthermore, inadequate oversight during the implementation of these capital investments poses the potential for long-term repercussions and negative consequences.⁵¹

Kosovo’s primary challenge concerning corruption lies less in the absence of a legal framework and more in the effective implementation of existing laws and regulations. The country’s Criminal Code, Code of Criminal Procedure and legislation related to money laundering, assets declaration and other anti-corruption measures contain robust provisions for penalising corrupt activities.⁵² Indeed, prompted by the government’s initiative, the Assembly passed a civil asset forfeiture law aimed at addressing the confiscation of unjustifiably acquired property.⁵³ The actual effectiveness of such a mechanism will need to be demonstrated through its practical implementation.

Additionally, Kosovo has initiated a constitutional reform for the vetting process, which involves the Assembly of Kosovo proceeding with constitutional amendments designed to vet the heads of the judicial and prosecutorial systems in the country. Nonetheless, these amendments have shortcomings that raise the possibility of being annulled and overturned by the Constitutional Court.⁵⁴ These deficiencies primarily revolve around the absence of a precise definition of the independence of the authority responsible for conducting integrity assessments. Furthermore, the amendments do not address the inclusion of gender and community representation within this body’s composition. Additionally, there is a lack of clarification regarding the restrictions on constitutional rights for members of the Kosovo Judicial Council (KJC) and Kosovo Prosecutorial Council (KPC) while undergoing this assessment process.

Furthermore, the recently passed legislation concerning the Agency for the Prevention of Corruption has been enacted, stripping the Agency of its powers regarding criminal investigations in the fight against corruption and limiting it to administrative investigations. The changes primarily focus on enhancing its preventive capabilities instead.⁵⁵

Corruption within the nation has given rise to instability across various domains, particularly affecting the rule of law and economic progress, both of which are pivotal for international integration efforts. Numerous international reports have underscored how corruption’s prevalence in Kosovo has impeded various developmental initiatives. Consequences of this instability include hurdles in Kosovo’s path toward visa liberalisation and its membership in international organisations. Furthermore, corruption poses a significant obstacle to the country’s economic growth, to attracting foreign investments, and to realising strategic investment goals.⁵⁶





ANTI-CORRUPTION LEGAL FRAMEWORK

The legal framework in Kosovo regarding the fight against corruption, organised crime and money laundering is well-established. The Criminal Code of the Republic of Kosovo⁵⁷ has sufficient provisions that ensure the adequate punishment of perpetrators of criminal acts of corruption and organised crime, whether they are official or private persons. The framework of the fight against organised crime and money laundering also includes the Law on the Prevention of Money Laundering and the fight against the financing of terrorism,⁵⁸ which includes sufficient provisions to combat such actions. In addition, these cases are prosecuted exclusively by the Special Prosecutor of the Republic of Kosovo (SPRK), which has the mandate to investigate and prosecute the persons who commit these criminal acts.⁵⁹ Although the legal framework for criminal confiscation has been advanced, much remains to be done to implement anti-corruption legislation. Despite the improvement in the performance of the Agency for the Prevention of Corruption, the anti-corruption prevention tools defined in the legislation have not yet been fully used. Kosovo continues to have problems with more pro-active investigations, final court decisions and final confiscation of assets.⁶⁰

Several critical legal initiatives are related to and impact the National Integrity System (NIS). These include the amendment of the Kosovo Constitution to introduce a vetting process in the justice system, commonly referred to as the transitory process for assessing the integrity of the judicial and prosecutorial system. Additionally, legislative initiatives have been made to address political party financing,⁶¹ the establishment of a bureau for the confiscation of unjustifiable assets in civil disputes,⁶² the disciplinary responsibility of judges and prosecutors,⁶³ the establishment of the Agency for the Prevention of Corruption,⁶⁴ laws on the declaration of assets, and the laws governing the Prosecutorial Council and the State Prosecutor.⁶⁵ Moreover, certain amendments have been made to Kosovo's Criminal Code and Criminal Procedure Code.⁶⁶ These legal initiatives play a significant role in the government of Kosovo's efforts, mainly led by the Ministry of Justice, to enhance the integrity of institutions in the Republic of Kosovo.

It is worth noting that some of these legal initiatives have faced legal challenges and have been brought before the Constitutional Court of Kosovo. For instance, a crucial law, the one governing the Kosovo Prosecutorial Council, has been declared invalid by the Constitutional Court. In a public announcement, the Constitutional Court determined that the provisions of

this law were unconstitutional because they failed to uphold the constitutional principle of the separation and balance of powers, and they did not sufficiently protect the constitutional independence of the KPC and its members.⁶⁷

Furthermore, the Constitutional Court has rendered its decision on the vetting process, affirming that the constitutional amendments put forth by the Assembly of Kosovo do not infringe upon or curtail the fundamental human rights and freedoms safeguarded by chapter 2 of the constitution. Consequently, this ruling has paved the way for the initiation of the vetting process following the approval of these amendments by the Assembly of Kosovo.⁶⁸

Indeed, despite the multitude of measures taken by the government to introduce new laws or amend existing legislation, these initiatives are consistently met with opposition from parties outside government. The executive branch perceives this opposition as an attempt to obstruct and delay justice reform by challenging these laws in the Constitutional Court. This ongoing contestation reflects the political and ideological divides surrounding these critical legal and judicial reforms in Kosovo.⁶⁹

ANTI-CORRUPTION WORK

In recent years, the government's efforts in combatting corruption have shown improvement.⁷⁰ Despite these improvements, statistics continue to reveal a substantial prevalence of corruption within the country. According to surveys conducted by local organisations among citizens, approximately 80 per cent of respondents believe that corruption remains a significant threat to the nation. Furthermore, about 36 per cent of those surveyed feel that the government has made insufficient progress in combatting corruption.⁷¹ The absence of political stability and the inefficacy of the justice system⁷² have both played pivotal roles in influencing the government's anti-corruption efforts. Conversely, international organisations' reports often suggest that corruption persists within the government, with insufficient action taken to address the issue.⁷³

Legal initiatives aimed at combatting corruption are deemed noteworthy; nonetheless, there is a pressing need to enhance the overall implementation of these laws.⁷⁴ Legal changes, including laws on the financing of political entities, the Bureau for Confiscation of Unjustified Assets, the Agency for the Pre-



vention of Corruption and other laws, are expected to positively affect the performance in fighting corruption.

In 2020, the Anti-Corruption Strategy 2021-2023 was approved after being drafted by the Agency for the Prevention of Corruption.⁷⁵ While formulating the Anti-Corruption Strategy 2021-2023 and the corresponding Action Plan, reference was made to a wide range of local and international reports that assessed corruption and the public perception of corruption in Kosovo.⁷⁶ In this context, the primary sectors have been defined, and greater accountability and full transparency are expected in the discharge of duties and responsibilities within the respective institutions. Furthermore, the strategy has outlined measures and activities that aim to effectively prevent and combat corruption based on identified issues and challenges.

Consequently, the Strategy has been segmented into the following sectors: Political Sector, State Administration and Local Government, Law Enforcement and Judiciary, Public Procurement and Public Finance Management. During the formulation of this strategy, numerous institutional stakeholders from government departments, as well as one representative from civil society, actively participated.^{77,78}

The government of Kosovo has also approved the Rule of Law Strategy for the period 2021-2026.⁷⁹ Initially, the government of Kosovo, in collaboration with the Judicial and Prosecutorial Councils, as well as various other institutions within the justice sector, civil society and international donors, initiated the Functional Review Process for the Rule of Law Sector. This process underwent multiple stages and, following extensive consultations, specifically pinpointed deficiencies within the sector, primarily within the justice sector. These shortcomings and the recommendations for addressing them are documented in 16 policy documents and organised in four pillars: (1) the judicial and prosecutorial system; (2) criminal justice; (3) access to justice and non-judicial services; and (4) anti-corruption.⁸⁰

The Action Plan, an integral component of the Strategy, comprehensively outlines all the activities that the government, the Ministry of Justice, KJC, KPC, the Justice Academy, the Kosovo Police, and other public institutions are expected to undertake within the scope of policy measures. These activities are designed to tackle the identified issues and accomplish the intended objectives.⁸¹ There is a noticeable deficiency in the collaboration between businesses and civil society when it comes to advancing principles such as integrity, transparency, accountability and good governance. The sole form of interaction between businesses and organisations appears to be chambers of commerce⁸² and business alliances that aim to

encourage and uphold good governance practices within the business community.

In Kosovo, there are numerous initiatives and projects funded by various donors dedicated to effectively combatting corruption. These initiatives involve active participation from embassies of countries like the United States, Great Britain, Norway, the Office of the European Union and the Office of the Council of Europe, as well as organisations such as UNDP, the United States Agency for International Development (USAID) and the German Agency for International Cooperation (GIZ). These entities consistently engage in supporting Kosovar institutions in their anti-corruption efforts.

UNDP, for instance, is actively involved in the fight against corruption through its Support to Anti-Corruption Efforts in Kosovo (SAEK) III project, spanning from 2020 to 2024. This project is aimed at facilitating the implementation of new anti-corruption legislation and advancing progress towards the repatriation of stolen assets, ultimately contributing to the establishment of a robust anti-corruption system.⁸³

USAID⁸⁴ maintains a continuous commitment to Kosovo through a range of projects spanning various critical areas. These projects encompass justice, good governance, economic development, employment growth (particularly among women), efficient energy production, agriculture and the development of small and medium-sized businesses.⁸⁵

From May 2016 to May 2019, the Joint Programme of the Horizontal Instrument was executed with co-financing provided by the European Union and the Council of Europe and carried out under the auspices of the Council of Europe.⁸⁶ This programme was established as a collaborative effort with the objective of aiding Western Balkans and Turkey, the beneficiaries, in aligning with the Council of Europe's standards and, where relevant, implementing the EU's *acquis* within the context of the enlargement process. Over the course of the Horizontal Instrument's inception, a total of 36 projects have been carried out. This three-year programme, spanning from May 2016 to May 2019, had a particular focus on three key themes: ensuring justice, combatting corruption, economic crime and organised crime, among others.⁸⁷



ENDNOTES

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NIS ASSESSMENT PILLARS



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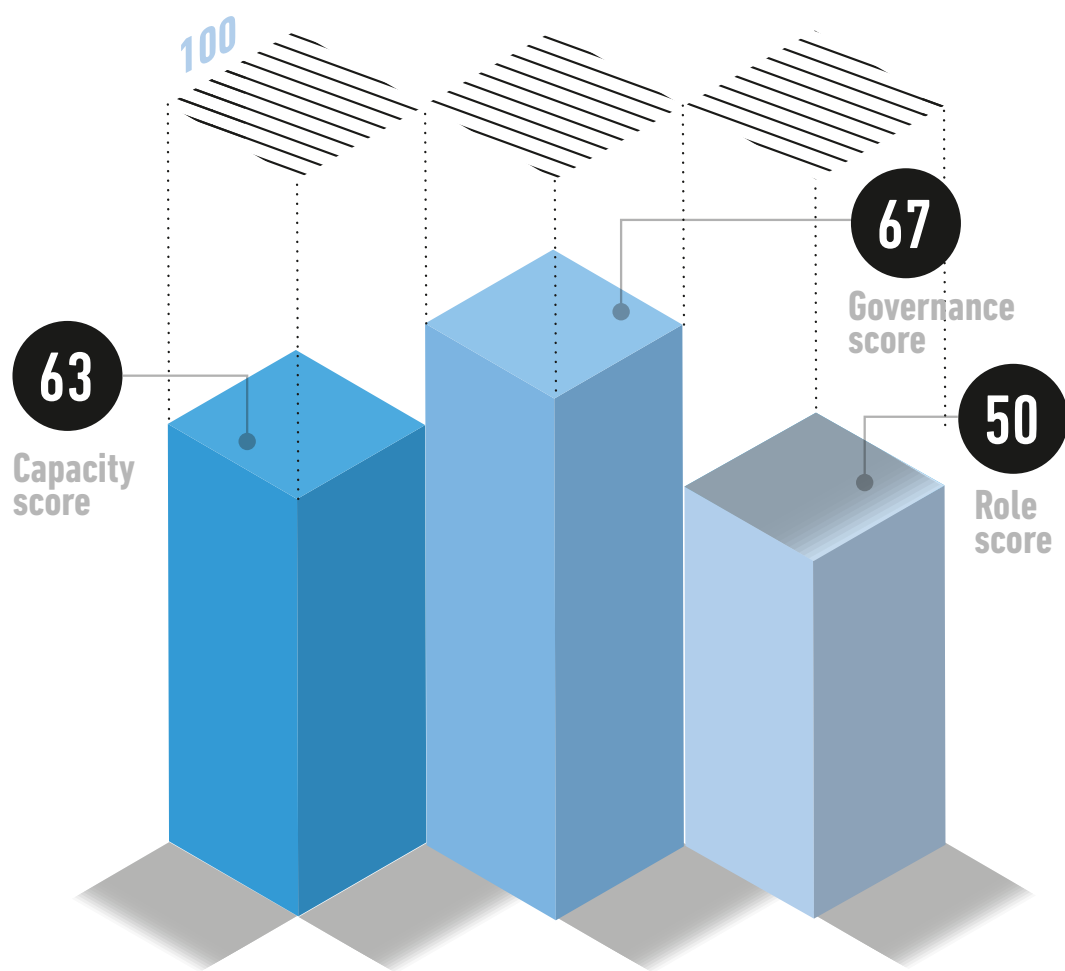
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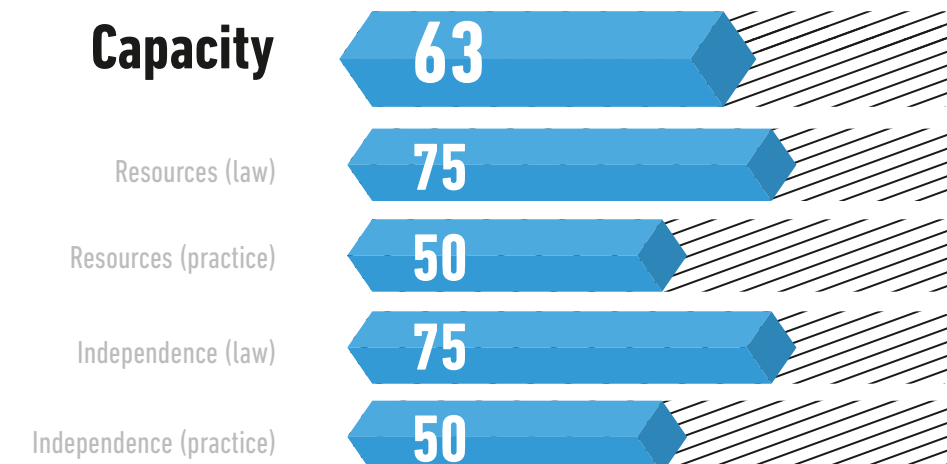
SUMMARY

The Assembly of the Republic of Kosovo is the highest institution that exercises legislative functions. The Assembly has 120 members of parliament (MPs) elected for a four-year term by secret ballot.

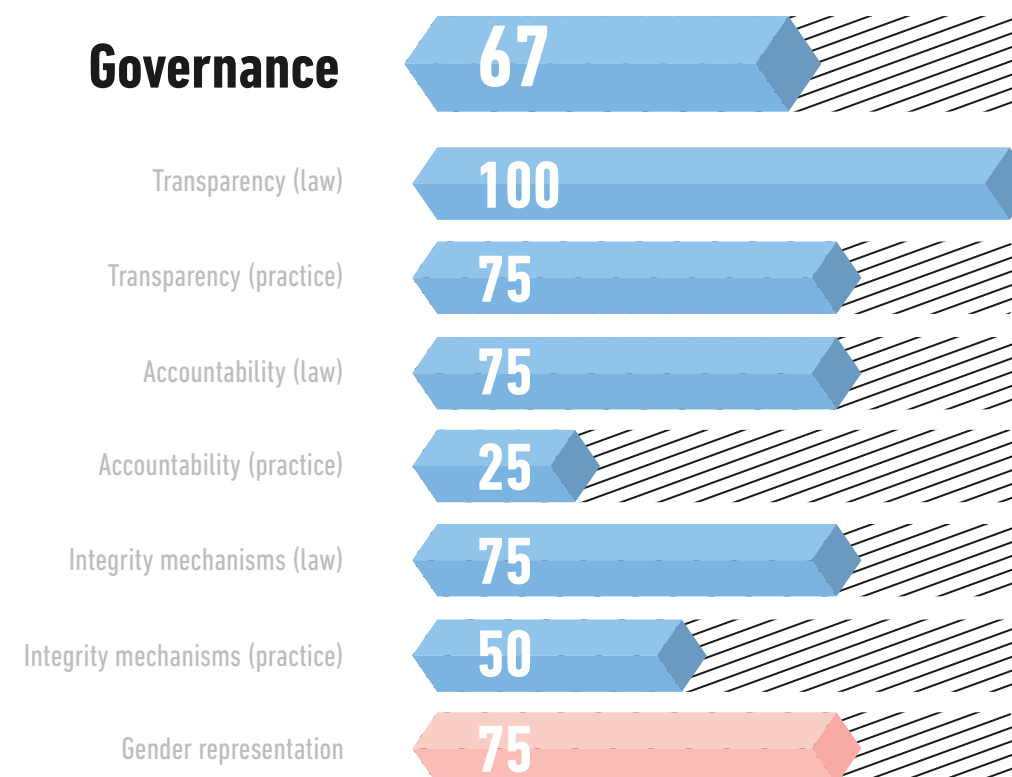
60/100 Overall pillar score



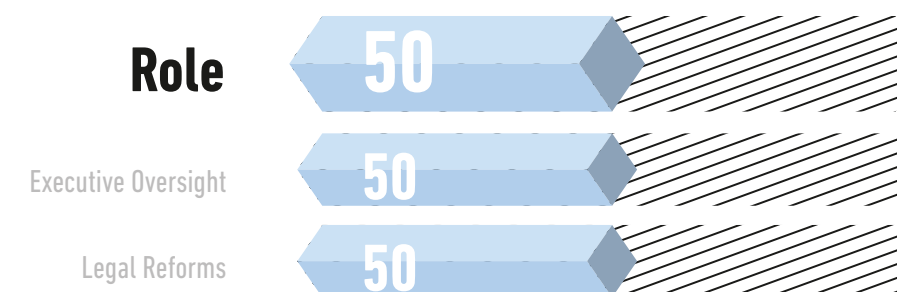
Capacity



Governance



Role





The current political makeup of the Assembly reflects the outcome of the 2021 parliamentary elections. The Self-Determination Movement holds 56 seats, followed by the Democratic Party of Kosovo with 18 seats, the Democratic League of Kosovo with 16 seats, the Serbian List with nine seats, the Alliance for the Future of Kosovo with eight seats, and the Turkish Democratic Party of Kosovo with two seats. Additionally, the Unique Gorani Party, the Vakaf Coalition, the Ashkali Party for Integration, the Civic Initiative for Freedom, Justice and Survival, the Social Democratic Union, the Progressive Movement of the Roma of Kosovo, the Roma Initiative, the New Initiative Democratic Party of Kosovo and the New Democratic Party each have one seat. Furthermore, there are two independent MPs who have separated from the parliamentary group of the Self-Determination Movement.

At the beginning of the legislature’s mandate, and in agreement with the parliamentary groups, the Presidency proposes the number and structure of the parliamentary committees.¹ The Presidency of the Assembly asks each parliamentary group represented in the Assembly to propose the chairpersons, deputy chairpersons and members of the commissions.²

Despite its progress in some areas, the Assembly of Kosovo has faced successive political crises that have degraded its reputation and undermined public trust in this institution in recent years. These challenges have affected the Assembly’s normal functioning and prevented it from fulfilling its constitutional mandate. Externally, the extreme polarisation of the political scene has been reflected in a harsher discourse among MPs and the use of unparliamentary language. Internally, the situation has been worsened by poor management of the Assembly, the use of non-parliamentary practices and non-compliance with the Rules of Procedure.

The biggest challenge for the Assembly is the lack of oversight of the executive and independent agencies established by the Assembly. The Assembly is also dependent on the government for the legislative agenda, as the government sponsors the vast majority of draft laws.


From the perspective of transparency, the Assembly has made significant progress, becoming one of the most transparent institutions in Kosovo. However, the exception is the publication of votes in plenary sessions. Outdated equipment and the failure of the tender to upgrade this equipment have resulted in the Assembly not using electronic voting for two years, thus rendering access to voting data impossible.

The Assembly continues to have a significant lack of infrastructure, especially suitable spaces and offices for all MPs and a lack of human resources to carry out its work. The budget ceiling of the Assembly is determined by the government, namely the Ministry of Finance.

In practical terms, the Assembly has no internal mechanisms of integrity and suffers from a marked lack of accountability toward voters. The Assembly relies on external mechanisms, such as the courts and the Agency for the Prevention of Corruption, to keep MPs under control with respect to asset declarations.



Capacity

 **INDICATOR 1.1.1
RESOURCES (LAW)**

75/100



There are provisions in place to ensure that the legislature has organisational, administrative and budgetary independence³ to carry out its duties effectively. However, the Ministry of Finance is the authority that determines the budgetary limitations of the Assembly.


The Assembly is dependent on the executive (Ministry of Finance) in terms of resource allocation and faces limitations on the number of employees.

The budget of the Assembly is prepared by the Committee for Budget, in cooperation with the general secretary, and is adopted by the Presidency of the Assembly. The Assembly’s budget requests must align with the designated expense limit set by the budget circular issued by the Minister of Finance.⁴ Then, the Ministry of Finance prepares and submits to the government the draft-consolidated budget of Kosovo.⁵

The Law on the Rights and Responsibilities of the MP foresees six forms of compensation for the MPs during and after the end of their mandate. The MPs are entitled to compensation through a basic salary of €1,547, which is sufficient and one of the highest salaries in public sector, as well as compensation for participation in sessions and committee meetings, performing parliamentary functions and monthly expenses.⁶ In addition, the legislation provides the necessary resources for MPs to do their jobs. According to this law, MPs, committees and parliamentary groups are

provided with offices in the Assembly and the first two are also provided with support staff.⁷ The number of political staff that supports the work of the Assembly, as well as their salaries, are determined by a special regulation which is approved by the Presidency of the Assembly after the proposal of the budget committee.⁸

The law on political financing entities also provides funding from the annual budget for all parliamentary political entities, which cannot exceed 0.34 per cent of the Kosovo Budget.⁹ Out of this fund, 10 per cent of the financial means dedicated to each political entity must be allocated by the Central Election Commission (CEC) to support the work of each MP, namely the functioning of parliamentary groups.¹⁰

 **INDICATOR 1.1.2
RESOURCES (PRACTICE)**

50/100



The legislature has some resource deficiencies, especially in terms of human resources and infrastructure, which lead to a certain degree of ineffectiveness in carrying out its duties.

The budget of the Assembly for 2022 was about €10 million.¹¹ This marks a very slight increase of €500,000 compared to the Assembly’s budget in 2016. This budget is generally sufficient for the MPs to carry out their legislative functions. However, since over 80 per cent of the budget is dedicated to salaries,¹² this leaves gaps for spending in the accompanying human and research resources for MPs as well as for infrastructure and their workspaces.





In 2021, the Assembly spent 96 per cent of the total budget, compared to a spending rate of 93 per cent in 2020 (an increase of three percentage points), although in 2020, the Assembly had to interrupt its activity several times due to the spread of COVID-19 infections, which reduced expenses.¹³ In general, the rate of budget spending is satisfactory.

The salary list for 2022, which was approved together with the budget, allows the Assembly to pay a maximum of 415 employees, including MPs, administration and political support staff. Based on this figure, it can be assessed that the Assembly has increased the number of employees by 67 as compared to 2016. The salary list of the Assembly contains 120 positions for MPs, 82 for political staff and 208 for civil servants and five employees of the State Aid Commission.¹⁴ The Assembly of Kosovo deems its human resources to be adequate and believes they compare favourably to Western Balkan countries.¹⁵ In addition, MPs were offered assistance through the engagement of their personal assistants, which has increased human resources by approximately 90 additional staff members. The Assembly's administration asserts that this assistance not only enhances the efficiency of MPs in performing their duties but also alleviates the administrative staff's workload to some extent.¹⁶ The working spaces in the Assembly are still not sufficient for normal working conditions. The MPs do not have their own offices where they can carry out their work.¹⁷ The Presidency of Kosovo occupies about 30 per cent of the entire space of the Assembly.

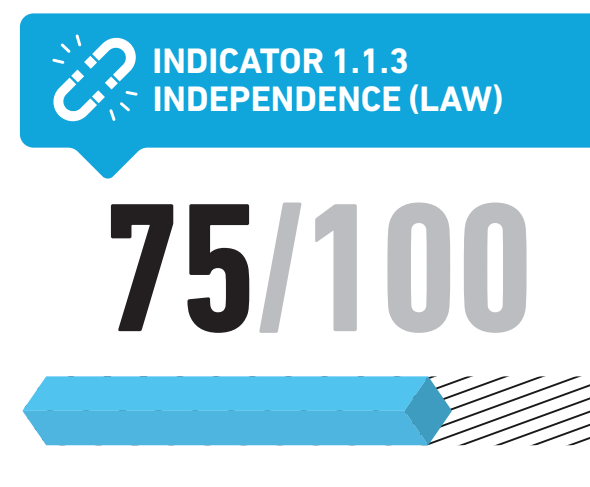
A positive step in building the human capacities of the parliamentary groups was achieved in 2018, when the Presidency of the Assembly decided to engage advisers for the parliamentary groups¹⁸ and an assistant for all the chairpersons of the parliamentary groups. The providing of these additional capacities will at some extent provide MPs with additional expertise as well as ease in exercising their functions.¹⁹ However, the number of engaged experts is not sufficient, taking into consideration the number of draft laws which are handled by MPs and parliamentary groups.

The Assembly faces significant challenges in its legislative role, primarily due to a lack of capacity and skills. Government-sponsored laws often lack quality, evident in the high number of draft laws seeking to amend existing legislation in 2021, accounting for about 47 per cent of the 116 draft laws under consideration.²⁰ Each committee must review approximately seven draft laws annually, typically within a three-month timeframe, necessitating parallel reviews to meet the yearly agendas. This pressure on committees results from limited human resources – with only two or three coordinators per committee – for conducting thorough research on

draft laws. Simultaneously, the increasing workload from the government restricts the time available for in-depth review.

The current team within the Division for Parliamentary Research consists of ten employees, with only five dedicated to conducting research.²¹ This staffing arrangement is notably insufficient, especially when considering the substantial volume of draft laws under review and adoption by the Assembly. From 2014 to 2019, the Kosova Democratic Institute (KDI), in collaboration with the Assembly's Division for Research, conducted a project called "Support for Parliamentary Research" funded by USAID. The project aimed to enhance research capacities within the Assembly, with a focus on promoting the Division's work and ensuring continuous development of research skills, and by providing the Division with a database of experts that can be contracted for research purposes.²²

Various local and international organisations support the work of the Assembly of Kosovo. The National Democratic Institute (NDI) is one of the organisations that has continuously supported the Assembly since 2001 through multiple programmes,²³ including training, workshops, seminars and mentoring sessions for newly elected MPs, support to parliamentary groups and the secretariat in building internal capacities in legal analysis, support to the Assembly in open data and increasing transparency.²⁴ Other international organisations such as the Organisation for Security and Co-operation in Europe (OSCE), GIZ Kosovo and the EU Office in Kosovo have provided, and continue to provide, assistance in capacity building. In 2023, there were 22 training sessions organised for legislators and technical staff of the Assembly, consistent with previous years.²⁵



The legal framework ensures high levels of independence of the legislature from external actors. However, the legislative agenda is mostly dependent on the executive's agenda. The appointment of technical staff is also dependent on the financial resources provided by the budget proposed by government.

The institutional independence of the Assembly of Kosovo, as the only institution at the national level directly elected by the people, is guaranteed by the Constitution. The Assembly can be dissolved if the government cannot be formed within 60 days from the date when the President of the Republic of Kosovo appoints the candidate for Prime Minister; if two-thirds of all MPs vote in favour of dissolution; or if the President of Kosovo is not elected within 60 days from the date of the beginning of the presidential election procedure.

The Assembly may also be dissolved after a successful vote of no confidence in the government.²⁶ However, in this respect, there is a judgment from the Constitutional Court that ensures Assembly's independence by specifying that the role of the President in the dissolving the Assembly is not at the President's discretion, but can only happen if there is a will of the political entities.²⁷ This ensures that other institutions cannot unilaterally dissolve the parliament.

The Assembly can convene extraordinary sessions at any time, even between two regular work sessions, at its own initiative.²⁸ An extraordinary session can be called if at least one-third of the MPs initiate the request.²⁹

The right to initiate a draft law belongs to the government, MPs, parliamentary committees, parliamentary groups and at least six MPs, the President or 10,000 voters.³⁰

The Speaker of the Assembly, in collaboration with the Presidency, sets the Assembly's work agenda.³¹ While the legislative agenda is formally overseen by the Assembly, with parliamentary committees approving annual work plans,³² the government's legislative agenda significantly influences the Assembly's own agenda.³³

Members of the Assembly of Kosovo enjoy only functional immunity for speeches and decisions in the course of exercising their duties.³⁴ Moreover, a member of the Assembly cannot be arrested or detained without the consent of the majority of all the members of the Assembly. However, MPs are not immune from prosecution for actions taken outside the scope of their responsibilities.³⁵ This was confirmed through a judgment of the Constitutional Court, which decided that MPs do not enjoy immunity from criminal prosecution for criminal offences alleged to have been committed before and during their mandate as MP.³⁶

The civil servants of the Administration of Kosovo Assembly, along with the organisational structure, staff numbers, and work organisation, is proposed by the General Secretary of the Assembly and requires approval from the Assembly's Presidency through a regulation,³⁷ according to the law on public officials.³⁸

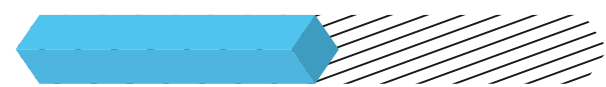
According to the Rules of Procedure, the presence and intervention of the security services, which are performed by Kosovo Police, during plenary sessions are only permitted by an order of the Speaker of the Assembly.³⁹





**INDICATOR 1.1.4
INDEPENDENCE (PRACTICE)**

50/100



Other actors, notably the political will of the executive, occasionally influence the work and activities of the Assembly of Kosovo. This influence is manifested through the decision-making of the political majority within the Assembly.

While the Assembly, specifically the parliamentary committees, formally approves the agenda and work plans, these are often heavily influenced by the legislative agenda of the government. The government sponsors the majority of draft laws, with about three-quarters, or 114 out of the 155 draft laws in the legislative procedure, originating from the government.⁴⁰

As the executive holds the parliamentary majority in the Assembly, cases where draft laws or decisions face approval against the executive's stance are non-existent. Parties in power have effectively blocked the voting of opposition-proposed draft laws or decisions by voting against them or by preventing the required quorum for decision-making.⁴¹

There are cases when certain representatives accuse the executive and other actors of influencing and controlling the work of the Assembly. An example of this occurred when MP Haki Abazi accused the ruling party (to which he belonged until a short time before making the statement) of exerting undue influence and directing the Assembly's activities and the actions of the MPs through its officials.⁴² Nevertheless, this case, along with other issues brought up by opposition parties, has not undergone official investigation or resolution by justice institutions.

The Assembly of Kosovo has never completed its regular four-year mandate due to votes of no confidence in the government or dissolution with a two-thirds majority vote. The last dissolution occurred in 2019.⁴³ In 2020, the Constitutional Court effectively dissolved the Assembly and called for early elections after finding that the election of the Hoti government was not in accordance with the Constitution.⁴⁴

There have been cases of the arrest and imprisonment of MPs due to the commission of criminal acts outside the scope of their parliamentary duties. The most recent case was former MP Etem Arifi after he was found guilty of subsidy fraud.⁴⁵ On the other hand, since the use of tear gas by unauthorised persons is considered a criminal offence, in 2015, when tear gas was thrown in a session on the agreement on the demarcation of the border with Montenegro and a session on the Association of Serbian-Majority Municipalities, the prosecution ordered the arrest of MPs. 13 opposition MPs were arrested, detained, and subjected to house arrest.



Governance

**INDICATOR 1.2.1
TRANSPARENCY (LAW)**

100/100



There are comprehensive provisions in place to ensure that the public can access the parliament and obtain information on the organisation and functioning of the legislature, on decisions that concern them and how these decisions were made.

The transparency of the work of the Assembly is ensured by constitutional provisions and the Rules of Procedure of the Assembly, which stipulate that the meetings of the Assembly are public but that they can be closed at the request of the President, the Prime Minister or one-third of the MPs.⁴⁶ Parliamentary committees' meetings are generally open to the public, except in cases involving confidential security matters and contract details that qualify as business secrets.⁴⁷

Plenary sessions and committee meetings are required to be transcribed, and minutes are prepared for the Assembly's Presidency meetings.⁴⁸ These records, transcripts, and minutes of meetings are made accessible to the public through publication on the Assembly's website.⁴⁹ Furthermore, all parliamentary documents and publications are also made available to the public.⁵⁰

Voting in the Assembly, including in parliamentary committees,⁵¹ is conducted openly. In plenary sessions, each open vote, specifying "for", "against", or "abstention", is recorded by the MP's name and surname. Electronic voting

includes the number of participants, voters, and the full vote result. Upon request from a parliamentary group and technical feasibility, individual representatives' votes can be displayed on monitors during electronic voting.⁵² Electronic voting results are announced immediately after plenary sessions, while manual voting results are published within two working days after the session's end.⁵³

The public has the opportunity to engage in Assembly proceedings, including hearings for draft laws under review and the oversight of law and policy implementation.⁵⁴ Full plenary sessions must be broadcast by public television.⁵⁵ Media representatives covering Assembly activities are accredited by the Assembly,⁵⁶ and media broadcasts can be conducted without charge. The Assembly has an Information and Communication Strategy, which, amongst others, includes enhancing and updating the Assembly's website, organising media conferences following Assembly meetings, and fostering collaboration with the media and civil society through information exchange.⁵⁷

Moreover, under the Declaration on the Partnership between the Assembly and Civil Society, in 2015, the Assembly established the Forum for Parliamentary Transparency. The forum consists of MPs, officials of the administration of the Assembly and representatives of civil society organisations.⁵⁸ This forum serves as an advisory body for the Assembly and develops an Action Plan with the measures required to achieve the standards of transparency defined in the Declaration.

The Assembly must prepare, approve, and publish an annual work report, along with periodic (quarterly) expense reports and the annual financial report.⁵⁹

The asset declarations of legislators must be published on the online platform of the Agency for the Prevention of Corruption within 30 days of the declaration deadline.⁶⁰





**INDICATOR 1.2.2
TRANSPARENCY (PRACTICE)**

75/100



The public is able to readily access the legislature and obtain relevant information related to the organisation and functioning of the legislature, and on decisions that concern them. Nonetheless, issues with the electronic voting equipment of the Assembly have hindered the public's access to information regarding representatives' votes and their absences.

The pandemic has impacted Assembly transparency. Private media companies were engaged during the pandemic to broadcast committee proceedings, excluding plenary sessions. Until 2019, the Assembly promptly published all plenary session votes, allowing easy access to agenda points and MP votes. However, technical equipment issues with electronic voting and a pending equipment tender since 2019 have caused over a four-year absence of individual MP vote recordings, rendering the information unavailable.⁶¹ Committee proceedings only publish the total votes, primarily for meeting minutes. Nonetheless, the Assembly provides real-time access to the meeting calendar, detailing the agendas of the Presidency, plenary sessions and parliamentary committees.⁶²

In 2019, the new website of the Assembly was launched, facilitating public access to parliamentary information by profiling the information. Within the new website,⁶³ the individual profiles of the MPs with their personal data are presented, and space is given for citizens to contact the MPs through these profiles directly.⁶⁴ The Assembly's website includes transcripts and minutes of Assembly meetings, typically published promptly after the meetings' conclusion.⁶⁵

In 2018, the Assembly also launched the Legislation Follow-up System, which provides information related to the legislative process before they are even debated, including all the steps of reviewing draft laws and enables the public to give concrete proposals regarding their content.⁶⁶ The plenary proceedings of the Assembly of Kosovo are broadcast live by the public broadcaster and other private media channels. All media companies have permission to record the meetings of the committees and broadcast them live, which the Assembly itself does not do on its official channel on YouTube. This constitutes a significant improvement in terms of live broadcasting of all proceedings within the Assembly of Kosovo.⁶⁷ The budget for the Assembly is an integral part of the state budget, as is made public in accordance with other laws.⁶⁸ The Assembly of Kosovo publishes its annual report on the official website of the Assembly with all its activities, noting all activities within the Assembly and other activities outside the agenda.⁶⁹ While the Assembly discloses its expenses and financial reports⁷⁰ quarterly, on six-month basis and annually, they are published in formats that pose analytical challenges. Additionally, document format issues persist in various areas, as all documents are provided in PDF form instead of open-source formats.

The Assembly has also launched a new online platform, called E-participation,⁷¹ which is a comprehensive platform that enables citizens to engage in decision-making and offers them access to public services, allowing them to examine the issues sent to the Members of Assembly, follow the activities of the Assembly and submit electronic forms directly.⁷²

All asset declarations of the legislators are published on the website of the Agency for Prevention of Corruption.⁷³



**INDICATOR 1.2.3
ACCOUNTABILITY (LAW)**

75/100



There are provisions in place to ensure that the legislature has to report and be answerable for its actions. However, there is no legal requirement for the Assembly to report directly to any specific institution or the citizens of Kosovo, except for the obligation for financial reporting to the National Audit Office. In addition, the organisation of public consultations is not mandatory.

Implementing the principles of checks and balances of power and the Constitution makes it possible for the institution of the President, the Constitutional Court and the Office of the Auditor General to have special legal authorities to review the legislature's work.

The Constitutional Court is competent to review the constitutionality of laws and other legal acts approved by the Assembly. Ten or more members of the Assembly have the right to contest the constitutionality of any law or decision adopted by the Assembly and to request that the Constitutional Court exercise its final authority for the interpretation of the Constitution.⁷⁴

The Constitution also gives the right to the President to interact in some cases with the Assembly of Kosovo, whereby the president has the right to return for reconsideration approved laws if considered harmful to the legitimate interests of the Republic of Kosovo, or one or more of its communities. The President can use the right to remit a law only once.⁷⁵ If the President returns a law for reconsideration, the Speaker promptly forwards it to the relevant committee and Assembly representatives. To override the veto, a minimum of 61 representatives must vote for the approved law, rendering it effective. Failure to overturn the veto means the law is deemed to be nullified.⁷⁶



On the other hand, the Office of the Auditor General surveils the financial activity of public institutions, including the Assembly.⁷⁷

The Rules of Procedure of the Assembly allows the parliamentary committees, but does not oblige them, to organise public hearings or consultations with interested and relevant stakeholders, either during the consideration of draft laws or other issues that fall within their scope.⁷⁸ However, there is no legislation that obliges the Assembly or the MPs to consider or provide feedback on the requests of the interested parties, either in draft laws or in other respects.

**INDICATOR 1.2.4
ACCOUNTABILITY (PRACTICE)**

25/100



The existing provisions on accountability of the legislative are not sufficiently effective in ensuring that members of the legislature have to report and be answerable for their actions in practice.

In general, Kosovo's electoral system does not favour legislative accountability. This is because Kosovo uses a proportional electoral system as a single electoral zone, where citizens can vote for only one party and up to five candidates from the party's list. Thus, voters do not elect representatives from the area where they live, and as a result, MPs do not have a strong connection with their electorate.

As for consultations with the public, the Assembly has continued the trend of a significantly low number of public hearings during the law-making process. In 2022, the Assembly conducted 22 public hearings, and in 2023, as of October, it has held only 13 public hearings.⁷⁹ The lack of public consultations during the legislative process is considered by CSOs to be a violation of parliamentary standards.⁸⁰ The Assembly in 2011 has hired an official to liaison with non-governmental organisations (NGOs) and since then has established frame-



works for the participation of civil society in the work of the Assembly of Kosovo.⁸¹ Since 2018, the Forum has initiated the “Assembly Days” activity, in which MPs from all parliamentary groups engage in discussions with citizens,⁸² often in local settings, to address local concerns. Notably, some of these meetings transitioned to online platforms during the pandemic⁸³ with civil society representatives facilitating the discussions. This illustrates a pro-active approach by the legislature to support public oversight and provide information.

When acts of the Assembly are contested before the Constitutional Court, it is customary for the Assembly, its various bodies and parliamentary groups to present their perspectives and legal arguments. This process involves a thorough exchange of positions and legal justifications, which contributes to a comprehensive and well-informed consideration of the matter by the Constitutional Court.

As immunity regulations lack provisions for protecting MPs regarding actions outside their parliamentary duties, they have little practical impact on the representatives’ accountability.

INDICATOR 1.2.5 INTEGRITY MECHANISMS (LAW)



Legislation exists to uphold the integrity of legislative members, although it has certain deficiencies in terms of enforcing a code of conduct and legislator ethics through sanctioning mechanisms. Furthermore, there is an absence of legislation addressing legislative lobbying.

According to the Constitution of the Republic of Kosovo, a member of the Assembly of Kosovo cannot hold any executive position in the public administration or any publicly owned enterprise, nor exercise any other executive function as defined by law.⁸⁴



The new Rules of Procedure of the Assembly include provisions that foresee the approval of a Code of Conduct for Members of the Assembly.⁸⁵ However, a year after the Rules of Procedure were approved, the Code has still not been adopted, though it is currently in the initial stages of drafting. The current draft of the Code includes provisions related to parliamentary ethics and the prevention of conflicts of interest, among other topics. This document also foresees the creation of a Committee on Ethics tasked with addressing potential violations.

Previous Rules of Procedure included a code of conduct which contained anti-corruption provisions emphasising that MPs should not have financial obligations to individuals or organisations that may affect the performance of their official duties; and, if there is a personal financial interest in any issue considered in the Assembly or any committee, the MP must verbally declare that benefit in advance.⁸⁶

The legislation on asset declaration obliges MPs to declare their assets at the beginning of their mandate and then regularly on an annual basis.⁸⁷ These declarations are published by the Agency for the Prevention of Corruption. According to this law, the official cannot request or accept gifts or other favours for themselves or for family members which are related to the exercise of official duties and which affect, or may affect, the exercise of official duties, excluding protocol gifts and occasional gifts.⁸⁸

In addition, the law on the rights and responsibilities of the MP determines that the MP is obliged, within 30 days from the certification of the mandate, to make a statement about their property, income and economic interests, their spouse or the life partner and child/ren living in the same family to the Speaker of the Assembly.⁸⁹

The general legislation on conflict-of-interest prevention applies to MPs as well. Representatives are obligated to effectively address and resolve any conflicts between their public and private interests.⁹⁰ Members of the legislature are prohibited from engaging in additional professional activities, serving as managers, authorised representatives, or sitting on management or supervisory boards of private, for-profit companies NGOs. Furthermore, representatives cannot simultaneously hold positions in multiple governing bodies of publicly owned enterprises or other public institutions.⁹¹

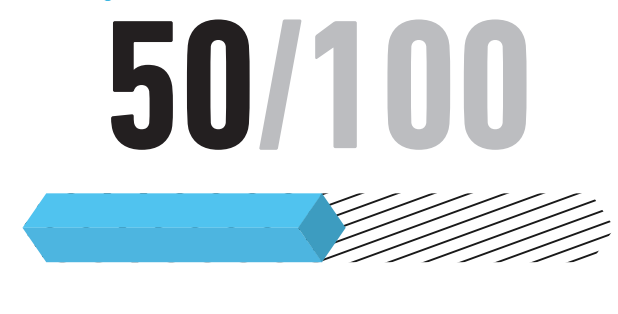
The law does not impose post-employment restrictions after the end of an MP’s mandate. It only guarantees the preservation of a representative’s previous job if they were



employed in the public sector. An MP who prior to winning the mandate was employed in the public sector or an institution financed with public funds has the right to continue the function in the same position, or a position of the same rank, after the end of their mandate.

Kosovo lacks any legislation requiring MPs to document or disclose their interactions with lobbyists or individuals and interest groups attempting to influence the legislative process. Civil society organisations consider such a law essential for strengthening transparency and the legal framework for fighting corruption.⁹²

INDICATOR 1.2.6 INTEGRITY MECHANISMS (PRACTICE)



There is a piecemeal approach to ensuring the integrity of legislators, including only enforcement of existing rules on asset declaration and conflict of interests, while misbehaviour goes unsanctioned due to a lack of appropriate mechanisms.

Due to the absence of sanctioning measures, the principles of good conduct and ethical standards outlined in the previous Assembly Regulations have merely served only as guidelines for the representatives. Consequently, their “implementation” has not ensured ethical conduct among legislators, as no formal violations have been identified. The Assembly has not been able to draw up an integrity plan, while the lack of such a plan leads to a lack of mechanisms to prevent conflicts of interest in the legislative processes.⁹³

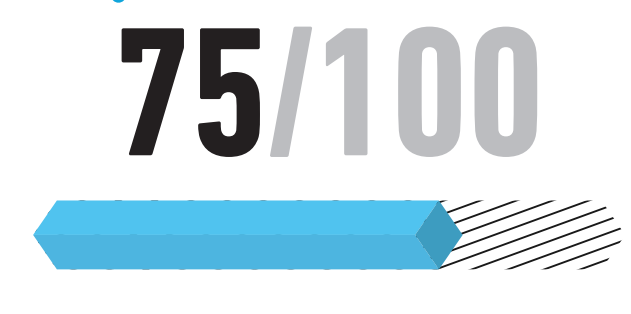
Currently, the Agency for the Prevention of Corruption ensures that the declaration of property by MPs is made according to the legislation. The asset declarations of all legislators are scrutinised and made available on the website of the Agency for the Prevention of Corruption.⁹⁴ Any MP who

violates the declaration rules bears criminal responsibility. In at least three instances, legislators faced legal action initiated by the Agency for not declaring their assets or providing inaccurate information, demonstrating the Agency’s pro-active role in ensuring the integrity of legislators. In two of these cases, the court imposed conditional imprisonment and fines on the (former) MPs.⁹⁵

The Code of Conduct, which was previously an integral part of the Rules of Procedure, has been assessed by those familiar with the work of the Assembly to be deficient in content and has not been implemented since the old Rules of Procedure did not provide sanctioning mechanisms. After adopting the new Rules of Procedure, the Assembly will draft a new Code of Ethics as a separate document.

Due to the total absence of parliamentary lobbying legislation, legislators have not disclosed or reported on their interactions or meetings with lobbyists or stakeholders.

INDICATOR 1.2.7 GENDER REPRESENTATION



40 out of 120 (around 33 per cent) of the members of the legislature are women, and the participation of women and men in the legislative leadership positions and committee assignments is generally balanced.

Kosovo’s constitutional and legal framework guarantees equal gender inclusion in decision-making, although its implementation in many cases lags due to the lack of political will to implement these norms. Currently, the equal participation of women in political and public life is regulated by the Constitution,⁹⁶ the Law on Gender Equality,⁹⁷ and the Law on General Elections.⁹⁸





Regarding the replacement of MPs based on gender, there is an interpretation by the Constitutional Court on the law on general elections. The court found that two candidates for MPs in the 2019 elections had their rights violated and were discriminated against when they were not allowed to become MPs to replace the MPs who were appointed to other positions, even though they had more votes than the subsequent candidates. According to the Constitutional Court's interpretation of the Law on General Elections, the replacement of MPs should ensure a minimum representation of 30 per cent for the underrepresented gender. Additionally, in situations where the 30 per cent gender quota has been met through election results, replacements of MP candidates must align with the overall election outcome, without restricting the replacement to the same gender, as long as the minimum representation of the underrepresented gender is maintained.⁹⁹

The Constitutional Court interpreted the General Elections Law in 2019 with respect to gender quota application, particularly with respect to the replacement of MPs. The court's ruling reaffirms two principles, which include: a minimum 30 per cent representation of the underrepresented gender (minority gender) must always be ensured and cannot be questioned; and that if the 30 per cent gender quota has already been met through election results, replacements for MP candidates should be based on those election results, without being limited to candidates of the same gender, as long as the minimum underrepresented gender representation is maintained.¹⁰⁰

The last parliamentary elections held in Kosovo on 14 February 2021 recorded a tremendous success for women in terms of the number of votes they received in the elections, receiving about 900,000 votes. Moreover, for the first time, a woman was the candidate receiving the most votes in parliamentary elections.¹⁰¹ Of the 43 elected women, nine won seats in the Assembly thanks to the gender quota, while the other 34 were elected as MPs without the support of the quota.¹⁰²

The Rules of Procedure of the Assembly oblige parliamentary political entities to respect the gender composition of all bodies of the Assembly.¹⁰³ In the last legislature, Vjosa Osmani was the first woman to be elected as Speaker of the Assembly.¹⁰⁴ In the current legislature, the first deputy Speaker of the Assembly is a woman – Saranda Bogujevci.

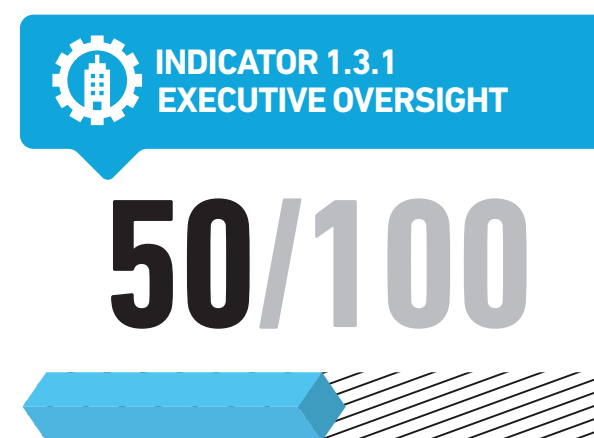
There has been a significant improvement in the representation of women in the leadership of parliamentary

committees. Eight of the 14 parliamentary committees of the current legislature are led by women, with two being permanent committees. Likewise, eight of the 14 parliamentary committees have female vice-chairs.¹⁰⁵

There is a Group of Women MPs, which consists of one representative from all parliamentary political entities. The mission of this informal group is to promote gender equality and improve the position of women in decision-making positions, advocating for the implementation of gender legislation and policies.



Role



While the Kosovo Assembly is somewhat active in seeking to hold the executive to account, the effectiveness of its actions is limited due to the failure to implement existing provisions properly.

The Assembly of Kosovo oversees the executive through various means like investigation committees, committees for special issues, parliamentary questions and scrutiny of individual line ministries. Parliamentary questions, both oral and written, are the most common form. The Assembly faces ongoing challenges in effectively overseeing the executive, with its current effectiveness falling below desirable levels. Most parliamentary questions lack quality and are skewed in favour of the executive. Additionally, the existing format of parliamentary debates is perceived as unhelpful for parliamentary proceedings.¹⁰⁶

A committee of inquiry concerning government or state responsibilities can be initiated by six MPs, a standing parliamentary committee, or one-third of Assembly MPs.¹⁰⁷ This committee investigates events, clarifies occurrences, and assigns responsibility, with the power to summon officials, access documents, and compel testimony.¹⁰⁸ However, practical enforcement faces efficiency challenges. Despite the increased number of committees, early elections often hinder progress, causing many to be set back to their initial stages.¹⁰⁹ Ruling parties also obstruct investigations by abstaining, resulting in an insufficient quorum. In the "state

reserves" case, MPs from the governing coalition boycotted six attempts to convene the constitutive meeting, hindering the committee's operation.¹¹⁰

The Assembly thoroughly examines the state budget proposed by the government, giving amendments based on the parliamentary committees or MP proposals, and approving it.¹¹¹

The Auditor General and the Ombudsperson are elected and dismissed by the Assembly.¹¹² Members of the CEC are nominated by parliamentary groups represented in the Assembly.¹¹³ The executive does not play a role in appointment of the heads or members of these institutions.

The Kosovo Constitution allows for two types of confidence motions for the Prime Minister: one initiated by MPs and another by the Prime Minister. A no-confidence motion requires one-third support from all MPs, and its acceptance depends on a majority vote. If it fails, a new motion cannot be proposed for 90 days. The Prime Minister can also request a vote of no confidence following the same procedure.¹¹⁴ This mechanism was used twice, in the fifth and seventh legislatures, against the then-Prime Minister Isa Mustafa and the current Prime Minister Albin Kurti during the "Kurti 1" government.

Budgetary oversight of the executive is carried out by the Parliamentary Committee for the Oversight of Public Finances. This committee carries a great burden on its shoulders because it has to supervise the budget of all ministries. However, this committee does not have direct competencies in monitoring public contracting by the government.





**INDICATOR 1.3.2
LEGAL REFORMS**

50/100



While there are a number of legal reforms to counter corruption and promote integrity, they are piecemeal efforts, which are considered to be somewhat ineffective in achieving their goals.

Over the last decade, the institutions of Kosovo have intensified the work in creating legal mechanisms to fight corruption. However, this has come mainly due to the criteria set by the EU for visa liberalisation and EU integration. In 2016, when Kosovo signed the Stabilisation and Association Agreement, the European Reform Agenda was launched as a high-level dialogue between the EU and Kosovo to speed up the implementation of this agreement. In the framework of this agenda, many actions were foreseen that the institutions of Kosovo should undertake in the fight against corruption.

According to a civil society report related to the implementation of this agenda, in 2017-2018, the Assembly of Kosovo approved several laws that strengthen the fight against corruption.¹¹⁵ According to the report, legislation has been approved that makes it mandatory to suspend and/or remove public officials from their functions who are accused and convicted of corruption.¹¹⁶ This included the new Criminal Code, the Code of Criminal Procedure, the new Law on the Prevention of Conflict of Interest, supplementing and amending the Law on the State Prosecutor, as well as the Law on Disciplinary Responsibility for Judges and Prosecutors.¹¹⁷ This package of laws, among other things, enables the increase in the number of prosecutors in the Special Prosecutor's Office for the investigation and prosecution of corruption cases and high-level crimes.

Legal initiatives aimed at combatting corruption are deemed to be a significant step in the right direction; nonetheless, there is a pressing need to enhance the overall implementation of these laws.¹¹⁸ The Kosovo government has undertaken significant reforms to combat corruption by sending legal initiatives to the Assembly. This included the initiative of 2022 amending the Kosovo Constitution to introduce a vetting process¹¹⁹ for the justice system, commonly known as the transitory process.¹²⁰ Other legislative efforts encompass political party financing (2022),¹²¹ establishing a bureau for asset confiscation (2022),¹²² addressing disciplinary responsibility of judges and prosecutors (2021),¹²³ the Agency for the Prevention of Corruption (2022),¹²⁴ asset declaration laws (2022),¹²⁵ and reforms to the Prosecutorial Council (2022),¹²⁶ and State Prosecutor (2023).¹²⁷

Kosovo is not a party to international anti-corruption conventions like the UN Convention against Corruption and the Council of Europe's Criminal Law Convention on Corruption. However, Kosovo's legislation generally aligns with these conventions and adheres to relevant European standards.¹²⁸

The legislative agenda of the current legislature also shows the focus that the Assembly of Kosovo has on adopting legislation that regulates anti-corruption. Out of a total of 78 laws adopted during last year, 14 of them belong to the field of justice.¹²⁹



Interactions

The Assembly of Kosovo engages primarily with the government of Kosovo, the National Audit Office (NAO), and the KJC. Legal regulations, including constitutional and legislative frameworks, govern these interactions. In addition to the formalised procedures, the Assembly informally collaborates with the government, involving coordination of plenary agendas and sharing information related to ongoing Assembly procedures.

The level of informal interaction between the Assembly and the government depends on leadership alignment, impacting the effectiveness of their collaboration. Genuine engagement positively influences the anti-corruption efforts of the Assembly, given its significant legislative and supervisory role. While the Assembly's interactions with the NAO and KJC are legally regulated, there is room for strengthening formal communication, especially with the KJC. This need became evident in a case involving MP Etem Arifi, where the lack of communication resulted in Arifi retaining his mandate despite a criminal conviction. The Constitutional Court's subsequent findings emphasised the necessity for enhanced inter-institutional cooperation to guarantee the legality and constitutional integrity of electoral processes and parliamentary activities.¹³⁰

The Auditor General and the Ombudsperson are elected and dismissed by the Assembly,¹³¹ whereas members of the CEC are nominated by parliamentary groups represented in the Assembly.¹³² Budgetary oversight is carried out through the Committee for the Oversight of Public Finances. However, this committee carries a great burden on its shoulders because it has to supervise the budget of all ministries.

The Assembly and the executive face a significant weakness in overseeing independent agencies, which can be attributed to political dynamics, a lack of political culture among ruling coalition MPs and an inadequate legal framework. While legislation mandates direct reporting of independent institutions to the Assembly, shortcomings include insufficient monitoring, undefined deadlines for reports and a lack of sanctions for rejected reports.¹³³ Evaluations, including the 2021 European Commission progress report, emphasise the Assembly's weak oversight of law implementation, calling for strategic plans and increased budgets.¹³⁴ Other reports identify internal factors, such as legal gaps and a lack of committee expertise, contributing to the Assembly's weak performance in supervising law implementation.¹³⁵

Pillar Recommendations

- Provide adequate space for MPs by providing them all with a working office in order for them to perform their duties more effectively.
- Increase the number of researchers within Division for Parliamentary Research.
- Ensure the budgetary and administrative independence of the Assembly from the executive by implementing legal changes that mandate the government to allocate the budget for the Assembly in accordance with its requests, based on a set minimum percentage of the budget.
- Amend the legal framework for reporting of independent agencies to the Assembly by determining sanctions for the heads or boards of independent institutions in case of disapproval of their annual reports by the Assembly. The Assembly must determine the deadlines for the submission of annual reports by each institution.
- Significantly increase the number of public consultations and hearings regarding legislation by introducing mandatory mechanisms to have public hearings for each draft law that is reviewed by the Assembly.
- Re-introduce the electronic voting system and electronic presence recording of the MPs in plenary sessions.
- Ensure greater transparency by publishing the votes of MPs in both plenary meetings and committees on its website and other online platforms.
- Adopt a law on lobbying that obliges MPs to document and disclose interactions regarding legislative processes.
- Strengthen the internal rules regarding sanctions against MPs in cases where they use unparliamentary language and behaviour.
- Introduce an annual work plan/ management planning tool to ensure better workload management and reduce the backlog of items on the Assembly's agenda.





ENDNOTES

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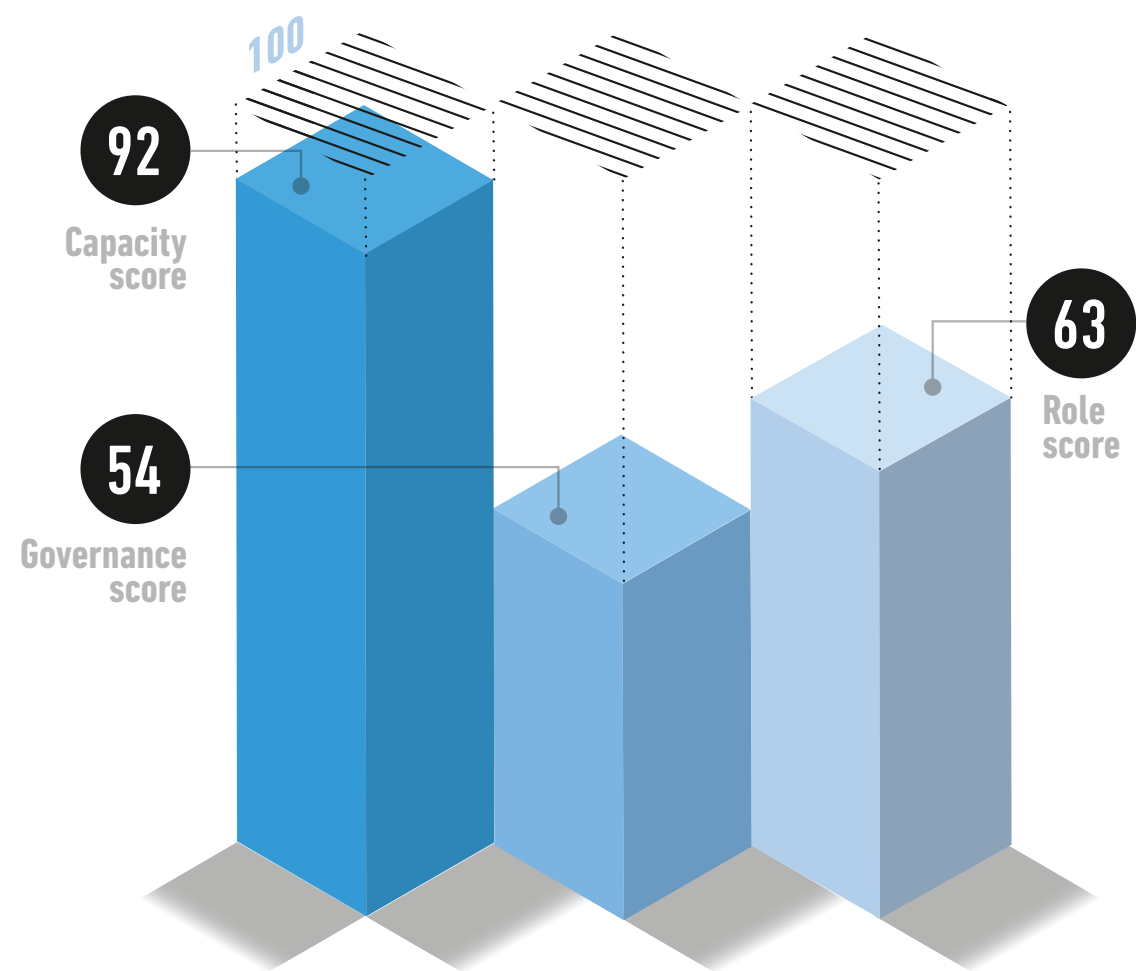
EXECUTIVE



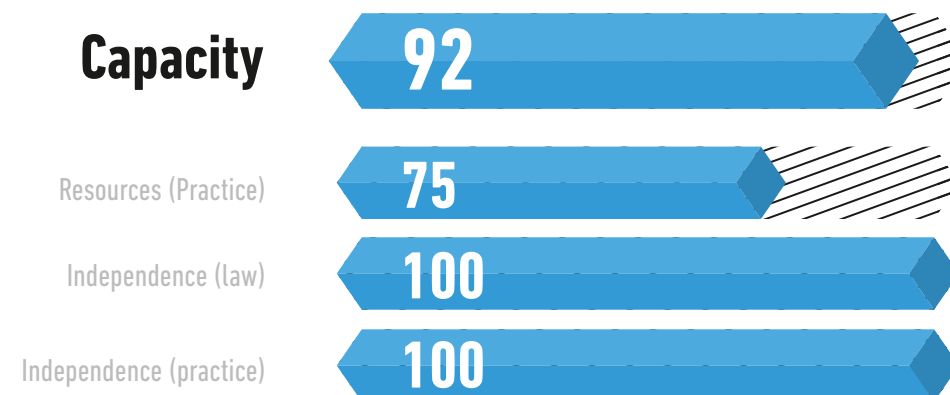
SUMMARY

The executive power in Kosovo is independent and is exercised by the government of the Republic of Kosovo. The government operates on the basis of the Constitution, the Law on Government and the Rules and Procedures of the Government.¹

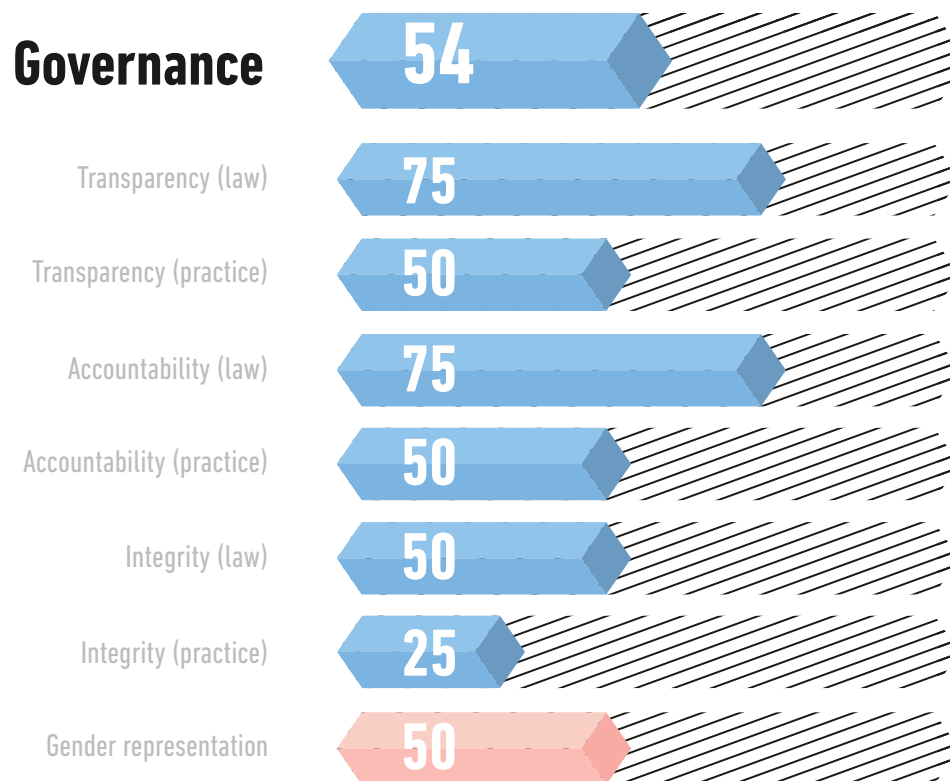
69/100 Overall pillar score



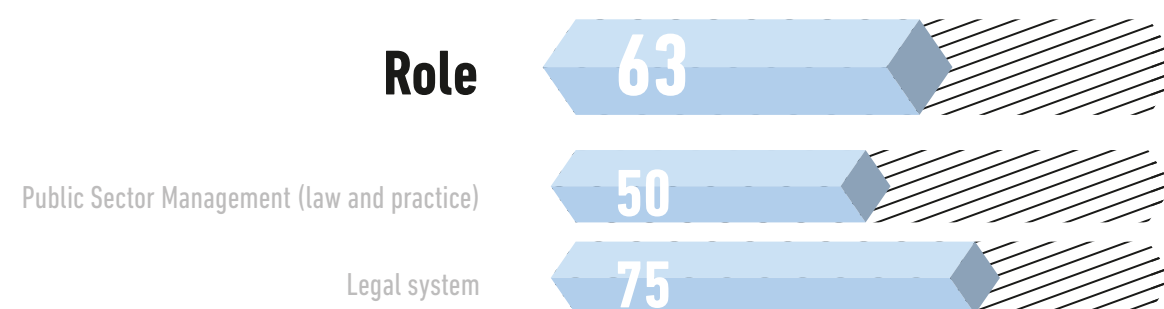
Capacity



Governance



Role





The executive power in Kosovo is independent and is exercised by the government of the Republic of Kosovo. The government operates on the basis of the Constitution, the Law on Government and the Rules and Procedures of the Government. The President of Kosovo has passive executive competencies related to the appointment of ambassadors, and the appointment of the head of the Kosovar Intelligence Agency, exercised in coordination and consultation with the Prime Minister of the Kosovo government.^{2,3}

The government cabinet consists of the Prime Minister, three deputy prime ministers and 15 ministers. Seven of the 15 ministries in government are headed by women. The government is the authority that leads and manages the public and state administration.⁴ Since 2022, the government is led by the Self-Determination Movement and Lista Guxo party/parties under deputy prime ministers Donika Gërvalla, Besnik Bislimi and Emilja Redzeqi and Prime Minister Albin Kurti.⁵

The government is stable, has functional sustainability and its independence is not endangered by external interventions.

There has been a slight improvement in government transparency, namely the Prime Minister's Office.⁶ The Law on Government, adopted in 2022, promotes the transparency and accountability of government.⁷ However, the Rules and Procedure of the Government still consider the minutes of the government to be confidential.⁸

Although it has announced it to be a priority, the government has not engaged in consensus and dialogue with other institutional actors in the fight against corruption, especially with the opposition parties and the Judicial and Prosecutorial Councils of Kosovo.

Furthermore, although a number of laws have been adopted in 2022 that affect the fight against corruption, it remains to be seen how effective they are in practice.⁹ Despite the many proposed laws, the government itself lacks a legal regulation to govern the integrity of its own members and the Prime Minister's cabinet.¹⁰ There is no Code of Ethics and Conduct for these officials. Additionally, the existing regulations are outdated and in need of revision.



Capacity

**INDICATOR 2.1.1
RESOURCES (PRACTICE)**

75/100



The government has sufficient financial and human resources to carry out its services and activities effectively. However, recent resignations of officials due to low salaries, lack of stimulation and the difficulty of career advancement create a gap in human resources.

Budget expenditures in 2023 are expected to be around €3.2 billion, which marks an increase of 17 per cent, or around

€464 million, compared to 2022. In the 2023 budget, a faster increase in current expenses than in capital expenses compared to 2022 is expected. Specifically, current expenses are expected to increase by 18 per cent compared to 2022 and capital expenses by 15 per cent.¹¹

According to the Deputy Secretary General in the government of Kosovo, there are currently about 10,300 budgeted officials in the state and public administration. However, it is estimated that there is a shortage of about 2,500 positions in the civil service in Kosovo at the central level.¹² However, in 2021, several public officials resigned from their position, citing low salaries as well as the inability to advance in positions. There was even a strike by public officials to demand a salary increase and the implementation of health insurance.¹³ According to a policy analyst from the Democracy Plus organisation, this is mainly due to low salaries, a lack of recognition for their work and the difficulty of career advancement within government departments.¹⁴ As a response, in 2022, the Assembly of Kosovo approved¹⁵ the new draft law on public officials¹⁶ and the draft law on salaries in the public sector¹⁷ with the aim of adequately regulating the status of public officials and their salaries.

Table 2.1: Budget allocation to the government for the period from 2018 to 2023

Year	Amount in €	% increase in budget
2023	2,344,870,119	10.2
2022	2,127,083,691	13.8
2021	1,868,935,619	12.3
2020	1,663,590,448	-1.0
2019	1,680,463,568	10.9
2018	1,515,929,819	





**INDICATOR 2.1.2
INDEPENDENCE (LAW)**

100/100



There are comprehensive provisions that ensure the independence of the executive in decision-making and that limit encroachment or interference in other branches of power. In exercising executive power, the government relies on the Constitution of Kosovo and the Law on Government.¹⁸

According to the Constitution, the government is responsible for the implementation of state laws and policies and is subject to parliamentary control.¹⁹ The Constitution, through the principle of separation of powers, also limits the intervention of the government in other branches of power, determining that Kosovo is a democratic republic based on the principle of separation of powers, and with checks and balances between them.²⁰

In addition to the Constitution, there is also the Law on the Government of Kosovo, approved in October 2022, which defines the executive responsibilities of the government. These include: proposing draft constitutional amendments and draft laws to the Assembly; deciding on the initiation of international agreements; providing opinions on legislative initiatives and draft constitutional amendments when the initiator is not the government; proposing and implementing the country's foreign policy; making decisions and issuing other legal acts necessary for the implementation of laws; and deciding on appointments and dismissals within its legal powers, among others.²¹

According to the Constitution of Kosovo, there needs to be at least one minister from the Serbian community and one minister from any other non-majority community in Kosovo. If there are more than twelve ministers, the government will also have a third minister who represents one of the non-majority communities in Kosovo.²²

**INDICATOR 2.1.3
INDEPENDENCE (PRACTICE)**

100/100



In practice, when exercising its functions, the executive is independent from the interference of other branches of power.

Since 2021, the executive is led by the centre-left Self-Determination Movement, while the centre-right Guxo party and other parties of non-majority communities are part of the government cabinet, in accordance with the constitutional provisions (see 2.1.2).²³

In fact, because of the strong authority of the Prime Minister and of the government as a whole, there are occasions when there has been a tendency for them to intervene in other branches of power, rather than the opposite. In 2017, the government increased the salary of the Prime Minister and members of the government with an administrative decision. Opposition parties and civil society considered this as an arbitrary decision that violated the constitutional independence of the Assembly. However, in 2018, the Constitutional Court of Kosovo, with a verdict based on the merits of the case, found that the decision by Prime Minister Haradinaj was constitutional and did not violate the competences of the Assembly of Kosovo.²⁴

There is no instance where the legislature, the judiciary or any other power has interfered in the affairs and powers of the government.²⁵ In fact, there is a lack of effective parliamentary control or supervision of the government as a whole (see 1.3.1).

In terms of quorum and decision-making, the government is stable as it is led by a consolidated majority of one party. Because of this fact, there is no risk of intervention or destabilisation of the government by other external actors.²⁶



Governance

**INDICATOR 2.2.1
TRANSPARENCY (LAW)**

75/100



There are comprehensive provisions that allow the public to obtain relevant information on the organisation and functioning of the executive, and about relevant decisions and how they were made. However, there is small gap with regards to the minutes of government meetings, which are considered confidential.

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According to the Law on the Government, government documents have to be public.²⁷ However, although the law does not specify which government documents are confidential, the government's work regulations consider the minutes from government meetings to be confidential, and they are not made public.²⁸

The Law on the Government obliges the executive to inform the public about its activities. Likewise, the Prime Minister is obliged to inform the media regularly about his activity and the government.²⁹

The government budget is to be published in the Official Gazette of Kosovo and on the website of the ministry within 30 days after the approval by the Assembly and the announcement by the President of Kosovo of the annual Consolidated

Budget of Kosovo in a comprehensive and comprehensible form by the public, in the official languages used for government documents.³⁰ The website is also expected to cover all news, decisions, legal and bylaw documents, and information on the composition of the government cabinet and the structure of the government. Other activities of the government are also to be published on the website of the government of Kosovo.³¹

All senior government officials, including the Prime Minister, deputy prime ministers, ministers and deputy ministers, must declare their wealth to the Agency for the Prevention of Corruption.³² The Agency is responsible for checking and supervising these declarations (see Pillar 10).³³ According to this law, all these declarations must also be published on the Agency's website.³⁴

**INDICATOR 2.2.2
TRANSPARENCY (PRACTICE)**

50/100



Although the public can obtain relevant information about the organisation and functioning of the executive, transparency regarding decision-making is selective. Minutes of government meetings continue to be confidential and journalists have been raising concerns that the government either failed to address their questions on various issues, sent their response with a significant delay or sent inadequate answers.

The government website is active and functional.³⁵ All the daily activities of the Prime Minister and the government, the organisational structure of the government,³⁶ information about the 2021-2025 government programme,³⁷ deci-





sions,³⁸ regulations, and draft laws of the government are published in Albanian, Serbian and English.³⁹ However, the annual government work report for 2021 is not published on the website.⁴⁰


In addition, the Prime Minister and the government use social networks like Facebook⁴¹ to publish their activities.

The Public Communication Office prepares, distributes and archives press releases and announcements in official languages.⁴² In 2022, this Office received 91 requests for access to public documents, of which 86 were approved, two were rejected and three are in the process of being answered. Meanwhile, in 2021, it was reported that 60 requests for access to public documents were received, of which 58 were approved and two were rejected.⁴³

The government has several media spokespersons, but there is no official information about them on the government's website. Despite this, journalists repeatedly complained about the lack of transparency from the Prime Minister's Office and the government⁴⁴ (see 12.1.1 and 12.1.2). The minutes of the government meetings continue to be confidential, and questions by journalists often remain unanswered or are answered with delay or inadequately by the government and its departments.⁴⁵ There is a lack of transparency regarding the processes led by the executive, in particular concerning the dialogue between Kosovo and Serbia.⁴⁶ For example, the documents regarding the dialogue with Serbia, which include the discussions and all agreements or commitments reached since 2016 until now, have not been published.⁴⁷ This problem also derives from the legally defined confidentiality of government minutes.

The budget is made public and is accessible on the website of the Ministry of Finance.⁴⁸ In 2018, a judicial process related to the transparency of government expenses was concluded. After a six-year battle, the court ruled that all government cabinet spending must be transparent to the public.⁴⁹

Members of the government also declare their assets to the Agency for the Prevention of Corruption. The declarations of assets are accessible to the public.⁵⁰ According to the Agency's reports, over 97 per cent of government officials have declared their wealth for 2021.⁵¹

 **INDICATOR 2.2.3
ACCOUNTABILITY (LAW)**

75/100



There are relatively comprehensive provisions requiring and ensuring the reporting and accountability of members of the executive. However, the lack of accountability and sanctioning mechanisms in case of violations constitutes an essential problem in guaranteeing accountability.

According to the Constitution, the government is subject to parliamentary supervision and control (see Pillar 1 Legislature).⁵³ The Law on Government also obliges the Prime Minister and ministers to report to the Assembly and parliamentary committees at the request of MPs or at their own initiative.⁵⁴

However, the legislation does not provide for any accountability mechanisms or sanctions for cabinet members if they do not justify their decisions. The Regulations of the Assembly also do not have provisions that would sanction members of government if they do not answer parliamentary questions and do not participate in Assembly meetings or parliamentary committee meetings to report on their scope of activity.

The government, according to the regulation on the minimum standards for the public consultation process, is obliged to consult the public and special groups, such as civil society organisations or other organisations, about the preparation of any draft law or any national strategy.⁵⁵

There is also the Office for Good Governance (OGG), which is obliged to create and maintain the online platform which is used by all public bodies to identify stakeholders for the development of public consultation.⁵⁶ The OGG has launched a framework for improving the implementation of minimum standards for public consultations for the period 2021-



2025.⁵⁷ Based on this framework, recommendations have been made on how institutions should improve the implementation of minimum standards for all public involvement in their work.⁵⁸

Furthermore, on an annual basis, the government is subject to an independent audit by the National Audit Office in Kosovo.⁵⁹

Members of the government can be held responsible for abuse of office or for committing a criminal offence. Members of the government of Kosovo enjoy immunity from criminal prosecution, civil lawsuits and dismissal for actions and decisions within the scope of their responsibilities as members of the government.⁶⁰ However, if they misuse official authorisations or misbehave, they can be dismissed from their post and even prosecuted by the State Prosecutor's Office.⁶¹

 **INDICATOR 2.2.4
ACCOUNTABILITY (PRACTICE)**

50/100



The existing provisions are only partially effective, because the government fails to submit its annual report addressing suggestions resulting from public consultations and there have been cases of impunity for corrupt officials by the court.

Parliamentary oversight of the executive, especially the implementation of laws, remains weak.⁶² The government does not report enough to the Assembly about its activities. The government has not submitted its annual work and performance report from 2021 or 2022 to the Assembly for evaluation. Likewise, no strict parliamentary⁶³ oversight of policies or progress in government work has been observed.⁶⁴

Audit reports are published and contain recommendations on various findings, such as on budget expenditures.⁶⁵ The findings of this report as well as the government's expenses are sent to the Assembly, which exercises a supervisory role through the Commission for the Supervision of Public Finances.⁶⁶ According to the deputy secretary general in the Office of the Prime Minister, so far, there have not been any reports of interference in the work of the auditors.⁶⁷

In 2022, the government held a total of 220 public consultations with the public regarding legislative initiatives.⁶⁸ There is also an electronic website where citizens and interest groups can send their comments on draft laws submitted to the consultation process.⁶⁹ However, according to a policy analyst from the CSO Democracy Plus, there is no effectiveness in terms of addressing the suggestions or comments of stakeholders in these public consultations.⁷⁰

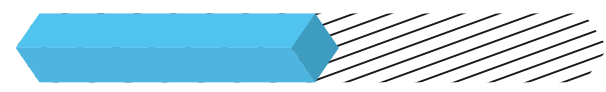
The mechanisms of criminal prosecution of members of the executive are effective in cases where there are criminal reports or indictments against ministers and other officials. However, the impunity of officials involved in corruption by the courts remains a problem.⁷¹ For example, in the case known as "Pronto", all the accused have been acquitted.⁷² Likewise, in the "veterans" case, where high state officials were accused, they were acquitted.⁷³ All the accused have been acquitted in the "hydropower plants" case.⁷⁴ The Courts continue to impose low sentences in cases where high public officials are accused. The vast majority of sentences are suspended or carry symbolic fines, although even in cases where prison terms are imposed, the sentences are below the lower limit of the prescribed sentence and the accused are allowed to convert prison sentences into fines.⁷⁵





**INDICATOR 2.2.5
INTEGRITY (LAW)**

50/100



Although there are certain provisions that regulate the integrity of members of the government, there is still a major loophole regarding sanctions in case of violations due to the lack of a code of ethics or conduct which would prescribe such sanctions.

Although the law on government has a provision that states that members of the government must adhere to the code of conduct for members of the government and their appointees, the government has not yet adopted a code of ethics and conduct for its members, and in its absence, there is a legal gap because the disciplinary rules for the members of the government are not defined by any other document.⁷⁶

However, there are laws that define restrictions related to conflict of interest and rules for accepting gifts.⁷⁷ Members of the government also may not exercise any other public function, any elected or appointed function outside of their official duties or provide any other contract-based work, except for the purposes of research or teaching after informing the Prime Minister in writing.⁷⁸

The Law on Prevention of Conflict of Interest further defines that a senior official cannot be a manager, authorised representative or member of any management or supervisory body of private, profitable legal entities in commercial companies and NGOs.⁷⁹ There are also restrictions regarding appointments after the end of the mandate, determining a time limit of two years in which an official does not have the right to manage any public institution or enter into contractual relations.⁸⁰

Since 2018, there is also a law for the protection of whistleblowers⁸¹ as well as a regulation for determining the

procedure for accepting and handling whistleblowing cases, which are comprehensive and provide concrete legal provisions that protect whistleblowing in both public and private sectors.⁸²

**INDICATOR 2.2.6
INTEGRITY (PRACTICE)**

25/100



In practice, there are rarely any actions that would ensure the integrity of members of the executive. There is no code of conduct, and misbehaviour goes largely unsanctioned.

In 2022, several ministers were investigated and accused by the justice institutions for not declaring their assets.⁸³ However, despite the initiation of investigations, the government has not taken any measures against them, and they continue to exercise their functions.

The government does not have a code of conduct and there is no initiative to draft such a code. There have also been cases when members of the government cabinet are appointed to government positions in a transition or move from the business sector to executive positions. The most recent case is the appointment of the Minister of Health,⁸⁴ who was previously a manager of a private health company.⁸⁵

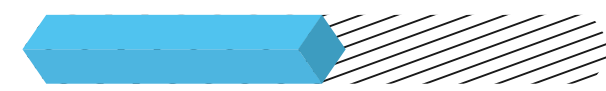
In 2021, the Agency for the Prevention of Corruption recorded reports of 36 cases of conflict of interest within the executive. Out of these 36 cases, 20 advisory opinions were given by the Agency, of which nine cases were brought to proceedings; in three cases, conflicts of interest were avoided; and in three other cases, no conflict of interest was found.⁸⁶



In practice, there are isolated cases of intimidation or attacks on whistleblowers.⁸⁷ In addition, there is a lack of effective implementation of the whistleblower legislation.⁸⁸ Although governmental institutions have appointed whistleblowing officers, most of them have not yet published their names on their websites.⁸⁹

**INDICATOR 2.2.7 GENDER
REPRESENTATION**

50/100



There are legal provisions that ensure equal gender representation in the government of Kosovo. However, there is no strategy or training for promoting gender equality and the government has failed to submit the legally required report on the programme for gender equality.

The Law on Government ensures that the composition of the government cabinet is based on equal gender representation, which must be considered during recruitments and appointments to government positions.⁹⁰ Likewise, the law on gender equality requires that gender representation be based on a percentage of 50/50 for both sexes.⁹¹

Although the government lacks a strategy to promote the equal participation of women in the executive, women currently comprise 40 per cent of the government of Kosovo.⁹² Six of the 15 ministries in the government are led by women.⁹³ In addition, the President of Kosovo is also a woman.⁹⁴ However, there is a lack of a strategy for promoting the equal participation of women in the executive. According to the deputy secretary general in the Office of the Prime Minister, there is no training provided for women who are currently leaders of institutions.⁹⁵


However, according to a policy analyst interviewed for this report the necessary quota for gender representation is not adequate within all government departments. According to him, gender-sensitive protocols and guidelines, where they exist, are only partially implemented and not in line with gender equality standards. For example, the protocols implemented by the public sector complaint and investigation mechanisms do not include any specific gender-sensitive policy.

The Agency for Gender Equality, within the Office of the Prime Minister, is mandated to draft gender equality policies and monitor their implementation.⁹⁶ The Agency, in coordination with other institutions, prepares Kosovo's programme for gender equality, which it submits to the government for consideration. The government is obliged to report to the Assembly on this programme on an annual basis.⁹⁷ At present, there is no evidence that such a report has been made to the Assembly,⁹⁸ and there is no government report or document about its implementation.⁹⁹

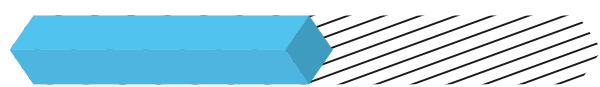




Role

 **INDICATOR 2.3.1 PUBLIC SECTOR MANAGEMENT (LAW AND PRACTICE)**

50/100




The executive is somewhat active, but relatively unsuccessful, in developing a public sector that is governed by high levels of transparency, accountability, integrity and inclusiveness. The public administration in Kosovo is overburdened, necessary reforms in the field of digitisation are missing, and there is little professional development.¹⁰⁰ There is a process of public administration reform, but it has not yet been completed.

The executive has mechanisms to supervise and manage the work of the civil service, but in practice it is not effective in controlling and supervising the administration. At the hierarchical level, ministers report on their work to the Prime Minister, then the permanent secretaries supervise ministry staff who include directors and public officials.¹⁰¹ The public administration in Kosovo is overburdened, necessary reforms in the field of digitisation are missing and there is little professional development.¹⁰² However, according to a policy analyst interviewed for this report, party appointments in public institutions, the excessive staffing of the administration and frequent changes of governments, as well as the lack of an adequate evaluation and control over the performance of public officials, has made the supervision of civil service work in Kosovo ineffective.¹⁰³

The executive has not developed a protocol that provides incentives for civilian staff to perform their jobs in a trans-



 **INDICATOR 2.3.2 LEGAL SYSTEM**

75/100



The Self-Determination-led government has initiated reforms to advance laws to prevent and fight corruption. However, there is only limited success in prosecuting high-profile corruption cases and Kosovo continues to be characterised by high degree corruption.¹¹³ This is mainly because of delays of the court procedures due to staff shortages.¹¹⁴

In March 2021, the government led by Albin Kurti from the Self-Determination Movement party started to reform the laws on the Agency for the Prevention of Corruption, the declaration of assets, the Prosecution Council, the Criminal Procedure Code, political funding, vetting, and the bureau for verification and confiscation of unjustified assets.¹¹⁵

However, there has been a lack of effort to cultivate a more cooperative and inclusive spirit with the judicial system, in this case the KJC, KPC and CSOs, as well as to improve communication and coordination with these institutions in order to achieve efficient results in the implementation of the anti-corruption strategy in these discussions. This has resulted in the boycott of some of the processes by the opposition and judicial institutions.¹¹⁶ Without the participation of all institutions in these important initiatives, they will neither be implemented nor internalised as values.¹¹⁷

According to the European Commission report on Kosovo for 2022, the country is estimated to have an adequate legal framework in line with the required standards, but it encounters fundamental problems of implementation in practice. Kosovo in 2022 also marked a lack of concrete results in the resolution of high-profile corruption cases, as well as the delay of cases as a result of the lack of capacity (see 3.3.2). Kosovo lacks results in terms of investigating and confiscating unjustified assets, even though the legal framework that regulates this issue is advanced.¹¹⁸ However, the report positively evaluates the commitment of the government of Kosovo to fully implement the Opinion of the Venice Commission on the concept document for the verification of judges and prosecutors in close cooperation with the EU.¹¹⁹





Interactions

The government interacts with other institutional actors in the performance of its duties, in the development of state policies and also in preventing and fighting corruption.¹²⁰

The government generally cooperates with the Assembly of Kosovo in creating an anti-corruption legal framework without gaps or loopholes.¹²¹

In addition to the Assembly, the government also interacts with the judicial and prosecutorial system seeking professional expertise in building capacities and improving anti-corruption legislation.¹²² Specifically, on 15 March 2023, a joint statement of commitment was signed between the Ministry of Justice, KJC and KPC to establish working groups with the aim of improving the current legislation, creating new legal reforms that will directly affect accountability, efficiency and transparency of the judicial and prosecutorial system.¹²³

The executive also interacts with the media, regularly covering the government’s work, activity and performance in response to demands for the increased transparency of the executive through media reports and public information about decision-making in the public interest.¹²⁴

The judiciary and the executive interact through the establishment of professional working groups with which the processes of legal reforms in Kosovar legislation are carried out, where the transparency, accountability and efficiency of the judicial system in Kosovo are promoted.¹²⁵ This process includes completing, clarifying and changing the legal framework in Kosovo with special emphasis on areas such as the process of evaluating the performance and discipline of judges and prosecutors as well as their professional development, and drafting the law for civil servants for professional staff of the courts and prosecutor’s offices.¹²⁶

However, the lack of coordination on reforms in the justice system, such as the vetting process, or the interventions of the executive in reducing salaries for judges and prosecutors,¹²⁷ has proven that despite the will of the executive to advance its initiatives, the lack of dialogue has resulted in the executive ignoring and disengaging the activity of the judicial system.¹²⁸

Pillar Recommendations

- Adopt a Code of Ethics and Conduct for the members of the government cabinet by defining the rules on the principles of work and behaviour of members of the government cabinet as well as the rules on discipline and sanctioning of these members in cases where they commit improper and illegal behaviour during or after working hours.
- Amend the government’s Rules of Procedure in order to increase transparency, namely Article 23, where the minutes of the government meeting should not be considered confidential as they currently are. The government must harmonise this regulation with the law on government, the law on the protection of classified information and the law on access to public documents. Through regulation, the specific criteria of what constitutes a confidential document for government work must be clearly defined.
- Reduce interference in the work of the independent constitutional institutions, specifically in the judicial and prosecutorial system, through legal initiatives to reduce the salaries of judges and prosecutors. The government should also stop its practice of not fully approving the budget requests of the KJC and the KPC, but respect the legislation on the management of public finances that requires that the budget requests of independent judicial institutions be respected and approved when they are submitted within the legal deadline.



ENDNOTES

- 1 Law No.08/L-117 on Government of the Republic of Kosovo, published on official gazette (Pristina: November 2022).
- 2 Constitution of Kosovo, Article 84 (Pristina: June 2008).
- 3 According to the Constitution of Kosovo, Article 4: The President of the Republic of Kosovo represents the unity of the people. The President of the Republic of Kosovo is the legitimate representative of the country, internally and externally, and is the guarantor of the democratic functioning of the institutions of the Republic of Kosovo, as provided in this Constitution. He has passive executive competencies in some cases related to the appointment of ambassadors and the appointment of the head of Kosovar intelligence, but all these are exercised in coordination and consultation with the Prime Minister of the Kosovo government. For more, see Articles 84, 85, and 86 in the Constitution of Kosovo. (15 June 2008).
- 4 Law on Government of the Republic of Kosovo, Article 2.
- 5 See, Assembly of Kosovo, the decision for the election of the government, 22 March 2022. https://www.kuvendikosoves.org/Uploads/Data/Session-Files/2021_03_25_VendimertzjedhjeneQeveriseseKosoves22.03.2021_rYexDNvAC6.pdf
- 6 For more, see the article of the Blic Newspaper, <https://gazetablic.com/kurti-kosova-shenon-progres-ne-qeverisje-digjitale/> [accessed on January 9, 2024]
- 7 According to the Law on Government, Article 17: The government informs the public about its work, providing a coherent and coordinated system to communicate with the public about its policies and activities. The Deputy Prime Ministers and Ministers of the Government or their spokesperson shall ensure that the media are regularly informed about their activities. Government documents are public, with the exception of documents that are classified according to the relevant Law on information classification.
- 8 See Regulation no. 09/2011 of rules and procedure of the Government of the Republic of Kosovo, Article 23 (12 December, 2011).
- 9 See Law no. 08/L-017 on the Agency for the Prevention of Corruption, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=6059>, as well as Draft Law No. 08/L-187 for completing and amending Code no. 08/L-032 of criminal procedure, Draft law no. 08/L-188 for completing and amending the Criminal Code no. 06/L-074 of the Republic of Kosovo, Draft law no. 08/L-168 for the Special Prosecution, Draft law no. 08/L-167 for the State Prosecutor, Draft law no. 08/L-136 on the amendment and completion of Law no. 06/L-056 for the Prosecutorial Council of Kosovo, Draft law No. 08/L-121 for the State Bureau for the Verification and Confiscation of Unjustifiable Assets published on the Assembly of Kosovo website: <https://kuvendikosoves.org/shq/projektligjet-dhe-ligjet/>
- 10 Interview with Visar Rushiti, policy analyst at the Democracy Plus organisation, November 2022.
- 11 GAP Institute, ‘The 2023 Draft Budget, Analysis of Budget Revenues and Expenditures’, pg. 3-4, (GAP: Pristina, December, 2022).
- 12 Interview with Arben Krasniqi, Deputy Secretary General in the Government of Kosovo, December 2022.
- 13 Kallxo.com Portal, October 2022, <https://kallxo.com/lajm/pas-me-shume-se-nje-muaji-pezuilohet-greva-ne-administraten-publike/> (qasur më 13 prill 2023).
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- 15 Nacionale.com Newspaper, December 2022, <https://nacionale.com/politike/kuvendi-miraton-projektligjin-per-paga>, [accessed on December 22, 2022]
- 16 Draft Law on Public Officials, proposed by the Government of Kosovo. Accessible via: https://kuvendikosoves.org/Uploads/Data/Documents/PLperzyrtaretpublik_mmuNTr6dxc.pdf [accessed on December 21, 2022]
- 17 Draft Law on Salaries in the Public Sector, proposed by the Government of Kosovo. Accessible via: https://kuvendikosoves.org/Uploads/Data/Documents/PLperpagatnesektorinpublik_vst84ChuzA.pdf [accessed on December 21, 2022]
- 18 The Constitution of the Republic of Kosovo, Article 4, paragraph 4. (June, 2008).
- 19 The Constitution of the Republic of Kosovo, Article 92, paragraph 3.
- 20 Constitution of Kosovo, Article 4.
- 21 Law on Government of the Republic of Kosovo, Article 8, paragraph 4.
- 22 Constitution of Kosovo, Article 96, paragraph 3
- 23 Constitution of Kosovo, Article 96, paragraph 3.
- 24 Constitutional Court of Kosovo, Case No. KO 12/18, on 11 June 2018 Ref. No.: AGJ 1258/ 18.
- 25 Interview with Visar Rushiti, policy analyst at the Democracy Plus organisation, November 2022.
- 26 Interview with Visar Rushiti, policy analyst at the Democracy Plus organisation, November 2022.
- 27 Law no. 08/L-117 on Government of the Republic of Kosovo, Article 17, paragraph 5.
- 28 Regulation No. 09/2011 on Rules and Procedure of the Government of the Republic of Kosovo, Article 23, paragraph 2.
- 29 Law on Government of the Republic of Kosovo, Article 17.
- 30 Law on Public Financial Management and Accountability, Article 42.
- 31 Administrative instruction for web pages of public institutions, Article 9.
- 32 Law on Declaration, Origin and Control of Assets and Gifts, Article 4, paragraph 1 point 1.4.
- 33 Agency for the Prevention of Corruption, <https://www.akk-ks.org/agjencia/41/prgjegisit/41> [accessed on 30 November 2022]
- 34 Law on Declaration, Origin and Control of Assets and Gifts, Article 12, paragraph 1.
- 35 The website of the Kosovo government, <https://kryeministri.rks-gov.net/en/documents/> [accessed on December 2, 2022]
- 36 See also: <https://kryeministri.rks-gov.net/en/prime-minister/government-cabinet/> [accessed on June 6, 2023]
- 37 See, the website of Kosovo government: <https://kryeministri.rks-gov.net/en/blog/legislative-programme-for-the-year-2023-5/>, [accessed on June 6, 2023]





38 See the Government of Kosovo, website: <https://kryeministri.rks-gov.net/en/documents/> [accessed on June 6, 2023]

39 See the Government of Kosovo website, [Prime Minister - Zyra e Kryeministrit \(rks-gov.net\)](https://www.government.gov.net/en/prime-minister-zyra-e-kryeministrit), [accessed on April 20, 2023]

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52 The Regulation of the Assembly does not have provisions that would sanction government members if they do not answer parliamentary questions or do not participate in Assembly meetings or parliamentary committee meetings to report on their scope of activity.

53 The Constitution of the Republic of Kosovo, Article 97, paragraph 1.

54 Law on Government, Article 22, paragraph 3.

55 Regulation on minimum standards for public consultation process, approved by the government on April 29, 2016.

56 Regulation on minimum standards for public consultation process, approved by the government on April 29, 2016.

57 Office for Good Governance, 'Framework for improving the implementation of minimum standards for public consultations for the period 2021 - 2025', September 2021.

58 The recommendations provided by this framework mainly consist of adjusting the online consultation platform to enable people to register for meetings and automatically receive information to join the online meeting, as well as the opportunity to enable the participants in the consultation to provide comments article by article. The line ministries should also publish the decisions for the created working groups which are responsible for the development of laws, bylaws, strategies, concept documents.

59 The Auditor General, based on the constitutional and legal mandate, performs the annual audit of the Annual Financial Report of the government for the execution of the budget of Kosovo. The audit of the Government's Annual Financial Report 2021 is based on the following documents: The Constitution of the Republic of Kosovo (Articles 137 and 138) and Law no. 05/L-055 on the Auditor General and the National Audit Office of the Republic of Kosovo (Article 18);

60 Constitution of Kosovo, Article 98.

61 Code no. 06/L-074 Criminal Code of the Republic of Kosovo, Article 414.

62 Telegrafi portal, October 2020, <https://telegrafi.com/kuvendi-mbikryerje-te-dobet-ndaj-qeverise/> [accessed on December 5, 2022]

63 See KDI, 28 December 2022, <https://kdi-kosova.org/aktivitetet/kdi-kuvendi-permbushje-69-agjenden-legjislativ-gjate-ketij-viti-planifikimi-i-punes-dhe-mungesat-e-deputeteve-mbeten-sfide/> [accessed on April 25, 2023]

64 Interview with Visar Rushiti, policy analyst at the Democracy Plus organisation, November 2022.

65 National Audit Office in Kosovo, <https://zka-rks.org/> [accessed on December 5, 2022]

66 See, Scope of work and competencies of the Committee for Oversight of Public Finances, <https://www.assembly-kosova.org/eng/committees/committee/?committee=57> [accessed on April 25, 2023]

67 Interview with Arben Krasniqi, deputy secretary general in the Office of the Prime Minister, December 2022.

68 For more, see the public consultation platform, 'Statistics', <https://konsultimet.rks-gov.net/statistics.php> [accessed on December 5, 2022]

69 There is an electronic website <https://konsultimet.rks-gov.net/consultationsList.php> where the list of draft laws and legal acts submitted to public consultation is published. Citizens, NGOs and other interested parties can send to this platform any comments they have on draft laws submitted to the consultation process.

70 Interview with Visar Rushiti, policy analyst at the Democracy Plus organisation, December, 2022.

71 Albanian Post portal, October 2022, <https://albanianpost.com/aktakuze-ndaj-ministres-rozeta-hajdari/> [accessed on December 5, 2022]

72 See Koha.net Portal, January 2020, www.koha.net/arberi/201961/mungojne-te-akuzuarit-e-afere-pronto-vetem-dy-nga-ta-te-pranishem-ne-seance/ [accessed on June 14, 2023]

73 See, Rolpik.Org Portal, January 2021, www.rolpik.org/2021/01/lirohen-nga-akuza-anetaret-e-komisionit-qeveritar-per-njohjen-e-statusit-te-veteranit/ [accessed on June 14, 2023]

74 Telegrafi.Com Portal, April 2023, <https://telegrafi.com/apelon-verteton-lirimin-nga-akuza-te-ish-ministrave-ne-rastin-afere-e-hidrocentraleve/> [accessed on June 14, 2023]

75 See BIRN&Internews Kosova, monitoring report: 'Corruption Immunity', pgs. 7-10. (Pristina: 23 June 2022).

76 Law on Government of the Republic of Kosovo, Article 27.

77 Law on Prevention of Conflict of Interest in Discharge of Public Functions, (April 2018); Law on Declaration, Origin and Control of Assets and Gifts (August 2022).



78 Law on Government of the Republic of Kosovo, Article 26.

79 Law on Prevention of Conflict of Interest in Discharge of a Public Function, Article 13.

80 Ibid, Article 18.

81 Law on Protection of Whistleblowers, Article 9.

82 See Regulation on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing, April 2021.

83 Rajoni Press Portal, March 2022, <https://rajonipress.com/edhe-donika-qervalla-po-investigat-nga-anti-korrupcioni-shohet-se-shehu-biznesin-e-saj-ne-gjermani/> [accessed on December 7, 2022]

84 For more, see the government announcement. Accessible via: <https://kryeministri.rks-gov.net/blog/kryeministri-kurti-emeron-arben-vitia-ministrit-per-shendetesi-2/> [accessed on December 27, 2022]

85 Gazeta Express portal, May 2022, <https://www.gazetaexpress.com/zyrtare-arben-vitia-eshte-menaxher-i-olive-ka-nisur-punen-ne-laboratorin-qe-ishte-licensuar-nga-msh-ja/> [accessed on December 27, 2022]

86 Agency for the Prevention of Corruption, 'Summary of the 2021 Annual Work Report', pg. 18.

87 According to a KDI report, an official, claims that after handling a whistleblowing case on favouritism in their workplace, he faced damages to his reputation, and legal action was even initiated against him. The whistleblower officer alleges that a colleague, who was penalized for showing favoritism during selection procedures, retaliated by harassing and intimidating him. The official further explains that complaints were filed against them with the ministry secretary, and rumours were spread by the retaliating colleague. For more, see the report "(Non) Implementation of the Law on the Protection of Whistleblowers in the Executive", (KDI: Pristina: 7 December 2023). Pg. 20.

88 KDI, report: "(Non) Implementation of the Law on the Protection of Whistleblowers in the Executive", (KDI: Pristina: 7 December 2023). Pg. 13

89 Ibid, pg. 14.

90 Law on Government of the Republic of Kosovo, Article 4, paragraph 2.

91 Law on Gender Equality, Article 6, paragraph 8.

92 Based on appointing women and not just men to government positions. Compared to previous governments, the number of women in the Kurti 2 government cabinet is now much higher than in that of the Haradinaj government. Currently, there are a total of six women from 15 ministries, while in the Haradinaj government, there were only two women in 22 ministries. For more, see the Arbresh.info portal (November 2017). Available at: <https://www.arbresh.info/lajmet/grate-te-zhgenjyera-me-perfaqesimin-eulet-ne-qeverine-haradinaj/> [accessed on May 8, 2023]

93 The website of the Kosovo government, <https://kryeministri.rks-gov.net/home/kabineti-qeveritar/> [accessed on December 12, 2022]

94 Vjosa Osmani is the second elected female President of the Republic of Kosovo after former President Atifete Jahjaga. <https://president-ksgov.net/sq/presidentia>

95 Interview with Arben Krasniqi, deputy secretary general in the Office of the Prime Minister', December 2022.

96 Agency for Gender Equality, <https://abgi.rks-gov.net/al/rreth-abgi/95/mandati> [accessed on December 12, 2022]

97 Law on Gender Equality, Article 11, paragraph 2.

98 On the website of the Assembly, there is no notification that any government report on this programme has been carried out.

99 See the website of the Agency for Gender Equality, <https://abgi.rks-gov.net/al/publikimet/107/programi-kosoves-per-barazi-gjinore> Kosovo's gender equality programme for 2020-2024 has been published on this website. However, there is no publication of government reports on its applicability in Kosovo.

100 Interview with Visar Rushiti, policy analyst at the Democracy Plus organisation, December, 2022.

101 Law No. 08/L-117 on Government of Republic of Kosovo, Article 11 paragraph 1 point 11 and Article 20, [accessed on May, 2023]

102 Interview with Visar Rushiti, policy analyst at the Democracy Plus organisation, December, 2022.

103 Interview with Visar Rushiti, policy analyst at the Democracy Plus organisation, December 2022.

104 Interview with Arben Krasniqi, deputy secretary general in the Office of the Prime Minister, December 2022.

105 Kallxo.com portal, <https://kallxo.com/lajm/miratohet-ligji-per-zyrtaret-publike/> On 9 December 2022, the Assembly approved the draft law on public officials in the first reading.

106 "Betimi për Drejtësi", December 2022, <https://betimiperdrejtesi.com/besnik-tahiri-ligji-per-zyrtaret-publike-e-ka-emrin-ligji-per-kapjen-e-zyrtareve-publike/> [accessed on December 13, 2022]

107 See, Draft Law no.08/L-197 on public officials, Article 46

108 Also, Draft Law no.08/L-197 on public officials, Article 49. For more see the link: https://www.kuvendikosoves.org/Uploads/Data/Documents/PLperzyrtaretpublik_RDF4ryAMWb.pdf

109 Koha.Net portal, November 2022, <https://www.koha.net/arberi/352272/projektligji-per-zyrtaret-publike-be-ja-droje-se-mund-ta-rrenjose-korrupsionin-ne-administrate/> [accessed on May 2023]; Nacionale.com Portal, December 2022, <https://nacionale.com/drejtesi/pushteti-nuk-terhiqet-ligjet-me-dilema-kushtetuese-kete-jave-ne-kuvend> [accessed on December 13, 2022]

110 Group for Legal and Political Studies (GLPS), Analysis: "The Draft Law on Public Officials and the Draft Law on Salaries, GLPS: Big gaps and uncertainties" (GLPS: Pristina, October 2022).

111 See "Betimi për Drejtësi", December 2022, <https://betimiperdrejtesi.com/edhe-ldk-e-dergon-ne-kushtetuese-ligjin-per-zyrtaret-publike/> [accessed on June 14, 2023]

112 See Kosovo Law Institute (KLI), a report analysis: 'Tendencies for Politicisation of KPMSHCK' (Pristina: October 2022). accessed on May 10, 2023, in the link: https://kli-ks.org/wp-content/uploads/2022/10/Draft-Raporti_Tendencat-per-nderhyrje-kunderkushtetuese-ne-KPMSHCK. The KLI states that this provision is in conflict with several articles of the Constitution. In addition to the constitutional violation, the reflection of this provision in practice presents a very high potential for violation of human rights, political influence in the recruitment of these positions and damage to the budget.

113 For more, see Transparency International website. Available at: <https://www.transparency.org/en/countries/Kosovo> [accessed on May 11, 2022]

114 In addition to the European Commission in its report on Kosovo in 2022, the US Department of State also emphasised in its report that corruption in Kosovo continues to go unpunished. See the column in the Radio Free Europe, (April 2022). Available at: <https://www.evropaelire.org/a/departamenti-amerikan-i-shtetit-korrupcioni-ne-kosove-31800205.html> [accessed on May 11, 2022]



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- 115 In fact, some of these laws have already passed the Assembly of Kosovo in the first and second readings. For example, the Law on KPC has already passed the second reading, but it has been contested in the Constitutional Court. Laws such as the one on the Agency for the Prevention of Corruption and the Law on the Declaration of Assets have also already been approved and entered into force. Among other things, in the first reading, the changes in the criminal procedure code, in the criminal code, and in the laws on the special prosecution and the law on the state bureau for verification and confiscation of unjustified assets were approved.
- 116 Express Portal, November 2021, www.gazetaexpress.com/kpk-dhe-kgjik-bojkotojne-vettingun-ne-ministrine-e-drejtise-thone-se-do-te-vazhdojne-me-reformen/ [accessed on December 13, 2022]
- 117 KDI, December 2022, <https://kdi-kosova.org/aktivitetet/kdi-immunizimi-ndaj-korrupsitet-parakusht-per-nje-shoqeri-pa-korrupsiti/> [accessed on December 14, 2022]
- 118 See Group for Legal and Political Studies: What was said in the Country Report for Kosovo? - Analysis and recommendations on the main areas (GLPS: Pristina, October 2022)
- 119 European Commission, Report on Kosovo for the year 2022 (October 2022).
- 120 Paparazzi Portal, September 2022, <https://paparaci.com/195044/dorezothe-dosja-e-vettingut-ne-kuvend/> [accessed on December 15, 2022]
- 121 See also Shqip.com Portal, September 2022, <https://shqip.com/dosja-per-vettingun-ne-drejtise-dorezohet-ne-kuvend/> [accessed on May 12, 2023]
- 122 Ministry of Justice website, <https://md.rks-gov.net/page.aspx?id=2.15.2540> [accessed on December 14, 2022]
- 123 See. Kosovo Judicial Council, March 2023, "A joint statement of commitment for the justice reform is signed between the Ministry of Justice, the Prosecutorial Council, the Judicial Council, and the Court" available at: <https://www.gjyqesori-rks.org/2023/03/14/nenshkruhet-deklarata-e-perbashket-e-zotimit-per-reformen-ligjore-ne-sistemin-e-drejtise-ne-mes-te-ministrise-se-drejtise-keshillit-gjyqesor-te-kosoves-keshillit-prokurorial-te-kosoves-gjykates/> [accessed on May 12, 2023]
- 124 See Nacionale.com Portal, May 2023, <https://nacionale.com/politike/qeveria-e-kosoves-falenderon-gazetaret-per-bashkepunimin-dhe-raportimin-e-punes> [accessed on May 12, 2023]
- 125 See. Kosovo Judicial Council, March 2023, "A joint statement of commitment for the justice reform is signed between the Ministry of Justice, the Prosecutorial Council, the Judicial Council, and the Court" [accessed on May 12, 2023]
- 126 See also, Kosovo Judicial Council website: 10 May 2023, <https://www.gjyqesori-rks.org/2023/05/10/mblidhen-grupet-punuese-per-reformen-ne-drejtise/> [accessed on May 12, 2023] In this meeting, the importance of inter-institutional cooperation in the framework of justice reform was discussed, as well as the results of the work which are expected within the defined deadlines. Those present also agreed on the optimal deadlines and the start of work towards the fulfilment of the obligations arising from the "Declaration on Reform in Justice".
- 127 Levizja FOL website, November 2022, <http://levizjafol.org/shoqeria-civile-ulja-e-gave-per-sistemin-e-dhritesise-presents-interference-in-dhritesi-dhe-rrit-potentialin-korrupsies/> [accessed on December 15, 2022]
- 128 Telegrafi.com portal, November 2021, www.gazetaexpress.com/kpk-dhe-kgjik-bojkotojne-vettingun-ne-ministrine-e-drejtise-thone-se-do-te-vazhdojne-me-reformen/ [accessed on December 15, 2022]

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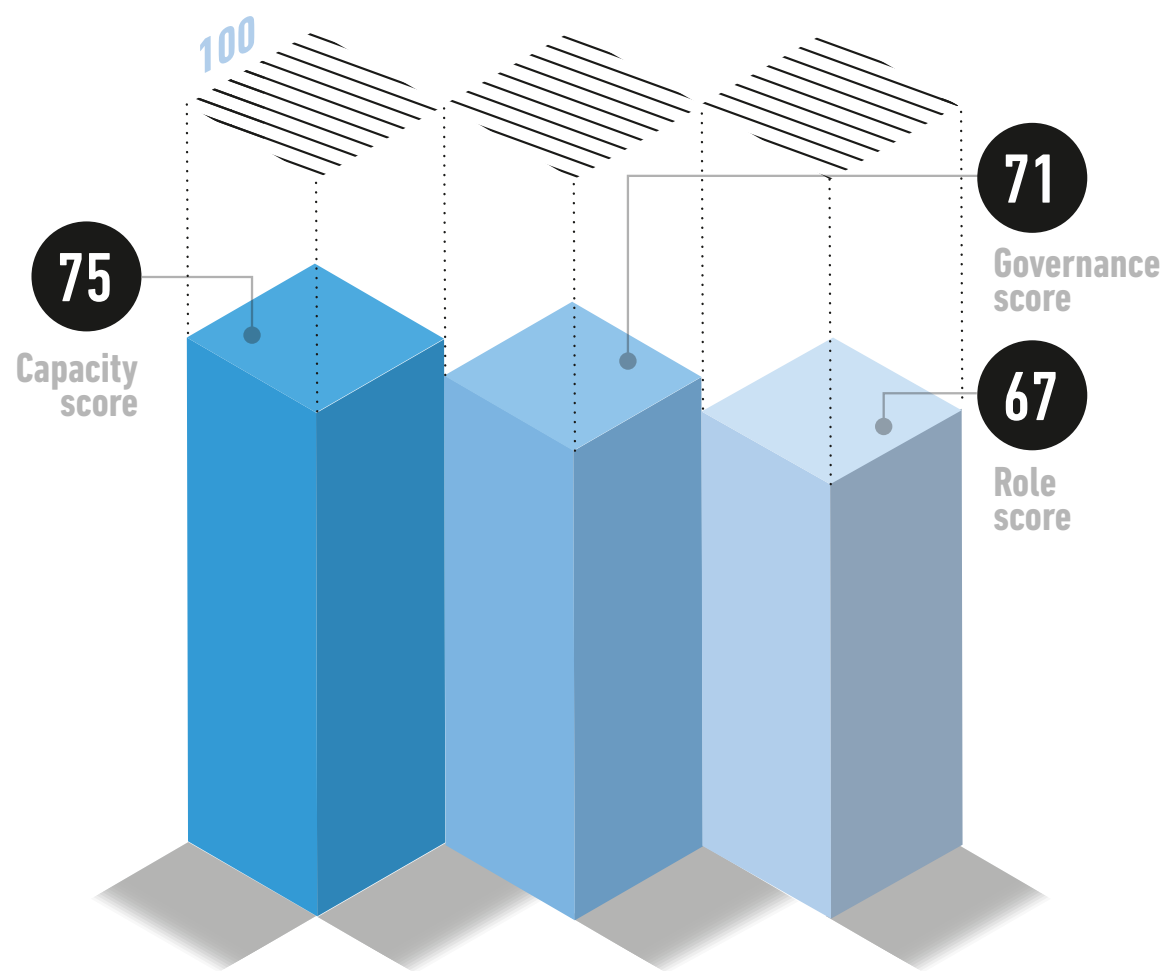
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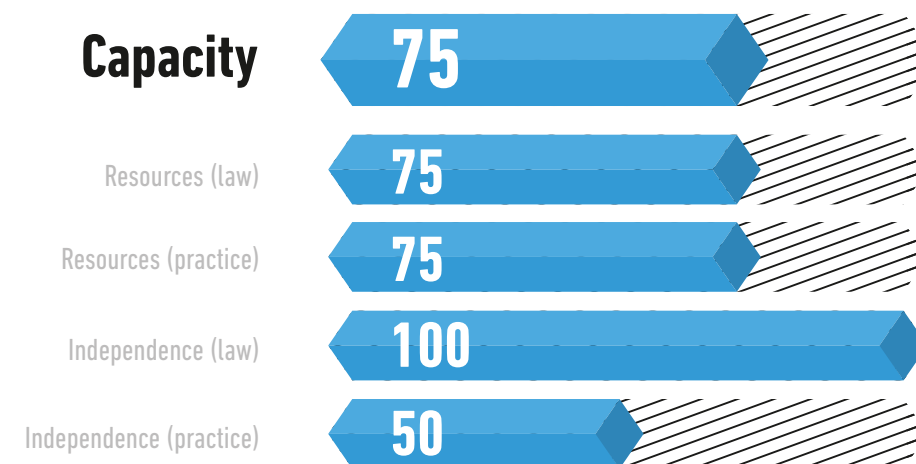
SUMMARY

Kosovo's court system comprises the Basic Courts, the Court of Appeal, and the Supreme Court. Basic courts are the courts of first instance in the seven largest municipalities – Pristina, Gjilan, Prizren, Gjakova, Peja, Ferizaj and Mitrovica.

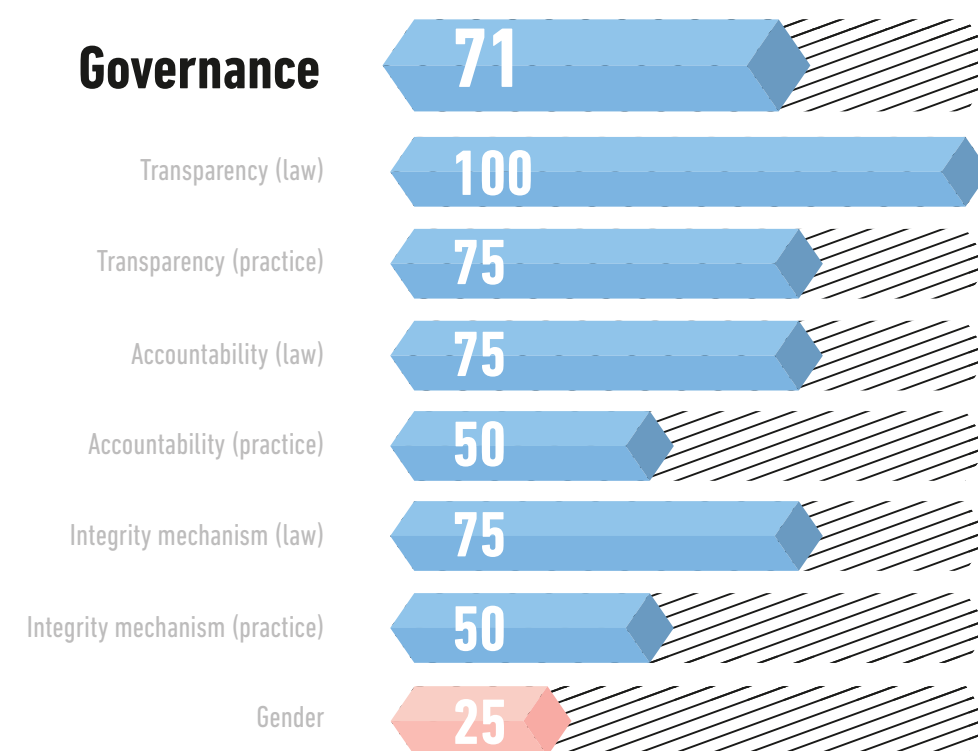
71/100 Overall pillar score



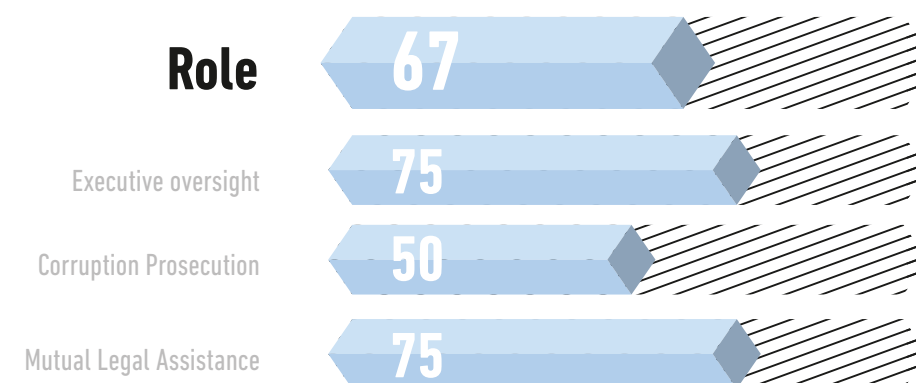
Capacity



Governance



Role





The Court of Appeal is the second instance court in Pristina, responsible for reviewing appeals made against the decisions of the Basic Courts and determining jurisdictional conflicts. The Supreme Court is the highest court, responsible for adjudicating cases related to requests for extraordinary legal remedies against final decisions made by the Kosovo courts. A Commercial Court has also been established to judge cases of economic disputes. The Constitutional Court of Kosovo also rules on the constitutional compliance of laws, decisions, and legal acts.

The Kosovo Judicial Council (KJC) is the constitutional and competent authority for the appointment, recruitment and reappointment of judges. The Council manages the functioning of the judicial system as a whole and supervises the work of courts and judges.

Comprehensive laws exist to ensure adequate judicial budgets and judge salaries. However, there is no legal obligation for a minimum budget or inflation adjustment for the judiciary. The judiciary's budget has increased compared to previous years, but the government has not fully approved its budget requirements, leading to a lack of technical and human resources. Furthermore, the government tried to reduce the salaries of judges, violating the judiciary's constitutional independence. Nonetheless, the Council has continued recruiting new judges and professional associates.

Laws generally ensure reporting by judges, but they lack defined sanctions for not providing legal rationale and offer no protection for complainants. Amendments to improve this law are underway. In practice, sanctions are rarely applied, the KJC is reactive rather than pro-active, and there has yet to be a case of judge dismissal for poor performance. There is a comprehensive Code of Ethics for judges, but it lacks provisions on refunds or compensation related to privately sponsored trips.

There are no clear guidelines or dedicated personnel for addressing gender sensitivity within the judicial system. Gender issues are not integrated into any internal bylaws or job descriptions.


While the Basic Court in Pristina is efficient in resolving cases, it does not necessarily make effective decisions that uphold legality. This is evident in the frequent overturning and reinstatement of cases by higher courts. Despite the judiciary's claim to being committed to fighting corruption, the actual outcomes are not particularly encouraging. The punishments are often lenient and not many high-profile cases see a satisfactory resolution. Due to its inability to handle corruption cases involving high-level politicians, the judiciary is perceived to be politically influenced. There is a lack of comprehensive and detailed data, particularly related to corruption and mutual legal assistance.

The vetting process with constitutional changes for the heads of the judicial and prosecutorial system began in 2021.¹ The government and the Assembly have prepared the constitutional amendments which have been sent to the Constitutional Court for interpretation as to whether these amendments reduce or violate the human rights guaranteed by Chapter 2 of the Constitution.²

Also awaiting completion is the finalisation of the amendment to the law on the disciplinary responsibility of judges and prosecutors, as well as the creation of the Administrative Court and the Labour Court with special laws.³



Capacity

 **INDICATOR 3.1.1
RESOURCES (LAW)**

75/100



Comprehensive laws seek to ensure sufficient resources regarding the judicial budget and judges' salaries. However, there is no legal minimum percentage or inflation adjustment for the budget of the judiciary from the state budget.

The KJC proposes and supervises the budget for the judiciary.⁴ The Council prepares and completes the budget circular provided by the Ministry of Finance, which provides for all budget planning within a calendar year and the budget amount within the calendar deadlines provided by the law on public finance management. The Ministry of Finance cannot change this budget proposal if submitted within the deadline, and the expenditure limits are set out in the annual budget circular.⁵ No legal provision obliges the government to allocate a certain percentage of the budget exclusively for the judiciary, even concerning the increase in inflation.⁶

Salaries in the judiciary are regulated based on the Law of the Courts.⁷ The Law on the Courts stipulates that the salary of judges is set according to a percentage comparison with the salary of the president of the Supreme Court. Thus, according to the law, the president of the Supreme Court receives a salary equivalent to the Prime Minister, while the judges of the Supreme Court receive a salary no higher than 90 per cent of the salary of the president of the Supreme Court. Salaries in the judiciary may eventually increase if

the Prime Minister's salary increases. The legal framework protects judges from any salary reduction except by disciplinary sanctions imposed by the KJC.⁸

However, the government has proposed while the Parliament has approved a new law on public sector salaries, including regulating judges' salaries. This Law, which provides for the reduction of salaries for judges and prosecutors, has now been challenged in the Constitutional Court by the Ombudsman of Kosovo,⁹ as many complaints have been submitted by the institutions regarding its content.¹⁰





**INDICATOR 3.1.2
RESOURCES (PRACTICE)**

75/100



The judiciary has sufficient resources and budget to carry out its activities, but in practice, its budgetary requirements are not fully approved by the government. Training on corruption-related cases is also not sufficient.

The budget for the judiciary is allocated by the government of Kosovo, namely the Ministry of Finance, and approved by the Assembly of Kosovo.¹¹ The budget¹² is mainly spent on salaries, allowances, goods and services. For 2022, the KJC requested a budget of €38 million for the judiciary, but the government allocated only €32 million, €6 million less than requested.¹³ According to the chairman of KJC, the budget for the judiciary is insufficient and does not fully meet the demands of the Judicial Council. This is supported by a senior researcher from the Kosovo Law Institute (KLI), who emphasises that the budget requests of the Council have not been fully approved by the government.¹⁴

Judges' salaries increase according to hierarchy. The salary of the president of the Supreme Court is no less than that of the Prime Minister. The salary of the judges of the Supreme Court is no less than 90 per cent of the salary of the president of the Supreme Court.¹⁵

Table 3.1: Annual budget of the KJC

Year	Total budget in € requested	Total budget in € received	Increase of received budget in % per year
2023	40,526,397.00	34,155,572.00	6.13
2022	38,623,576.84	32,183,896.00	10.24
2021	36,294,571.32	29,194,592.00	-2.1
2020	35,471,334.97	29,821,540.00	1.42
2019	33,356,016.04	29,404,466.00	

Therefore, judges' salaries are currently sufficient for the efficient performance of their duties. However, the new Law on Salaries approved in 2022 by the Assembly of Kosovo foresees a 30 to 40 per cent decrease in judges' salaries,¹⁶ which is discouraging and may affect the financial independence of the judiciary¹⁷ and increases the likelihood of corruption within the judiciary.¹⁸

According to KLI interviewed for this report, the human resources of civil servants in the judiciary are insufficient and not very stable. Also, according to the Chairman of the KJC,¹⁹ most judges only have one legal officer and often work with interns or other officers who cover the work of two or three judges.²⁰ However, in November 2022, the Council recruited 74 professional associates who are expected to improve the efficiency of the courts.²¹



The KJC constantly recruits new judges,²² professional associates and administrative officials to promote efficient work to reduce caseload.²³ Judges attend training at the Academy of Justice in areas such as improving the legal reasoning of decisions, court management and efficient handling of court cases.²⁴ However, analysing the amount of training on corruption in the 2022 work and performance plan of the academy, it can be assessed that this training is insufficient, and there is a need for more frequent training, and not just three sessions on two days a year, to deal with corruption cases.²⁵

In the courts of Kosovo, there is no specialist library to support judges and staff with legal research for the best drafting of decisions. The computer equipment is not modern and court hearings often fail due to problems with technology. The judicial process takes place with manual record-keeping because there is no audio recording, transcription or video recording of court sessions.²⁶

**INDICATOR 3.1.3
INDEPENDENCE (LAW)**

100/100



Legislation guaranteeing the independent functioning of the judiciary against external interference is comprehensive and sufficient. The Constitution of Kosovo determines that judicial power is unique, independent, fair and apolitical and ensures equal access to the courts.

Judges in the Republic of Kosovo are appointed by the President of Kosovo based on the proposal of the KJC.³⁰ The appointment process begins with establishing the recruitment commission by the KJC, which consists of five regular members and two reserve members, who are chosen through an open vacancy. The commission consists of three members from the ranks of the council, two from the courts and two from reserve members, all of whom are jurists from the judiciary ranks.³¹

Appointments of candidates for judges are based on clear criteria and are defined by law.³² Before being appointed, judges undergo an examination that includes qualifying testing, written testing and oral interviews.³³

After the judges pass the initial appointment stage, they are reappointed with a permanent mandate until retirement, which guarantees security from external influence, such as threats to terminate their contracts.³⁴

Judges in Kosovo can only be dismissed if convicted of a serious criminal offence and breach of duty. The process for dismissing judges is similar to that of appointment, with the KJC making the proposal to dismiss and the President deciding to dismiss. Before a judge is proposed for dismissal, the KJC establishes an investigative panel to determine whether the judge has committed a serious violation of work duties or any criminal offence. The investigative panel's report is then submitted to the Council to support the specific proposal for dismissal.³⁵

Independence from external influences is protected by the Law on the Courts and the Code of Professional Ethics for judges. The Code of Professional Ethics for judges defines the rules of conduct for judges and informs the public about the behaviour expected of judges.³⁶

The meetings of the KJC and the procedures developed for the testing and evaluation of candidates for judges are regulated according to the Law on the Judicial Council,³⁷ the Law on the Courts,³⁸ and the regulation on the recruitment, examination, appointment, and reappointment of judges.³⁹

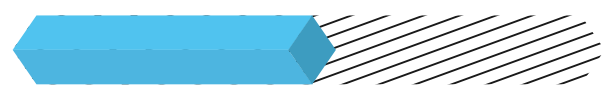
The Supreme Court is a constitutional authority whose field of activity is regulated by the Constitution but also by the Law on the Courts.²⁸ Amending the Constitution to change the organisation of the judiciary is difficult since it requires the approval of two-thirds of the majority and minority deputies in the Assembly.²⁹





**INDICATOR 3.1.4
INDEPENDENCE (PRACTICE)**

50/100



The judiciary is often confronted with external interventions that are typically public statements by leaders of various institutions. In practice, the independence of the judiciary is also curtailed by government interventions determining the budget for the judiciary, as well as by reducing judges' salaries (see 3.1.1 & 3.1.2)⁴⁰ through administrative decisions.⁴¹ The judiciary is also perceived to be politically influenced⁴² due to a lack of properly handling corruption cases, especially when high-ranking officials are involved.⁴³

Judges in Kosovo are appointed based on clear professional criteria⁴⁴ through a public vacancy announced by the KJC. A 2021 monitoring report by the Balkan Investigative Reporting Network (BIRN) & Internews Kosova emphasises that in 2021, 141 judges were subjected to performance evaluation by the KJC, and the data shows that none of them resulted in a "poor" evaluation to then initiate any disciplinary or dismissal procedure against them.⁴⁵

Proposals for the dismissal of judges before the end of their mandate are rare.⁴⁶ Each time there have been such proposals, the KJC has justified its decision.⁴⁷ There are cases when judges have been transferred and demoted due to the content of their decisions.⁴⁸

Decisions on transfer and demotion originate from a disciplinary investigative process carried out by the KJC, based on the evaluation of judges' performance and efficiency in resolving cases.⁴⁹

Until now, the Supreme Court has not faced any legal amendments which have changed or interfered with its powers and manner of functioning.⁵⁰

The Council is independent and efficient in carrying out its activities. The Council also appoints the relevant commission for the recruitment of new judges, and this commission has the mandate to organise the procedure of recruiting new judges.⁵¹

However, corruption cases, such as "Pronto",⁵² "veterans",⁵³ "visas",⁵⁴ and "hydropower plants",⁵⁵ where many high-ranking officials have been trailed and have all ended with acquittals and without any punishment (see 3.3.2), have fuelled the perception in Kosovo that the judicial system does not punish politicians accused of corruption.

Furthermore, verbal attacks such as from the government or heads of public institutions are common.⁵⁶ For example, in 2021, the Minister of Justice called the decision of judges of the Court in Peja regarding a murder case "scandalous and unfair".⁵⁷



Governance

**INDICATOR 3.2.1
TRANSPARENCY (LAW)**

100/100



There are comprehensive provisions allowing the public to obtain information on the organisation and functioning of the judiciary, on the decisions that concern them and on how these decisions are made.

The Law on the KJC and the Law on the Courts contain sufficient provisions requiring the judiciary to make public all information, including judgments,⁵⁸ the statistics on handled cases, hearings and other activities.⁵⁹ The relevant legislation also requires that all KJC activities, which are also related to the appointment,⁶⁰ transfer and dismissal of judges,⁶¹ become public.⁶²

Additionally, according to the Law on Access to Public Documents, the terms and conditions of when information from public institutions, including the judiciary, must be made public are defined in detail. Article 6 emphasises that public institutions must pro-actively publish all public documents within 15 days of becoming accessible.⁶³

The KJC has issued several acts, such as the regulation on the appointment of judges,⁶⁴ the regulation for evaluating the performance of judges⁶⁵ and the regulation on the work and internal organisation of the courts,⁶⁶ which clarify that all information on judiciary activities should be made public.

There are also legal provisions that require trials to be public. The Constitution of Kosovo guarantees public judicial review for each person.⁶⁷ Likewise, the Criminal Procedure Code requires public judicial review.⁶⁸

**INDICATOR 3.2.2
TRANSPARENCY
(PRACTICE)**

75/100



In general, the public can easily obtain information on judicial activities, but Council meetings where disciplinary complaints against judges are discussed and reviewed are closed to the public.

The KJC has an official website where regular reports, activities on expenses and decision-making are published periodically.⁶⁹ These reports include data on annual work⁷⁰ reports and various statistics on handling court cases and their resolution by courts at different levels. Additionally, information relating to the KJC⁷¹ activities is published, including meetings, disciplinary decisions and other information.⁷² On the KJC website, there is also an open data platform which offers the general public and any internet user access to judicial statistics about the work of the courts and judges in Kosovo.⁷³

All the branches of the courts also have functional websites where citizens can access the handling of cases, the publication of judgments and the schedule of court sessions.⁷⁴ Concerning the session schedule, not all judges make their





sessions public, especially the session schedules in the Special Department of the Basic Court in Pristina,⁷⁵ which are very rarely published.⁷⁶

The KJC website is quite active, and anyone who wants information on the appointment, transfer and dismissal of judges can easily access some of these decisions.⁷⁷ Only the situation with disciplinary decisions remains problematic as the KJC does not publish the names of judges subject to this procedure. Even the meetings where these issues are discussed are kept closed.

**INDICATOR 3.2.3
ACCOUNTABILITY (LAW)**

75/100



There are generally sufficient legal provisions that guarantee and ensure the reporting of judges on their work. However, there are some shortcomings in terms of a lack of defined sanction⁷⁸ for judges who do not provide legal rationale for a judicial decision,⁷⁹ complainants are not explicitly protected by law.

The Constitution of Kosovo⁸⁰ requires that the principle of fair and reasonable judgment be respected by asking judges to explain their reasoning for whatever decision they make.⁸¹ There are several levels where complaints can be filed against judges, starting with the KJC, which is the primary instance through which judges are supervised and held accountable.⁸²

Although the Law on the Disciplinary Liability of Judges and Prosecutors includes the capacity of legal reasoning in the evaluation criteria for the work of a judge, the law does not explicitly provide any sanction⁸³ for judges who do not provide legal rationale for a judicial decision.⁸⁴ The law

also does not contain any special provision to protect the complainants, whether they are natural or legal persons.

Since April 2022, this law is subject to the amendment-supplementation procedure by the Ministry of Justice as it needs improving.⁸⁵

According to the Constitution, all judges enjoy immunity from criminal prosecution, civil lawsuits and dismissal from office for decisions made, voting, opinions expressed and other actions taken within the scope of their duties and responsibilities as judges.⁸⁶

Judges do not enjoy immunity if they seriously violate their work duties or commit criminal offences. Disciplinary measures may be imposed, such as a 50 per cent⁸⁷ salary reduction, temporary or permanent transfer to a lower level (demotion), or dismissal.⁸⁸ The KJC is the only authority that takes such measures, pronounces disciplinary decisions, and proposes dismissing judges⁸⁹ in Kosovo.⁹⁰

**INDICATOR 3.2.4
ACCOUNTABILITY (PRACTICE)**

50/100



The existing provisions are only partially effective in ensuring the accountability of judges for their work. The KJC is more likely to act whenever there are cases that arouse more public pressure than when a disciplinary case is raised for judges who perform actions contrary to the law.

According to a CSO organisation that monitors the justice system, in practice, judges often give reasons for their decisions, but they are not easily understood by the parties. Reasons for court decisions are also based on a template and



tend to describe the course of court proceedings.⁹² Many decisions contain little legal analysis and are far from the European Court of Human Rights standards.⁹³

Sanctions against judges for non-reasoning of a decision are not applied in practice. An unclear or incomplete reasoning supporting a court decision is usually appealed to a higher court instance by the parties affected, which may result in the annulment of the decision. However, there are no concrete disciplinary measures for judges who do not reason or do not adequately reason their decisions.⁹⁴

Based on the legislation, the KJC is independent but ineffective in practice.⁹⁵ This is because until now, there is no case in which the KJC has proposed the dismissal of a judge due to poor work performance to the President of the country. The disciplinary commissions created by the KJC have not been effective in imposing disciplinary measures against judges who commit improper actions. Most decisions are either a downgrade in position, a transfer to another department or a 50 per cent reduction in pay for a certain period.⁹⁶

The KJC has a Commission for the Evaluation of the Performance of Judges.⁹⁷ In 2021, this commission evaluated 139 judges, of whom 25 were rated “good”, 90 “very good”, and 24 “excellent”, while no judge had a “poor” evaluation result.⁹⁸ So far, there have been no cases of a judge being dismissed for poor performance.⁹⁹

During 2022, the Council recorded a worse performance than in 2021 with respect to issuing disciplinary decisions for judges. In the same period, the KJC issued 12 final decisions,¹⁰⁰ compared to 16 in 2021.¹⁰¹

Although in 2021, no judge was evaluated with a “poor” grade, the judiciary continues to be ineffective in handling corruption cases. There are, for example, cases of corruption for which criminal offences are prescribed,¹⁰² but the accused is sentenced to probation and a fine¹⁰³ or is completely acquitted of the indictment.¹⁰⁴

**INDICATOR 3.2.5
INTEGRITY MECHANISM
(LAW)**

75/100



There are sufficient legal mechanisms that guarantee the integrity of Kosovo’s judicial system members. However, the Code of Professional Ethics for judges does not regulate the aspects of refunds, receipts or compensation related to privately sponsored trips where relevant.

The Code of Professional Ethics for judges defines the rules of professional conduct. Any violation of these rules constitutes a disciplinary violation.¹⁰⁶ The Code stipulates that judges must behave with professionalism, integrity and impartiality¹⁰⁷ in their professional and personal lives.¹⁰⁸

Judges are obliged to declare their assets to the Agency for the Prevention of Corruption. In the report published by the Agency, more than 99 per cent of judges had declared their assets.¹⁰⁹

The Code of Ethics is quite comprehensive, and it prohibits judges from receiving compensation and honoraria or accepting gifts of any kind¹¹⁰ while exercising their duties as judges.¹¹¹ The Code allows the engagement of judges outside of working hours as lecturers or trainers from which activity they can earn an income of up to 25 per cent of their salary.¹¹² The Code also stipulates that the judge will not allow financial interests or close family to affect the integrity of the function exercised negatively.¹¹³

There is also a law on preventing conflicts of interest for judges which prohibits the involvement of judges in actions that conflict with this law.¹¹⁴ This law prohibits judges from asking for and accepting gifts, rewards or any other benefit





for themselves or other persons,¹¹⁵ and it also bans involvement and engagement in other work that may affect their impartiality.¹¹⁶

Judges do not have any restrictions regarding their engagement in the public or private sector after leaving the judiciary. The only limitation is when they retire and can no longer be appointed to public positions.¹¹⁷

If citizens observe the impartiality or unprofessionalism of a judge during the exercise of their functions or even outside their functions, they can complain to the KJC and other competent authorities, such as the presidents of the courts and the Ombudsperson.¹¹⁸

As public officials, judges are obliged to declare their assets to the Agency for the Prevention of Corruption annually between March 1 and March 31¹¹⁹ for the previous year (January 1 to December 31).¹²⁰ Asset declarations have to be available to any institution and the public and are accessible¹²¹ on the website of the Agency for the Prevention of Corruption.¹²²

INDICATOR 3.2.6 INTEGRITY MECHANISM (PRACTICE)

50/100



Although there are existing regulations for the Code of Ethics, in practice, they are not implemented effectively enough to conduct more pro-active investigations into the misconduct of judges, to sanction misconduct or to support regular training of staff on integrity issues.

According to the 2022 Kosovo Progress Report,¹²⁴ although there is a higher increase in the application of disciplinary measures against judges than in previous years, the KJC needs diligent work to ensure the consistent and effective



implementation of disciplinary procedures against judges.¹²⁵

The Council's disciplinary decisions are mostly lenient, including non-public written reprimands, public written reprimands, a temporary salary reduction of 50 per cent for one year or a temporary transfer to a lower court. There are few suspensions and no proposals for the dismissal of judges.¹²⁶

The KJC ensures compliance with the Code of Ethics. The KJC also has an Advisory Committee on Judicial Ethics, which helps judges with advice on handling situations or possible behaviours that may be considered in violation of the Code of Professional Ethics for Judges.¹²⁷

There is also a lack of regular and frequent staff training on integrity. In 2022, only one training session on integrity and ethical behaviour was planned for judicial administration staff.¹²⁸ In practice, this is insufficient and does not serve to properly build the capacity and awareness of court staff on integrity.

Judges declare assets to the Agency for the Prevention of Corruption. In 2022, no cases were reported in which judges had not declared their assets and measures were taken against them.¹²⁹ Although there is evidence that in 2021 two judges did not declare their assets by the legal deadline,¹³⁰ there are no reports of any action being taken against them.

Disciplinary violations of judges are investigated and dealt with by the KJC. The KJC has a committee for evaluating the performance of judges and the KJC deals with any complaint against a judge.¹³¹ The KJC establishes Panels of Inquiry that conduct investigations into whether the complainants' allegations are sustained.¹³²

Citizens have the opportunity in practice to challenge a judge's impartiality in any situation where they believe the judge was influenced or behaved unprofessionally. The KJC offers a relevant complaint form that citizens can fill out and submit when making a complaint.¹³³

Currently, the KJC website¹³⁴ reports that 95 disciplinary complaints against judges have been submitted¹³⁵ this year, of which 29 are under review.¹³⁶



INDICATOR 3.2.7 GENDER

25/100



The judiciary in Kosovo lacks clear protocols and guidelines on gender sensitivity. There is some gender-disaggregated data.

Despite the regulation of gender representation defined by the Constitution¹³⁷ and the Law on Gender Equality,¹³⁸ no internal bylaws of the judicial system mention gender integration in their documents and policies.¹³⁹

There are no dedicated persons responsible for gender issues in the judicial system, and issues related to gender, human rights,¹⁴⁰ and non-discrimination do not fall within any job description in the judicial system.¹⁴¹

There are no mentions of mandatory gender inclusion training for judges or administrative personnel in the judicial system in KJC's annual report.¹⁴²

In addition, there is no reporting of gender-disaggregated data regarding the number of complaints received, nor any reporting of gender-disaggregated data regarding the processing time of complaints received or dismissed.¹⁴³

However, the KJC has created the Case Management Information System (CMIS), which provides gender-sensitive statistics about court procedural parties.¹⁴⁴ The data published on the open data platform reveals that about 132,000 men and 36,000 women have been parties to the country's courts as defendants, plaintiffs, defendants and injured parties.¹⁴⁵ However, nothing concrete specifies how many complaints have been received from women or men.





Role

INDICATOR 3.3.1 EXECUTIVE OVERSIGHT

75/100



The judiciary exercises effective supervision over executive decisions. However, there are cases overturned by the Basic Court where the respective administrative body simply repeated the same decision.

The Basic Court of Pristina's Department for Administrative Affairs has the jurisdiction to control and review these decisions by executive administrative bodies, which are final. This court decides on all cases of administrative conflict arising from decisions by the executive bodies.¹⁴⁶

Judgments of the Basic Court of Pristina that overturn executive decisions are applicable when they become final; however, these decisions by the Pristina courts are not very effective in establishing legality.¹⁴⁷ This is because, in most cases, the high courts simply overturn and reinstate the cases with the respective administrative bodies but do not decide how to resolve the case in question effectively.¹⁴⁸

Even the "Betimi për Drejtësi" in 2021 has reported how approximately 40 per cent of cases are returned for retrial by the Court of Appeal in Kosovo. Furthermore, it is shown for some cases that their conclusion was prolonged through frequent retrials, and that the court of second instance, the Court of Appeal, even though it has the right to judge these cases itself, constantly returns them on retrial.¹⁴⁹

In practice, whenever executive decisions are overturned and reinstated, the administrative bodies often repeat the same

decision, regardless of the court's findings.¹⁵⁰ For example, in the case of reducing judges' salaries in an executive administrative decision, the Court decided to suspend this decision until the effective resolution of the case (see 3.1.1).¹⁵¹

According to data reported on the work of the courts for 2022, the administrative department of the Basic Court in Pristina received about 2,933 such cases, of which this court resolved or closed 2,463 cases.¹⁵²

Based on the percentage of completed cases, about 84 per cent of the cases are resolved within one year by this court, and thus, the data show efficiency in the process but not necessarily in the quality of these decisions.

INDICATOR 3.3.2 CORRUPTION PROSECUTION

50/100



While the judiciary seeks to penalise offenders in corruption-related cases, its efforts are limited and often unsuccessful. It is mostly reactionary in its contribution to the fight against corruption and usually does not propose anti-corruption reforms.

In principle, the judiciary is committed to fighting corruption by handling such cases, but the challenge remains the lenient punishment policy for high-profile corruption cases. There is also a lack of final court decisions that effectively punish officials accused of corruption, as well as a lack of asset confiscation decisions.¹⁵³



During 2021, according to a monitoring report by BIRN and Internews Kosovo, out of 108 cases of corruption, 22 resulted in a sentence of imprisonment, 31 in a fine, six cases led to a suspended sentence, 26 to an acquittal, four to a rejection verdict and 19 other cases to another outcome.¹⁵⁴

The KJC does not provide separate data on corruption cases. All statistics provided are general and based on the total number of cases received and the number of cases resolved, categorised by their criminal, civil or administrative nature.¹⁵⁵

The KJC participates in working groups for the amendment or drafting of any law related to the justice system by offering suggestions and expertise regarding the fight against corruption.¹⁵⁶ However, the KJC has refused to cooperate with the Ministry of Justice about reforms related to the vetting process in Kosovo.¹⁵⁷ According to the KJC, they do not support this reform through constitutional changes and have clarified that they will not be part of any working group that includes drafting a vetting law.

As for money laundering cases, there is a lack of efficiency by the judiciary in dealing with these cases. In 2021, only the Basic Courts of Pristina and Prizren have dealt with cases of this nature. The Court of Pristina had a total of nine cases, of which it has resolved only one, and with an acquittal. The Court of Prizren has dealt with one case for which there is still no final decision.¹⁵⁸ This demonstrates a lack of effectiveness by the judiciary in punishing these criminal acts.¹⁵⁹

INDICATOR 3.3.3 MUTUAL LEGAL ASSISTANCE

75/100



Judicial authorities respond in a timely manner to all requests for legal assistance from foreign agencies. They also make full use of mutual legal assistance when investigating cases. However, the Ministry of Justice has not published any statistics on handling these requests on its website. Only a few cooperation agreements with foreign countries, such as Turkey, are published on the website, but there is no report or publication that presents statistical data on these issues.

According to the Director of the Department for International Legal Cooperation of the Ministry of Justice, judicial authorities cooperate sufficiently with foreign law enforcement agencies by responding to, providing and receiving mutual legal assistance¹⁶⁰ promptly.¹⁶¹ Besides Serbia, Kosovo has agreements with countries such as Germany, Switzerland,¹⁶² Turkey, Greece, North Macedonia and Albania.¹⁶³

The Ministry of Justice is the central authority for accepting and submitting requests for international legal cooperation.¹⁶⁴ The Ministry has a department for international legal cooperation¹⁶⁵ which ensures the processing of all requests for international legal assistance in matters that are within the scope of its responsibilities.¹⁶⁶ The Director mentions that as for the countries of the Western Balkans, but also many EU countries, the speed of the execution of requests is a challenge for the Republic of Kosovo, but the requests that fall within the competence of the Basic Prosecutor's Office and the courts in Kosovo are executed at the right time.¹⁶⁷ During 2021, it efficiently processed requests for international legal assistance transmitted internally and received externally. During this period (January 1 – December 31, 2021), Department for International Legal Cooperation (DILC) processed 6,078 requests/responses for international legal assistance: 1,548 new requests (cases), 1,592 new requests within open cases, 2,381 responses and 557 of another nature.¹⁶⁸





Interactions

The Judiciary engages in continuous mutual cooperation with other authorities and institutions, such as the Prosecutor's Office, the police, the media and civil society.

Interaction with the prosecutor's office and the police mainly relates to the legal and mandatory requirement for the prosecution, investigation and trial of corruption cases, as well as other matters.¹⁶⁹ Collaboration with the media and with civil society in particular is related to memoranda of understanding to monitor and observe corruption cases.¹⁷⁰

Thus, most interaction is intended to strengthen the capacity to fight corruption; in principle, these are positive interactions. In practice, however, there are problems in the efficient resolution of cases, trial delays and the lack of effective punishment in corruption cases (see 3.3.2).

In Kosovo, the courts are still applying a lenient punishment policy for corruption cases, and this phenomenon is a result of many factors. It is primarily because the police and the Prosecutor's Office lack the capacity to conduct effective investigations (see 4.3.1 & 6.3.1 pillars) and collect the credible evidence necessary for the court to impose appropriate sentences against those accused of criminal offences of corruption.¹⁷¹

Pillar Recommendations

- The budgetary requests of the KJC should be approved as requested, in order to improve the effectiveness of the judicial system.
- Recruit more qualified supporting staff, associates and legal officers so that cases can be handled more quickly and efficiently.
- Ensure that in the courts of Kosovo, there is a library with professional literature which supports judges while performing their duties.
- Organise, in cooperation with the Academy of Justice, more frequent and mandatory training sessions for judges and court staff on issues that include the best reasoning for court decisions, issues relating to gender equality and the integrity of the work of judges. In addition, judges should be provided with databases on jurisprudence with legal commentary, in order to ensure unification of judgements and for reasoning development.
- Become more transparent in dealing with disciplinary cases against judges; specifically, meetings where complaints against judges are processed should be public, and the names of judges who are being investigated by investigative panels should be published.
- Amend the regulation for evaluating the performance of judges and provide for the imposition of disciplinary measures such as those determined according to the Law on disciplinary responsibility for judges and prosecutors (written public warning, demotion and devolution or temporary reduction of pay) against judges who do not write reasoned, or who write insufficiently reasoned, judicial decisions.
- Create a database where data on the efficiency of the judiciary in handling corruption and money laundering court cases are recorded, updated and published according to separate criminal offences and the type of sentence imposed.



ENDNOTES

- 1 On 13 October 2021, the government of Kosovo approved the concept document for vetting in the area of justice, which is intended to strengthen the rule of law. In the drafted concept document, the working group established by the Ministry of Justice has suggested "the vetting of constitutional changes by an ad-hoc body and the same body then continues the ongoing assessment within the framework of the Kosovo Judicial Council and the Kosovo Prosecutorial Council". For more see the link: <https://www.evropaelire.org/a/ndryshime-kushtetuese-procesi-i-vettingut-31527212.html> [accessed on July 24, 2023]
- 2 See Koha.net portal, March 2023, <https://www.koha.net/arberi/368040/konjufca-i-dergon-ne-gjykatene-kushtetuese-amendamentet-kushtetuese-per-vettingun-ne-drejtisi/> [accessed on June 16, 2023]
- 3 See the Ministry of Justice, April 2023, <https://md.rks-gov.net/page.aspx?id=1.15.3000> [accessed on June 16, 2023]
- 4 Law on Kosovo Judicial Council, Article 7, paragraph 1, point 13.
- 5 Law on Public Financial Management and Accountability, Article 66 paragraph 1.
- 6 Law on Kosovo Judicial Council, Article 7 paragraph 1, point 1.13 (December 2018).
- 7 The Law on Courts, Article 35 determines that judges' salaries are set at the level of the category and hierarchy of the exercise of duty. According to the law, the president of the Supreme Court receives a salary equivalent to the salary of the Prime Minister, while the judges of the Supreme Court receive 90 per cent of the salary of the President of the Supreme Court.
- 8 Law on Courts, Article 35, paragraph 2.
- 9 See, Kallxo.com portal, April 2023, <https://kallxo.com/lajm/ligji-per-paga-dergohet-ne-kushtetuese/> [accessed on June 16, 2023]
- 10 Demokracia.com portal, August 2022 https://demokracia.com/wp-content/uploads/2022/08/Projektligji-per-pagat-ne-sektorin-publik.pdf?fbclid=IwAR-2Rb-V4wJ0RKTkDGCQbZ3Dirr5HBzpmrvt1ail_f6iel5KHVvPrD_YhsjE [accessed on September 2, 2022]
- 11 SeeKallxo.com portal, November 24, 2021, <https://kallxo.com/gjate/budxheti-2022-ijqesorit-dhe-prokurorise-i-shtohen-5-7-milione-euro/> [accessed on September 19, 2022] In this article, it is emphasised that compared to previous years, the budget for the judiciary is now higher. It is now €32 million compared to €29 million for 2021 and 2020.
- 12 See Law No. 08/L-066 on Budget Appropriations for the Budget of the Republic of Kosovo for 2022, pg. 85 (December, 2021). The official data on the budget of the KJC are also presented in the law for the budget of 2022. These data show that most of the budget funds are spent on salaries, services and goods, while somewhere around €2.22 million are allocated for capital investments.
- 13 Interview with Albert Zogaj, 'Chairman of the Kosovo Judicial Council', October 2022.
- 14 Interview with Gzim Shala, 'Senior Researcher at KLI, September 2022.
- 15 According to the law on courts, the judges of Appeal enjoy a salary not less than 90 per cent of the salary of the president of the Appeal, while the judges of the Basic Court have a salary not less than 80 per cent of the salary of the president of the Basic Court.
- 16 See Law No. 08/L-196 on Salaries in the Public Sector (January 2023). This law has also been sent for interpretation to the Constitutional Court by the Ombudsman after more than 104 complaints have been submitted from different subjects from the public sector. Also see Kallxo.com Portal, April 2023, <https://kallxo.com/lajm/ligji-per-paga-dergohet-ne-kushtetuese/> [accessed on May 16, 2023]
- 17 See Ekonomia Online Portal, December 2022, <https://ekonomiaonline.com/ulja-e-pagave-ne-drejtisi-mund-te-ule-performancen-te-rrise-korrupsionin/> [accessed on May 16, 2023]
- 18 See Transparency International <https://www.transparency.org/en/our-priorities/judiciary-and-law-enforcement/> [accessed on May 16, 2023]
- 19 Interview with Albert Zogaj, Chairman of the Kosovo Judicial Council, October 2022.
- 20 Interview with Gzim Shala, Senior Researcher at KLI, September 2022.
- 21 Kosovo Judicial Council, engagement ceremony of 74 professional associates, <https://www.gjyqesori-rks.org/2022/11/16/kgjk-organizon-ceremonine-e-startilimit-te-punes-per-74-bashkepunetore-profesional-ne-gjykatat-e-republikes-se-kosovo/> [accessed on November 17, 2022]
- 22 See the announcement of the Judicial Council, which emphasises that 29 new judges have been recruited, April 2023, <https://www.gjyqesori-rks.org/2023/04/07/dekretohen-29-gjyqtare-te-rinji/> [accessed on May 16, 2023]
- 23 Interview with Gzim Shala, Senior Researcher at KLI, September 2022.
- 24 Academy of Justice, '2022 work and performance plan', (November 2021), pg. 14.
- 25 See Academy of Justice, 2022 work and performance plan, (November 2021), pg. 45-46, where it is foreseen that for corruption cases, training for judges and prosecutors will be held for three sessions for only two days.
- 26 American Chamber of Commerce in Kosovo, February 2021, <https://www.amchamksv.org/en/judge-challenges-negatively-affect-the-efficient-resolution-of-business-disputes/> [accessed on September, 2021]
- 27 The Constitution of the Republic of Kosovo, Article 102 paragraph 1, (June 2008).
- 28 The Constitution of the Republic of Kosovo, Article 103 paragraph 2
- 29 The Constitution of the Republic of Kosovo, Article 144 paragraph 2 and 3, determines that any amendment to the Constitution of Kosovo requires the vote of two-thirds of the majority MPs and the vote of two-thirds of the minority MPs.
- 30 The Constitution of the Republic of Kosovo, Article 104 paragraph 1 to 6.
- 31 Regulation on the recruitment, examination, appointment and reappointment of judges, Article 5 paragraph 2 to 4, (November 2021).
- 32 Law on Courts, Article 8.
- 33 Regulation, on the recruitment, examination, appointment, and reappointment of judges, (November 2021), Article 13.
- 34 Law on Kosovo Judicial Council, Article 22, (December 2018).
- 35 Law on Kosovo Judicial Council, Article 24.





36 Code of Professional Ethics for Judges (August 2016).

37 Law on Kosovo Judicial Council, Article 4 and Article 14.

38 Law on Courts (December 2018).

39 Regulation on the recruitment, examination, appointment, and reappointment of judges, (November 2021).

40 Dukagjini.com portal, November 2022, <https://www.dukagjini.com/ulen-gat-e-ijqtareve-dhe-prokuroreve-kondershtohet-vendimi/> [accessed on November 24, 2022] With this decision, the government, in an unprecedented way, has decided to reduce the judges' salaries as they were before the increase was realised in 2017. This decision, taken in such an ad-hoc manner, has directly violated the constitutional independence of the judiciary because it is a decision that does not have a rationale, does not have a legitimate purpose as to why the reduction occurs and, above all, is contrary to the judgment of the Constitutional Court of Kosovo KO.no.12/18 of June 11, 2018, as well as contrary to Article 35 paragraph 2 of the Law on Courts, where it is emphasised that judges' salaries cannot be reduced during the time they are exercising their mandate, except when KJC imposes a disciplinary measure on them.

41 Kallxo.com portal, April 2022, <https://kallxo.com/gjate/pavaresia-financiare-e-cunguar-e-keshillit-ijqesor-dhe-prokurorial-te-kosoves/> [accessed on November 21, 2022]

42 See, Kallxo.com portal, September 2020, <https://kallxo.com/lajm/dash-gjykata-e-kosoves-shihen-si-te-dikuara-dhe-me-dritesi-selective/> [accessed on November 21, 2022] This article presents a report by the US Department of State, where it is emphasised that Kosovo's courts are considered to be politically influenced and that in relation to the parties, Kosovo's courts perform "selective justice".

43 Telegrafi.com portal, January 2022, <https://telegrafi.com/deshimi-rastet-e-korrupcionit-dhe-krimet-te-organizuar-gjate-vitit-2021-ne-kosove/> [accessed on November 22, 2022]

44 The Law on Courts, Article 30 defines the criteria that must be met by candidates for appointment to the position of judge, which are: to be a citizen of Kosovo, to have completed law school, to have completed the jurisprudence exam and to have at least 3 years of professional work experience in the legal field.

45 BIRN & Internews Kosova, monitoring report, Corruption Immunity' (Pristina, 2021), page 34. In this monitoring report, it is emphasised that in 2021, 141 judges were subjected to performance evaluation by KJC, and the data shows that none of them resulted in a "poor" evaluation to then initiate any disciplinary or dismissal procedure against them.

46 Group for Legal and Political Studies, Analysis: 'Disciplinary measures against judges and prosecutors' page 12. (GLPS: Pristina, May 2022).

47 "Betimi për Drejtësi", July 2022, <https://betimiperdrejtesi.com/kgjk-propozon-presidentes-shkarkimin-e-ijqtarit-rafet-ismajli-te-cilit-iu-vertetua-denimi-nga-apeli-per-korrupcion/> [accessed on October 26, 2022]

48 "Betimi për Drejtësi", September 2022, <https://betimiperdrejtesi.com/gjykatesja-naime-krasnigj-jashanica-degradohet-ne-departamentin-e-pergjithshem-te-gjykates-themelore-ne-prishtine/> [accessed on October 26, 2022]

49 Article 7 of the Law on Disciplinary Liability of Judges and Prosecutors.

50 Law on Courts Article 25 and 26.

51 Regulation on the recruitment, examination, appointment and reappointment of judges, Article 5.

52 See, Insajderi.Com Portal, Three years ago, <https://insajderi.com/te-gjithe-te-akuzuarit-ne-rastin-ponto-shpallen-te-pafajshem/> [accessed on May 16, 2023]

53 See, Fax.al portal, January 2021, <https://tvklan.al/veteranet-e-rreme-pafajesi-per-anetaret-e-komisionit-ne-kosove/> [accessed on May 16, 2023]

54 See Kallxo.Com Portal, March 2023, <https://kallxo.com/liqij-uke-rugova-astrit-haragjia-e-te-tjeret-lirohen-nga-akuza-per-rastin-e-vizave-italiane/> [accessed on May 16, 2023]

55 Kallxo.Com Porta, November 2022, <https://kallxo.com/lajm/lirohen-nga-aktakuza-4-ish-ministrat-e-qeverise-thaci-2-akuzoheshin-per-faljen-e-4-hidrocentraleve/> [accessed on May 16, 2023]

56 See, Infokus.com, April 2023, <https://gazetainfokus.com/miftaraj-nderhyrja-e-kurtit-ne-rastin-e-nagip-krasnigj-ishte-flagrante/> [accessed on July 24, 2023] Also, Koha.Net portal March 2023, <https://www.koha.net/lajmet-e-mbremjes-ktv/371128/haxhiu-e-akuzon-gjykaten-kushtetuese-per-in-teresa-individuele/> [accessed on July 24, 2023] See, Nacionale.com May 2023, <https://nacionale.com/politike/dorezohu-seshte-vone-ministria-haxhiu-merr-reagime-te-ashpra-kerkohet-doreheqja/> [accessed on July 24, 2023]

57 Paparaci.com portal, October 2021, the Minister of Justice in the Government of Kosovo, calls scandalous and unfair a decision of the judges of the Court in Peja regarding a murder case that happened in the city of Peja, <https://paparaci.com/220319/ministria-haxhiu-nderhyne-ne-drejtesi-e-cileson-skandaloz-vendimin-per-gogajn/> [accessed on October 26, 2022]

58 Law on Courts, Article 6 paragraph 3.

59 Law on Kosovo Judicial Council, Article 14.

60 As for the appointment, there is also a regulation on the recruitment, examination, appointment, and reappointment of judges that regulates this matter. (November, 2021).

61 Regarding the transfer and dismissal of judges, there is also the Law on Disciplinary Liability of Judges and Prosecutors (November 2018).

62 Law on Kosovo Judicial Council, Article 14, paragraph 7.

63 According to the Law on Access to Public Documents, Article 6 emphasises that public institutions are obliged to pro-actively publish all public documents within 15 days from the day they become accessible. Also, this law provides a seven day deadline for providing answers to documents and public information for the party from all institutions that are requested to provide such information.

64 Regulation on the recruitment, examination, appointment, and reappointment of judges (November 2021).

65 Regulation for evaluating the performance of judges (January 2021).

66 Regulation on the organisation of the internal activity of the Courts in the Republic of Kosovo (July 2020).

67 The Constitution of the Republic of Kosovo, Article 31 paragraph 2. This provision obliges the judiciary to hold and offer the judicial review publicly to each person.

68 The Criminal Procedure Code of Kosovo, in Article 293, clearly defines the public character of the judicial review. It is emphasised there that the judicial review is public and open.

69 Kosovo Judicial Council, official website: <https://www.ijyqesori-rks.org/> [accessed on October 31, 2022]

70 See Kosovo Judicial Council, 'Annual Report for 2022' <https://www.gjyqesori-rks.org/raportet/> [accessed on May 17, 2023]



71 See Kosovo Judicial Council, official website: 'Disciplinary Decisions and Statistics' <https://www.gjyqesori-rks.org/decisions-of-the-disciplinary-commission/?lang=en> [accessed on May 17, 2023]

72 Interview with Albert Zogaj, Chairman of the Kosovo Judicial Council, October 2022.

73 Kosovo Judicial Council website, 'Open Data Platform', <https://odp.gjyqesori-rks.org/> accessed on November 3, 2022. This platform is a digital mechanism that enables users to receive and analyse non-personal and anonymised data from the Case Management Information System.

74 See Basic Court Pristina's official website, <https://prishtine.gjyqesori-rks.org/?lang=en> [accessed on May 17, 2023]

75 The website of the Basic Court in Pristina, session schedule' <https://prishtine.gjyqesori-rks.org/> [accessed on November 1, 2022]

76 Interview with Gzim Shala, Senior Researcher at KLI, September 2022.

77 Kosovo Judicial Council website, 'employment opportunities' <https://www.gjyqesori-rks.org/mundesji-punesimi/> [accessed on November 3, 2022]

78 There is also the Regulation for Evaluating the Performance of Judges (January 2021), which, in its 11 articles, among the evaluation criteria of a judge, also provides the criterion of the capacity of qualitative reasoning of the decision but does not mention any specific punishment for failing to include this reasoning.

79 See Article 5 of the Law on Disciplinary Liability of Judges. This article does not mention non-reasoning of the court decision as a sanctioning measure or a disciplinary violation.

80 The Constitution of the Republic of Kosovo, Article 31 paragraph 1.

81 Criminal Procedure Code of the Republic of Kosovo, Article 384 paragraph 1 point 1 point 11. This article gives the right to the Court of the highest degree to check whether the verdict contains violations or deficiencies that completely annul the decision and the judicial process. Non-reasoning of a judicial decision or contradictory and unclear reasoning constitutes an essential violation of the provisions of this code.

82 Article 9 of the Law on Disciplinary Liability of Judges and Prosecutors, Article 9. Complaints against judges can initially be submitted to the presidents of the respective courts, the Judicial Council or even the Ombudsperson.

83 There is also the regulation for evaluating the performance of judges (January 2021), which in its 11 articles, among the evaluation criteria of a judge, also provides the criterion of the capacity of qualitative reasoning of the decision but does not mention any specific punishment for failing to include this reasoning.

84 See Article 5 of the Law on Disciplinary Liability of Judges. This article does not mention non-reasoning of the court decision as a sanctioning measure or a disciplinary violation.

85 In April 2022, the Ministry of Justice has established the working group for the amendment and supplementation of this law, because several problems with the existing law have been identified, starting from technical ones, to more substantive problems such as: clarifying the definitions used in law, the content of the complaint against the judge and the prosecutor, issues related to disciplinary measures and the consequences of their imposition, the application of legal remedies and other identified problems. For more, see Express Newspaper: April 2022, <https://www.gazetaexpress.com/disiplinimi-i-ijqtareve-dhe-prokuroreve-nis-plotesim-ndryshimi-i-ligjit/> [accessed on November 22, 2022]

86 The Constitution of the Republic of Kosovo, Article 107 paragraph 1.

87 The law on disciplinary liability for judges and prosecutors, Article 7 defines as a disciplinary sanction the reduction of the salary of 50 per cent in case the judge commits a disciplinary violation when they violate the law and their duties as a judge. For example, they do not perform their duties on time, are involved in meetings with the parties in the procedure outside of their official duties, or makes public statements regarding the cases they judge or do not properly treat the parties in the procedure, etc. Also, the law stipulates that a judge may be demoted for poor work performance or transferred from a higher department to a lower department. Likewise, dismissal may be proposed due to the commission of a criminal offence and due to serious violations of the judge's duties.

88 Ibid, Article 107.

89 The Constitution of Kosovo in Article 104, paragraphs 1 and 4, determines that judges can be dismissed by the President of Kosovo at the proposal of the Judicial Council only because of a conviction for a serious criminal offence or for serious non-compliance with duties.

90 Law on Kosovo Judicial Article 7 paragraph 1 point 1 and point 2.

91 Zëri Newspaper, October 2021, <https://zeri.info/aktuale/428930/kerkohet-shkarkimi-i-ijqtareve-florije-zatriqi-qe-noi-dhunuesin-me-vetem-8-muajsh-impizon/> [accessed on November 22, 2022] The Judicial Council, after citizen protests, had decided to suspend the judge in question until the disciplinary investigation against her was completed.

92 See, Kosovo Law Institute, 'Sentencing Policy In Kosovo' (Analysis on the implementation of the Sentencing Policy Guidance by Kosovo Courts), page 31. (KLI:Pristina, November 2019). For more, see the link: <https://kli-ks.org/politika-e-denimeve-ne-kosove/>, [accessed on May 17, 2023] KLI findings presented below show that the implementation of Guidelines in practice in corruption cases was not even closely implemented. Furthermore, as we will observe in this chapter, the sentencing policy in corruption judgments is a template one, as in most judgments there is repetition of the same factors, while the appropriateness of judgments is generally reasoned and taken for granted. Data below indicate that sentencing principles outlined in the Guidelines are dormant in corruption cases. Therefore, if the Guidelines is used as a reference point for a lawful sentencing policy, we can conclude that the sentencing policy in the judicial system of the Republic of Kosovo in corruption cases is no less than arbitrary. With regards to reasoning in judgments on imposing the type and the severity of sentence, based on the standards set forth in the Guidelines, parties and the public under no circumstance will be convinced as to why a certain sentence has been imposed in a concrete case.

93 Interview with Gzim Shala, Senior Researcher at KLI, September 2022.

94 Kosovo Judicial Council, April 2022, '2021 Annual Work Report', pages 26 and 27.

95 See, Group for Legal and Political Studies, 'The nature of disciplinary issues in the judicial and prosecutorial system of Kosovo and the functioning of the disciplinary mechanism', page 17 until 24 (Pristina:June 2021), [accessed on May 19, 2023 in this link: <https://www.rolpik.org/wp-content/uploads/2021/07/Mekanizmi-disiplinore-English-1.pdf>

96 For more, see Kosovo Law Institute, April 2023 'Challenges in judicial administration' page 12 until 14, [accessed on May 19, 2023] in link: https://kli-ks.org/wp-content/uploads/2023/04/Raportit-i-monitorimit-te-KGJK-se-per-vitin-2022-FINAL_12.04.2023.pdf?fbclid=IwAR36wuumX_nbbpJ9E3dJvwleji-QDaKoMaNpf8J6AnrxVs44V387sRXqxs

97 The Commission for the Evaluation of the Performance of Judges has the power to evaluate the performance of judges with a permanent mandate according to the "random" method, judges with an initial mandate and those who are candidates for advancement. In evaluating the performance of judges, the Commission evaluates the basis for the promotion or demotion of judges, including the initiation of the dismissal procedure and the evaluation for the purpose of reappointment.

98 Kosovo Judicial Council, April 2022, '2021 Annual Work Report', page 27.

99 Interview with Gzim Shala, Senior Researcher at KLI, September 2022.





100 Data provided by the KJC website, <https://www.gjyqesori-rks.org/vendimet-e-komisionit-disiplinor/>, [accessed on November 23, 2022] The Council also reported that it suspended three judges in 2022, while it issued seven convictions and four acquittals. Of the seven penal decisions, one is a non-public written warning and one written public warning, three decisions are a temporary reduction of the salary of 50 per cent and two decisions are transfer to the lower court. While there are no proposals for the dismissal of judges.

101 Ibid, KJC website, <https://www.gjyqesori-rks.org/vendimet-e-komisionit-disiplinor/>, [accessed on November 23, 2022] In 2021, the Council reported that it suspended one judge, pronounced nine penal and seven acquittal disciplinary decisions. Of the nine penal decisions, three are non-public written reprimand decisions, four written public reprimands, one decision with a temporary salary reduction of 50 per cent and one transfer decision to a lower court. There are no dismissal proposals.

102 Rolpik, August 2020, <https://www.rolpik.org/per-shkak-te-zvarritjes-se-lendes-ne-gjykate-paraskruhet-nje-veper-nale-ne-rastin-e-njohur-stenta-3/>, [accessed on November 21, 2022]

103 Kallxo.Com portal, April 2021, <https://telegrafi.com/ikd-korrupsioni-po-luftohet-gjoha-dhe-kusht/>, [accessed on November 22, 2022]

104 Express Portal, November 2022, <https://www.gazetaexpress.com/mimoza-kusari-dhe-tre-ish-ministrat-shpallen-te-pafajshem-ne-rastin-e-hidrocen-traleve/>, [accessed on November 22, 2022]

105 Code of Professional Ethics for Judges, August 2016.

106 Code of Professional Ethics for Judges, August 2016.

107 The Code of Professional Ethics for Judges, Article 2, stipulates that the judge, during the exercise of their function, treats all parties in the procedure equally without favouritism, animosity, and prejudice, and the judge must always be and appear impartial.

108 Code of Professional Ethics for Judges, Article 4.

109 Agency for the Prevention of Corruption, Summary of the 2021 Annual Work Report'. Pg. 5.

110 The Code of Ethics, in Article 4 point 10, also determines that the judge and members of their immediate family cannot request or accept gifts, wills, loans or other services for action or inaction during the exercise of judicial function, also knowingly not allows judicial personnel or others who are under their supervision.

111 The Code of Ethics stipulates that a judge cannot accept or give gifts, even symbolic ones, except during any protocol visit or similar.

112 In addition to the Code, this issue is also regulated by the Law on the Courts. The legal provision states that the judge can receive income up to 25 per cent of their salary as a trainer or lecturer, but for any such activity they must inform the KJC.

113 Code of Professional Ethics for Judges, Article 4 point 4.4.

114 The Law on Prevention of Conflict of Interest, Article 17, defines that every official during the exercise of their public function, based on their knowledge and in good faith, is obliged to make a preliminary declaration, on a case-by-case basis, of the existence of their private interest or of persons close to them related to decision-making in a certain matter, which may cause a conflict of interest to arise, and withdraw from this decision-making.

115 Law on Prevention of Conflict of Interest, Article 10.

116 Law on Prevention of Conflict of Interest, Article 11.

117 Law on Courts, Article 41. This article defines the prohibitions of the behaviour of judges during the exercise of their mandate, while it does not regulate the issues of limitations after leaving the judiciary.

118 See Article 9 of the Law on Disciplinary Liability of Judges and Prosecutors.

119 Law on Declaration, Origin and Control of Assets and Gifts, Article 9 paragraph 1.

120 Law on Declaration, Origin and Control of Assets and Gifts, Article 4 paragraph 1 point 21.

121 See the website on Agency for Prevention of Corruption, 'asset declaration' https://www.akk-ks.org/en/deklarimi_i_pasuris/171/deklarimet/171 [accessed on May 19, 2023]

122 Law on Declaration, Origin and Control of Assets and Gifts, Article 4 paragraph 1 point 21.

123 Court staff in Kosovo do not receive sufficient or even regular training in integrity issues. The Academy of Justice conducts training for judges in the field of integrity, but that includes few sessions amounting to two or three days during the year.

124 European Commission, 'Report on Kosovo', (October 2022).

125 See, 'Report on Kosovo', (EC: Brussels, October 2022), page 20.

126 See KJC website, 'statistics on disciplinary decisions', <https://www.gjyqesori-rks.org/vendimet-e-komisionit-disiplinor/>, [accessed on November 22, 2022]

127 See KJC website, <https://www.gjyqesori-rks.org/komiteti-keshilledhenes-per-etike-gjyqesore/>, [accessed on November 23, 2022]

128 Academy of Justice, 'Training for administrative judicial and prosecutorial staff for 2022', page 151.

129 Interview with Gzim Shala, Senior Researcher at KLI, September 2022.

130 See 'Report on Kosovo', (European Commission: Brussels, October 2022), page 20.

131 See more about the function of this commission on the website of the Council: <https://www.gjyqesori-rks.org/komisioni-per-vleresimin-e-performances-se-gjyqtareve/>, [accessed on November 23, 2022]

132 Interview with Albert Zogaj, Chairman of the Kosovo Judicial Council, October 2022.

133 See Kosovo Judicial Council website, 'Complaint Form' <https://view.officeapps.live.com/office/view.aspx?src=https://pristine.gjyqesori-rks.org/wp-content/uploads/sites/5/2019/06/Formolari-i-complaint%C3%ABs-p%C3%ABr-judge-and-prosecutor-n%C3%AB-2019.doc&wdOrigin=ROWSLINK> [accessed on November 23, 2022]

134 In KJC 2021 work report, information is presented that KJC has received 285 letters-submissions from citizens, lawyers, institutions, and various NGOs addressed to the Judicial Council, which are mainly related to the issue of legal procedures and allegations of misconduct against judges.

135 Clarification: The submission of this number of complaints is not specified if only by citizens or other parties, such as NGOs or lawyers.

136 See KJC website, <https://www.gjyqesori-rks.org/vendimet-e-komisionit-disiplinor/>, [accessed on November 23, 2022] This page shows the number of complaints received, rejected, and approved by this commission. These data can also be compared with 2021 and 2020. For example, in 2022, 95 complaints were received, 28 of them are under review and 12 final decisions were made. In 2021, 121 complaints were received, 106 were rejected, nine were reviewed and 16 final decisions were made for these cases.

137 Constitution of the Republic of Kosovo, June 2008.

138 The law on gender equality requires institutional gender representation in a percentage of 50/50, but this standard is not met in the KJC institution, nor in the courts. There is an increase in the recruitment of female personnel and administrative staff, but in relation to gender representation at the level of judges, the male gender still dominates.



139 On KJC website, <https://www.gjyqesori-rks.org/regulloret/> no regulations, guidelines or protocols on gender sensitivity issues have been presented.

140 Interview with Albert Zogaj, The chairman of Kosovo Judicial Council, October 2022

141 Interview with Gzim Shala, Senior Researcher at KLI, September 2022.

142 KJC, '2021 Annual Work Report', (KJC: Pristina, April 2022).

143 KJC, '2021 Annual Work Report'. In this report, no details are presented regarding the trainings, the presentation of statistics on the acceptance of gender-sensitive courses. Likewise, the KJC website does not provide additional data on the bylaws of the council that have a gender sensitivity character, or any regulation or protocol.

144 Interview with Albert Zogaj, Chairman of the Kosovo Judicial Council, October 2022.

145 See KJC website, Open Data Platform, 'Private persons as parties in judicial proceedings' <https://odp.gjyqesori-rks.org/PredefinedReports/CitizensSubmitted> [accessed on November 7, 2022]

146 Law on Courts, Article 17 paragraph 1. The Department for Administrative Affairs of the Basic Court of Pristina judges and decides in administrative conflicts according to lawsuits against final administrative acts and for other matters defined by law. This department has competence for the entire territory of Kosovo.

147 "Betimi për Drejtësi", May 2020, <https://betimiperdrejttesi.com/ikd-drejtesia-administrative-continues-to-mbetet-loje-ping-pongu-me-cytetaret/>, [accessed on November 4, 2022]

148 For more see, "Betimi për Drejtësi", July 2021, <https://betimiperdrejttesi.com/loja-e-drejtetise-me-kthimin-e-rasteve-ne-rigjykim/>, [accessed on May 19, 2023] In this show, it is reported how about 40 per cent of the cases are returned for retrial by the Court of Appeal in Kosovo in 2021. Also, it is shown for some cases that their conclusion was prolonged through frequent retrials, and that the court of second instance, the Court of Appeal, even though it has the right to judge these cases itself, constantly returns them on retrial.

149 See also Kosovo Law Institute, 'Administrative justice in Kosovo, law VS practice', published on September 2019, page 27. (Pristine:KLI, 2019) [accessed on May 2019, 2023] For more, see the link: https://kli-ks.org/wp-content/uploads/2019/09/Drejt%C3%ABsia-Administrative_Final-19.09.2019-BM.pdf

150 Interview with Gzim Shala, Senior Researcher at KLI, September 2022.

151 For more, see the news and decision: <https://paparaci.com/249059/annulimi-i-vendimit-per-uljen-e-pagave-ne-gjyqesori-ky-eshte-dokument/>, [accessed on December 9, 2022]

152 See Courts Statistical Report – Annual Report for 2022, page 10.

153 European Commission, 'Kosovo Progress Report', October 2022.

154 BIRN & Internews Kosovo, June 2022, Monitoring Report, 'Corruption Immunity' page 26-27.

155 Kosovo Judicial Council, 'Annual Statistical Report of the Courts for 2021' (2021).

156 Kosovo Judicial Council, November 2, 2022, announcement', <https://www.gjyqesori-rks.org/2022/11/02/kryesuesi-zogaj-pjese-e-takimit-koordinues-me-partneret-strategjik/>, [accessed on November 7, 2022] Meeting of strategic partners consisting of KJC, KPC, Ministry of Justice and others within the framework of the implementation of the strategic plan for the rule of law in Kosovo. In this meeting, the KJC, represented by chairman Albert Zogaj, emphasised that KJC remains committed to joint institutional initiatives in order to implement this strategy as effectively as possible.

157 Nacionale.com Newspaper, September 2022, <https://nacionale.com/drejttesi/keshilli-gjyqesor-e-prokurorial-ia-bejne-blok-ndryshimeme-constutetuase-per-vetingun>, [accessed November 8, 2022] The Council has opposed the Ministry's proposal that this process be done with constitutional changes. The Council requests that this process be carried out through the strengthening of its internal mechanisms.

158 Group for Legal and Political Studies, Monitoring Report: 'Monitoring of the Judicial and Prosecutorial System in Kosovo for the period January-December 2021', GLPS: Pristina, March 2022), page 54. [accessed on November 7, 2022]

159 KJC has not provided any statistics on the handling of these cases on its website, nor in the annual report of the courts.

160 Written interview with Gazmend Çitaku, Director of the Department for International Legal Cooperation of the Ministry of Justice, November 2022.

161 The laws that regulate the field of international legal cooperation are: The law on international legal cooperation in criminal matters and the corresponding law in civil matters.

162 Centre for Democracy and Human Rights (CEDEM), Research: 'Regional judicial cooperation in criminal matters: an overview of the comparative practices of the countries of the Western Balkans' pages 56-63. (Cedem: Podgorica, April 2019).

163 On 25 August 2021, the Agreement for International Legal Assistance in Civil Matters was signed with North Macedonia. This agreement constitutes the first new agreement in the field of international legal cooperation in civil matters. Meanwhile, on 26 November 2021, the Agreement for International Legal Assistance in Civil Matters was signed with Albania, which also constitutes the first agreement from the civil field with this country.

164 Ministry of Justice website, <https://md.rks-gov.net/page.aspx?id=1.16>, [accessed on November 7, 2022]

165 Written interview with Gazmend Çitaku, Director of the Department for International Legal Cooperation of the Ministry of Justice, November 2022.

166 This department is the central authority for the territory of the Republic of Kosovo regarding the representation of the judicial authorities and the Prosecutor's Office in relation to foreign countries. It examines and processes all types of requests for international legal assistance in accordance with the law and the procedures in force.

167 Written interview with Gazmend Çitaku, Director of the Department for International Legal Cooperation of the Ministry of Justice, November 2022.

168 The following data were obtained from the Department for International Legal Cooperation.

169 Kosovo Judicial Council, '2021 Annual Work Report', April 2022, page 44.

170 The KJC, in order to coordinate and cooperate various activities related to the work of the judiciary, has concluded a series of cooperation agreements with local and international institutions. Inter-institutional cooperation with local institutions in particular was with: Kosovo Prosecution Council, the Academy of Justice, the Ministry of Justice, the Chamber of Advocates of Kosovo, Kosovo Police, various universities, non-governmental organisations, civil societies, etc. KJC, during 2021, has signed the following cooperation agreements: Memorandum of understanding between the Kosovo Judicial Council and the Faculty of Law - University of Pristina; Memorandum between the Kosovo Judicial Council and the Kosovo Humanitarian Law Fund; Memorandum of cooperation between the Kosovo Judicial Council and the Group for Legal and Political Studies (GLPS); Agreement of understanding for mutual cooperation between the Kosovo Judicial Council and the Kosovo Center for the Rehabilitation of Torture Survivors; Memorandum of understanding between the Kosovo Millennium Foundation and the Kosovo Judicial Council for the Activity of public access to judicial information; Memorandum of understanding between the Kosovo Judicial Council and/or the Supreme Court and the Advisory Group for the Rule of Law, in implementation of the project "Support for the establishment of the office for the recovery of assets and the creation of the resource center"; Memorandum of cooperation between the Kosovo Judicial Council and the Youth Initiative for Human Rights - Kosovo (YIHR - KS).

171 Interview with Gzim Shala, Senior Researcher at KLI, September 2022.



4

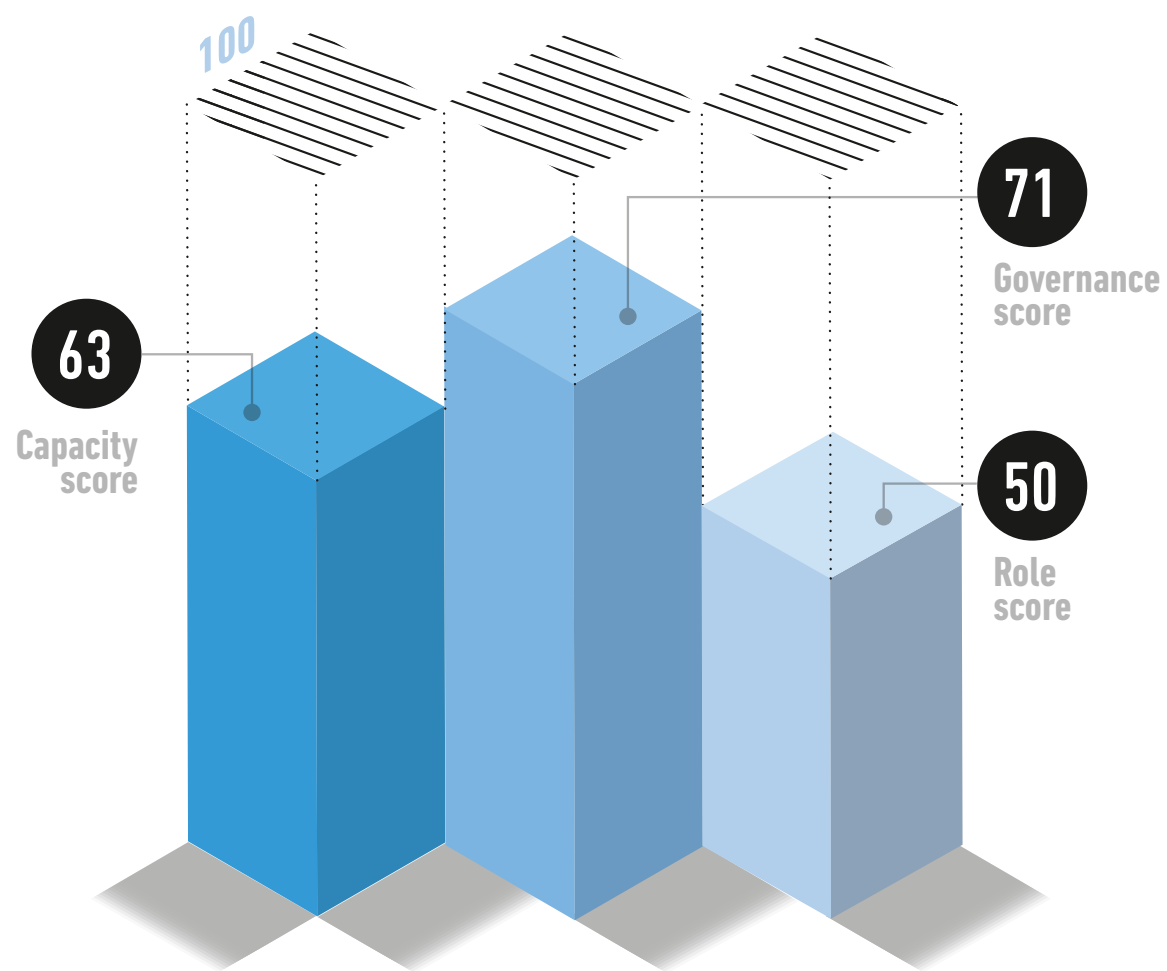
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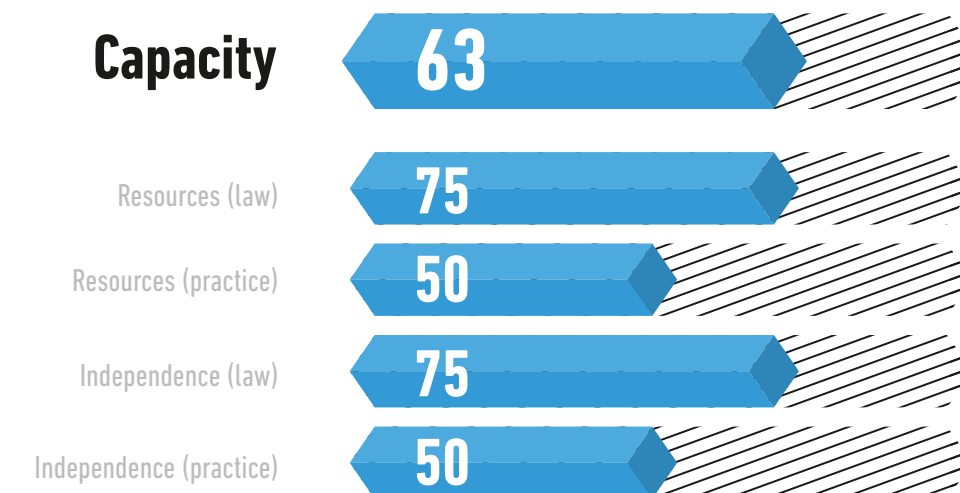
SUMMARY

The Public Prosecutor pillar in Kosovo consists of the State Prosecutor as an independent prosecution institution and the Kosovo Prosecutorial Council (KPC) as an administrative oversight body. The Chief State Prosecutor is the head of the State Prosecutor.

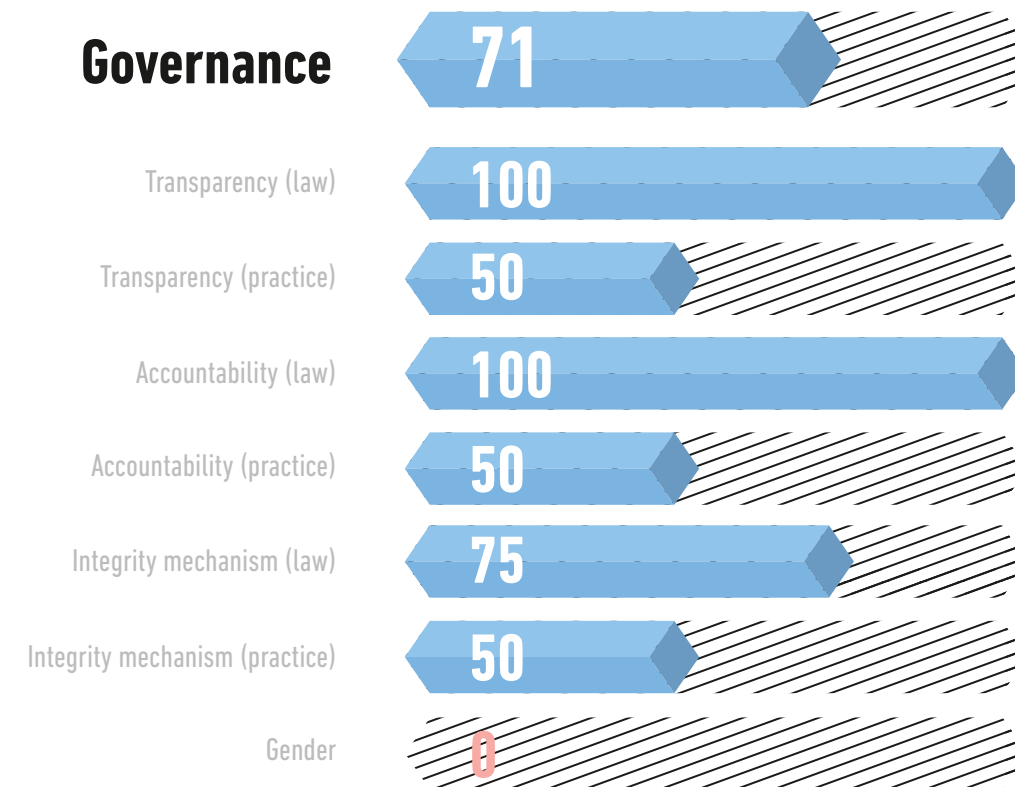
61/100 Overall pillar score



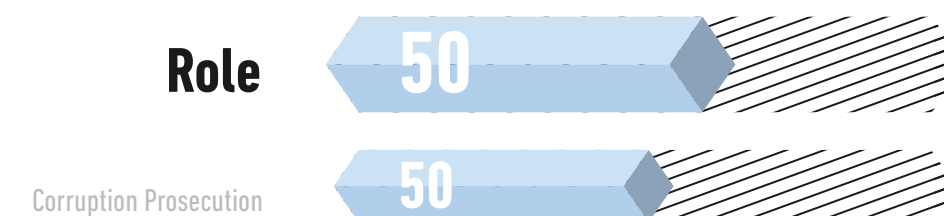
Capacity



Governance



Role





It consists of seven Basic Prosecution Offices (in Pristina, Ferizaj, Gjakova, Gjilan, Mitrovica, Peja and Prizren), the Special Prosecution Office (exclusively responsible for high-profile corruption, organised crime and money laundering cases),¹ the Appellate Prosecution Office, responsible for all appeals for matters decided by the basic courts, and the Chief State Prosecution Office.² The following analysis will mainly focus on the Chief State Prosecution Office and the KPC.

The role of the State Prosecutor’s Office in fighting corruption remains insufficient. Despite the high salaries of prosecutors, this has not been translated into progress in the fight against corruption since professional indictments have not been drawn up and supported by strong evidence finding the suspects guilty. During the last few years, there has been a slight increase in the number of indictments filed for corruption. However, during the year 2022, the State Prosecutor suffered a regression in the resolution of corruption cases. During 2022, the State Prosecutor has also not managed to solve as many cases as he has accepted. Accordingly, during this period of time, the State Prosecutor has resolved the cases of 826 persons while receiving cases for 1,140 persons. Thus, at the end of 2022, the number of unresolved corruption cases has risen to a total of 314 cases.³

Poor performance in the fight against corruption is also related to interference by the executive in the constitutional and financial independence of the State Prosecutor’s Office in the form of not approving its full budget request and aiming to significantly reduce the salary of prosecutors with a new law on salaries.

While there is some transparency effort through the publication of annual and daily reports, the website of the KPC often faces functional issues and lacks comprehensive reports and statistics. The policy of requiring prosecution spokespersons to seek KPC approval before sharing information has drawn criticism from media and civil society because it often leads to lengthy or unanswered requests.

The KPC lacks sufficient financial resources, staff and professional collaborators for state prosecutors. The 2023 KPC’s budget is the highest it has ever had, enabling new recruitments of prosecutors and professional associates to fill current human resource gaps for effective operation. However, the KPC points out that it is not a sufficient budget to realise all their goals and demands.⁴ Some prosecutors also lack capacities and have insufficient expertise to investigate and fight organised crime and corruption. With the new legislative amendments taking place in 2023, the KPC’s composition, function and mandate are expected to be changed.



Capacity

INDICATOR 4.1.1 RESOURCES (LAW)

75/100



There are comprehensive laws seeking to ensure sufficient resources regarding the prosecution budget and salaries for prosecutors. Still, minor loopholes exist in clearly defining what the law refers to as “adequate budgets” and in determining appropriate “salary classes” with coefficients⁵ for prosecutors with legally defined inflation increases.

According to the KPC law, the KPC drafts, submits⁶ and administers the consolidated budget of the State Prosecutor and KPC.⁷ The Ministry of Finance cannot change this budget proposal⁸ if submitted within the deadline and the expenditure limits specified in the yearly budget circular.⁹ However, the expenditure limits have led to insufficient resources in practice (4.1.2). According to the Law on State Prosecutors, the government needs to provide “adequate funds” from the consolidated budget.¹⁰ However, there is no requirement for a minimum percentage of the consolidated budget that ensures this.

The State Prosecutor law determines prosecutors’ salaries according to specific percentages of the salary¹¹ of the Chief State Prosecutor.¹² There is no regulation for inflation increases. The salary of the Chief State Prosecutor (and thereby also other prosecutors) increases when the Prime Minister’s salary increases.¹³ The salaries of prosecutors cannot be reduced during their term of office (only in the case of disciplinary sanctions),¹⁴ which has resulted in cur-



rently higher prosecutor salaries when the current (since March 2021) Prime Minister Albin Kurti cut his salary by 50 per cent.¹⁵ There is also no legally defined salary adjustment concerning inflation.

In 2019, a new Law on Salaries in the Public Sector aimed to reform these regulations by reducing the salaries of the judicial and prosecution sectors. The new law introduced a “salary class” system assigning coefficients.¹⁶ However, in July 2020, the Constitutional Court annulled the law,¹⁷ finding it discriminatory, in conflict with the principle of the constitutional financial independence of the State Prosecutor.¹⁸ A new salary law with “salary classes” is currently in the stage of public consultation but has raised concerns over salary decreases (based on new coefficients) also affecting prosecutors.¹⁹

INDICATOR 4.1.2 RESOURCES (PRACTICE)

50/100



The State Prosecutor’s Office has some financial, human and infrastructural resources, which are not sufficient to carry out its duties effectively.

KPC has an allocated budget of €17.1 million²⁰ for 2022, although KPC had initially requested a budget of €21.7 million.²¹ The current budget is almost three times the budget allocated to KPC in 2015, due to increases in the number of prosecutors and the number of officials in the prosecutor’s office. However, the budget requests of the KPC have never



been fully approved. In 2023, KPC requested €21.3 million from the government and the Assembly approved only €15.9 million. Meanwhile, in 2022, KPC requested €18.26 million and originally received an approved €14.6 million.

However, after the review in June, the budget of the KPC was further reduced by €3.66 million. Such a mid-term budget reduction was also the case in previous years.

Table 3.1: Budget allocations for the operation of prosecutors' offices, 2015 – 2023

Year	Requested budget in €	Amount in € ²²	Percentage increase per year
2023	21,267,112.00	15,913,983.00	8.27
2022	18,255,706.00	14,596,934.00	7.26
2021	21,697,194.00	13,536,238.00	-1
2020	18,266,633.00	13,672,561.00	-2.53
2019	18,305,402.00	14,018,592.00	10.58
2018	13,611,927.00	12,535,110.03	27.36
2017	13,171,930.00	9,104,443.00	9.34
2016	8,013,619.00	8,253,448.26	1.62

According to the Acting Director of the Secretariat of the KPC, as a result of the disapproval of the initial KPC budget requests in 2022, the prosecution lack resources for the recruitment of 38 new prosecutor positions, and there are 52 open positions for professional associates.²³ However, compared to 2015, there is now an increase in the number of professional associates within the State Prosecutor's Office, where one professional associate works for two prosecutors. However, the law on the state prosecutor's office requires at least one professional co-worker for a prosecutor, a goal that has not yet been achieved.²⁴

The salaries of prosecutors in Kosovo are almost the highest in the region and this proves that they have the opportunity to serve and perform their duties properly. Prosecutors have sufficient salaries to not be influenced by any pressure or attempt to be corrupt in the exercise of their

duties, having the highest salaries in the Western Balkan region.²⁵ Prosecutors enjoyed a salary increase of almost 100 per cent since 2017, going from an average of €1,400 to €2,655 in 2022.²⁶ Wages vary according to the hierarchy of the department and the Prosecution Office where the Prosecutor works.²⁷ But with the new salary law proposed by the government and approved by the Assembly of Kosovo, the salaries of prosecutors have suffered a significant reduction.²⁸ As a result, the Prosecution Council has submitted a complaint to the Ombudsperson, who has sent the law in question to the Constitutional Court for interpretation precisely because of dissatisfaction with this law.²⁹

Prosecutors are equipped with office computers and printers, but there is a constant need for technological equipment to be maintained and updated with new computers and equipment.



On the other hand, Prosecutors are constantly provided training programmes, organised by the Academy of Justice.³⁰ These training programmes are mainly aimed at promoting the professionalism and legal abilities of prosecutors in the management of cases, then in the field of preventing a conflict of interest and respecting the code of ethics. However, this training is not sufficient, since the indictments are considered to be poorly written and have numerous deficiencies in their content.³¹

INDICATOR 4.1.3
INDEPENDENCE (LAW)

75/100

There are comprehensive laws seeking to ensure the independence of the prosecution. However, the current composition of the KPC of mostly prosecutors creates a risk of corporatism, while proposed legal amendments to reduce the number of members and increase the proportion of lay members elected by a simple majority in the Assembly increases the risk of political influence. Furthermore, the Chief State Prosecutor is elected by the President, only providing nominal independence.

The prosecution is composed of two independent constitutional institutions: the State Prosecutor and the KPC. The KPC is responsible for the proposal, reappointment and discipline of prosecutors, while the State Prosecutor is responsible for the prosecution of persons accused of any criminal offence.³²

Amendments of the Constitution with regards to the Public Prosecutor are difficult, strengthening the legally established independence of the institution. Constitutional changes must be approved by the double majority, which means the votes of two-thirds of the MPs, including two-thirds of the MPs representing the non-majority communities.³³

The KPC nominates candidates based on merit in a transparent manner, considering gender equality and ethnic composition.³⁴ Prosecutors are appointed for a permanent term and are prohibited from joining any political party.³⁵ They are appointed, reappointed and dismissed by the President of Kosovo at the proposal of the KPC.³⁶

The KPC consist of thirteen members, of which ten³⁷ are among the prosecutors, while three³⁸ other are non-prosecutors.³⁹ The non-prosecutor members are elected by the Assembly of Kosovo by a majority vote of MPs who are present and vote.⁴⁰ The composition of almost entirely prosecutors has been criticised by the Venice Commission for being prone to the risk of corporatism.⁴¹ However, according to the new law on the KPC, the Ministry of Justice has proposed to reduce the number of members from 13 to seven, and the working quorum from ten to five members. Three should be prosecutors elected by their peers, three lay members elected by a simple majority of votes of the MPs, and one will be a prosecutor elected by the Assembly, again with a simple majority.⁴² It has also been proposed that a number of members of the KPC will lose their mandate immediately after the entry into force of this law. The Venice Commission criticised these proposed amendments for increasing the risk of undue political influence on the KPC because of the election of the lay members by a simple majority instead of "a proportional system of election, or the appointment of some lay members by external independent institutions or civil society".⁴³

This draft law with these proposals was annulled by the Constitutional Court because it is in conflict with the Constitution of Kosovo and violates the constitutional independence of the KPC.⁴⁴ The Court has even clarified that non-prosecutor members should not be a decisive factor in the functioning of the KPC, nor should they be the cause of blocking the work of the KPC. According to the constitutional court, non-prosecutor members are elected by a simple majority of votes from the Assembly and this risks that they are politically influenced and have the power to block the functioning of the KPC.⁴⁵

After this decision, the government, namely the Ministry of Justice, has again drafted a new draft law for the Prosecutorial Council. Now, in the new draft law, it is proposed that by 2026, the composition of the KPC will be increased by eight additional non-prosecutor members, and as a result, the KPC will have 19 members from the seven that were proposed the first time. Additionally, with the proposals from the law, the quorum of meetings has been determined to be 12 members. This again seems to contradict the judgment of the Constitutional Court dated 5 April 2023, because





the court has requested that non-prosecutor members are not a decisive factor in determining the quorum and decision-making of the Prosecutorial Council as a constitutional and independent body.⁴⁶

The Constitution stipulates that the Chief State Prosecutor is appointed and dismissed by the President of Kosovo at the proposal of the KPC. This provides only a nominal protection from political interference. The term of the Chief Prosecutor is seven years,⁴⁷ without the possibility of re-election.⁴⁸ State Prosecutors are appointed for a three-year term and then reappointed until retirement age unless they are dismissed due to a conviction for a serious criminal offence or failure to perform their duties.⁴⁹

The recruitment process for state prosecutors is conducted based on merit criteria⁵⁰ by a Commission for the appointment of prosecutors established by the KPC, which consists of seven members, give regular and two reserve members, who are prosecutors with a permanent mandate, have a positive performance evaluation and no disciplinary measures imposed. Civil society and international organisations participate in the monitoring of the selection process of prosecutors.⁵¹

The legislation provides full guarantees of protection of the mandate of the prosecutors from arbitrary dismissal. Prosecutors are dismissed by the President of Kosovo only at the proposal of the KPC.⁵² The dismissal can take place only in cases when prosecutors are convicted of criminal offences (other than criminal offences committed by negligence) as well as serious non-compliance with work duties.

Taking as a basis the criteria established for the dismissal of prosecutors, the dismissal procedure is not easy, even if a prosecutor is accused of committing a criminal offence. As regards dismissal due to serious non-compliance with duties, after disciplinary complaints against prosecutors, the KPC has discretion in evaluating the facts related to situations of serious non-compliance with duties. As for the procedure of dismissal of prosecutors, or removal from office before the end of the mandate, the legislation determines that prosecutors can be dismissed on the proposal of the KPC by the President of the Republic of Kosovo, as a result of causes that include cases where they are convicted of criminal offences (with the exception of criminal offences committed through negligence) as well as due to serious non-compliance with work duties.⁵³

INDICATOR 4.1.4 INDEPENDENCE (PRACTICE)

50/100



There are recurring cases of outside actors such as the government, other politicians and powerful businessmen interfering in the activities of the prosecution.

The government exerts influence on the State Prosecutor's activities and decisions by not approving the budget needs of the KPC (see 4.1.2).⁵⁴ In 2018, Special Prosecutor Elez Blakaj resigned from the position of Special Prosecutor a few days before the indictment on the so-called "The Veteran's" case on fraud related to the final list of veteran KLA fighters during the conflict with Serbian forces. He allegedly was subject to intimidation by politicians when investigating the case and allegedly received threats on Facebook.⁵⁵

In Kosovo, there are no cases where a Prosecutor has been dismissed or demoted from their position because of the content of their decision. Mainly, demotions in the ranks of Prosecutors were made due to some disciplinary measure or infiltration into suspicious affairs.⁵⁶ For example, in the case of a prosecutor involved in wiretapping with the former chief state prosecutor and a judge of the court in Pristina, the KPC took disciplinary measures against her, demoting her from the serious crimes department in the Pristina Prosecutor's Office to the general department of the Mitrovica Prosecutor's Office.⁵⁷ In another case concerning the former chief prosecutor of the Prosecutor's Office in Gjakove, the KPC imposed disciplinary measures of degradation and permanent transfer from this position to that of the general prosecutor in the Peja Prosecutor's Office⁵⁸ due to the fact that he had sent the questions of the written test for the position of professional associate over the phone to a person based on a competition announced by the Prosecutorial Council. The KPC had recently reacted to the statements of the Prime Minister and the Minister of Justice, who expressed dissatisfaction with the work of the prosecution in handling cases of sexual violence in the country.⁵⁹



Governance

INDICATOR 4.2.1 TRANSPARENCY (LAW)

100/100



Comprehensive provisions are in place which allow the public to obtain information on the organisation and functioning of the prosecution, on decisions that concern them and on how these decisions were made.⁶⁰

The "public relations clause" in the Law on the State Prosecutor is the key provision that requires the State Prosecutor to inform the public of his or her activities.⁶¹

All KPC meetings must be open. The agenda has to be published at least 48 hours before the meeting.⁶² The KPC can hold closed meetings if it discusses official state secrets, personnel issues, performance evaluations, confidential, proprietary information, etc. In such cases when the KPC chairman or the members of the Council consider that one of the above-mentioned reasons are actual for the specific cases they elaborate all of the reasons and with the majority of votes, decide and justify whether the meeting should be closed.⁶³

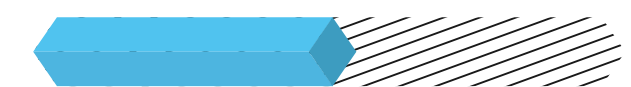
The KPC has to publish the rules of procedure for KPC operation and election.⁶⁴ The KPC is also expected to publish information and statistical data on the prosecutorial system.⁶⁵ All mandatory documents published on the website are governed by the Law on Access to Public Documents,⁶⁶ including the mission, vision, strategic document, primary legislation, public activity and contact information. All information on appointing,⁶⁷ transfer⁶⁸ and removal⁶⁹ of prosecutors is also required to be public.⁷⁰



In May 2021, the Chief State Prosecutor issued the instruction for the implementation, monitoring, reporting and publication of the activities of the State Prosecutor carried out within the framework of legal responsibilities and obligations. This instruction promotes and increases transparency as it enables the media, civil society and the general public to have access to and comprehensive information about all the work and activities of the State Prosecutor.⁷¹

INDICATOR 4.2.2 TRANSPARENCY (PRACTICE)

50/100



There is some transparency through the publishing of annual and daily reports; however, the website of the KPC often has functional problems, and reports and statistics are incomplete. The policy for Prosecution spokespersons having to ask the KPC for permission before releasing information has also been criticised by the media and civil society.

The KPC has a website, but it is often not functional or accessible and is not comprehensive in providing reports or statistics on the work and decisions of the KPC.⁷² Therefore, citizens do not have reliable access to information.

All information related to the vacancy announcements and recruitment activities for the appointment of prosecutors or Chief Prosecutors as well as administrative staff is published on another website referring to the work of the Prosecution Office. Annual reports, work plans, recruitment competitions and disciplinary decisions against prosecutors are published this website.⁷³ However, the problem



remains that the website does not have access, because it is not functional and the reports for the KPC are published in separate sections in the document and publications section.⁷⁴

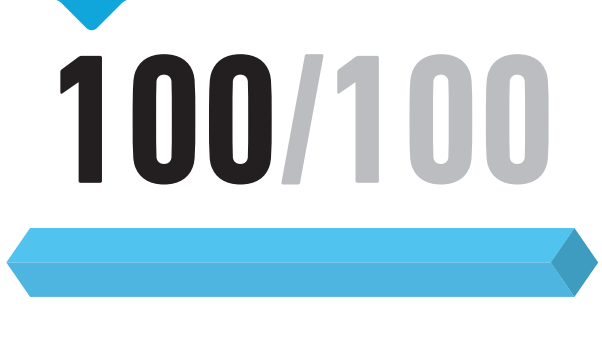
Further, despite the existence of a public relations officer for each branch of the prosecution, their cooperation with civil society and media is dependent on the permission of the KPC.⁷⁵

The Prosecutor’s Office regularly provides statements to the press and information upon request and publishes the 24-hour work report on the website of the prosecution, but not on the KPC website. In addition, periodic work reports and the realisation of work plans are published on Prosecutor’s office website.⁷⁶ Citizens get information mainly from media reports and the publication of various reports of international and local organisations that monitor this institution.

Until now, there have been no such occasions when the KPC Chairman convened and held public conferences in which he would report on the KPC’s various activities. Currently, the annual conference is held only by the Chief State Prosecutor, where the achievements, problems and challenges of the prosecutorial system are presented.⁷⁷ The KPC usually invites civil society organisations that monitor their work and activity.⁷⁸ It also holds consultative meetings in working groups related to drafting KPC regulations – both Regulations on the Internal Organisation of the Prosecution Offices as well as Regulations on Appointment and Reappointment of Prosecutors.⁷⁹ For this purpose, the KPC has signed a memorandum of cooperation with various CSOs.

Prosecutors report their assets to the Kosovo Agency for the Prevention of Corruption, which makes them available to the public. According to the 2021 annual report, about 99 per cent of the officers working for Prosecutor’s Offices have completed the annual declaration of assets.⁸⁰

**INDICATOR 4.2.3
ACCOUNTABILITY (LAW)**



There are sufficient provisions that ensure that prosecutors have to report and be answerable for their actions.

The Constitution and legislation give the KPC authority to initiate disciplinary actions and to hold prosecutors accountable for any misconduct or violations in their decision-making.⁸¹

All natural and legal persons can submit a complaint on prosecutors for disciplinary violations to the Chief State Prosecutor for the Chief Prosecutors, and to the Chief Prosecutors for prosecutors.⁸² Once the potential complaints are received, the chief prosecutors of the prosecutor’s offices or the Chief State Prosecutor evaluate their validity and whether they are grounded, then refer relevant cases of disciplinary violations to the KPC for further review and decision-making. The KPC, upon receiving the complaint, forms an investigative panel which conducts all investigations for disciplinary violations alleged by any party and based on the report of this panel.⁸³ The KPC then decides whether disciplinary measures will be imposed on the prosecutors or not.⁸⁴

With the entry into force of the new law on disciplinary liability, the mechanisms that were functional until 2018, such as the Office of the Disciplinary Counsel, have been terminated. This office has been replaced by investigative panels within the KPC. The termination of this Office was imperative because it eliminated unnecessary bureaucracies, and now the procedures developed within the KPC units are adequate and enable expedited and more efficient handling of disciplinary cases.⁸⁵



It should be noted that there is no special law for the protection of the rights of the complainants in the situation in question. The Law on Disciplinary Liability of Judges and Prosecutors unfortunately does not contain any provisions that speak about the protection of the rights of complainants.⁸⁶ However, there is a Criminal Code of Kosovo that punishes any official person (in this case prosecutors) if they attempt to abuse their power by carrying out actions with the aim of intimidating or exerting influence on someone who submits a complaint.⁸⁷

Prosecutors enjoy immunity⁸⁸ from criminal prosecution, civil lawsuits and dismissal from office for actions taken, decisions made or opinions expressed that are within the scope of their responsibilities.⁸⁹

According to the law, cases where prosecutors are convicted of a criminal offence, violate the law or disregard their official duties as prosecutors qualify as disciplinary violations. In addition to these basic violations, the law defines a violation of the responsibilities of the prosecutor’s actions intentionally or due to gross negligence.⁹⁰

For disciplinary violations, the KPC may impose several types of disciplinary sanctions on prosecutors, including non-public written reprimands, public written reprimands, temporary salary reduction of up to 50 per cent for a period of up to one year, temporary or permanent redeployment to another lower-instance Prosecution Office or a proposal for dismissal.⁹¹

Prosecutors have the right to appeal against the KPC’s disciplinary decisions⁹² directly to the Supreme Court of Kosovo.⁹³

**INDICATOR 4.2.4
ACCOUNTABILITY (PRACTICE)**



Existing provisions are somewhat effective in ensuring that members of the prosecution have to report and be answerable, but prosecutors, in practice, are not sufficiently held accountable for their work and activity.

According to the KLI, the KPC’s disciplinary mechanism has always been limited only to the imposition of suspended lenient disciplinary measures and there are very few cases when the KPC has proposed the dismissal of a prosecutor, either for poor performance or for various disciplinary violations.⁹⁴ Since there is a large number of rejected complaints, i.e. prosecutors have not been found guilty of disciplinary violations, this has somewhat “emboldened” prosecutors such they do not take their work seriously enough.⁹⁵

Based on the annual work report of the KPC for 2021, regarding the examination of the performance of the prosecutors, more instances of the transfer and promotion of prosecutors are observed than demotions or proposals for dismissal. However, it should be noted that for the Prosecution Office’s failures in notorious cases of corruption, such as “Pronto”, “Stent 1”, and “veterans”, as well as in the many instances in which criminal offences have been subject to statutory limitation and the accused have been acquitted from criminal prosecution, no prosecutor representing these cases was held accountable.⁹⁶

In addition to the regular reports they make to their Chief Prosecutors, there is thus far a case from 2019 where the KPC has proposed the dismissal of a prosecutor in Kosovo due to poor performance⁹⁷ and failure to represent the





indictments.⁹⁸ In 2022, there were cases of demotion⁹⁹ and suspension of prosecutors, but this action was done because of their involvement in several wiretapping scandals.¹⁰⁰

Regarding disciplinary decisions from 2019 to June 2021, the KPC established 20 investigative panels to collect evidence and compile reports of allegations of disciplinary violations by prosecutors. From the reports of these panels, the KPC issued 16 disciplinary decisions, while four disciplinary cases are still pending. With respect to KPC decisions during this period, in seven instances when the prosecutors were subject to the investigative procedure for disciplinary violations, they were not held accountable because it was proven that the alleged disciplinary violations were not committed.¹⁰¹

In cases where sanctions were imposed, they ranged from the imposition of non-public written remarks, salary reduction (by 30 per cent for six months), redeployment of a prosecutor from a higher department to a lower one of the same Prosecutor's Office and a case of a guilty plea agreement.¹⁰²

Finally, for all cases appealed for these matters, it has not been reported that there were cases when the complainants complained about any non-provision of effective protection or not allowing the use of the complaint.

INDICATOR 4.2.5 INTEGRITY MECHANISM (LAW)

75/100



There are comprehensive provisions in place to ensure the integrity of members of the prosecution, both in terms of the code of ethics, acceptance of gifts and restrictions after leaving the position. However, there are no post-employment restrictions for public prosecutors.

The State Prosecutor's integrity is defined in the Law on the State Prosecutor and the Code of Ethics and Professional Conduct for Prosecutors. The new Code of Ethics and Conduct was approved in 2019, abolishing the code from 2012.¹⁰³ The Code of Ethics and Professional Conduct for Prosecutors defines the standards of professional ethics for all State Prosecutors.¹⁰⁴

Prevention of conflict of interest is governed by the Law on Prevention of Conflict of Interest, which applies to all public institutions in Kosovo, including the State Prosecutor. This law protects the State Prosecutor's integrity, including the issue of conflict of interest,¹⁰⁵ as well as the exchange of gifts and hospitality for prosecutors.¹⁰⁶

Prosecutors are obliged to declare their assets and make them available to the Kosovo Agency for the Prevention of Corruption every year¹⁰⁷ since they are considered senior public officers.¹⁰⁸ These may include real estate, properties worth more than €5,000, shares in business organisations, securities, savings in banks and other financial institutions, financial liabilities and annual income.¹⁰⁹ Failure to report their assets or false statements to the Agency constitute a criminal offence based on the new Criminal Code, which entered into force in January 2019.¹¹⁰

Acting with integrity for a prosecutor means that the prosecutor must work and be accountable for their actions and



omissions in their professional and private life.¹¹¹ As for integrity violations, these can include an act or omission, whether in the exercise of duty or private life, contrary to the law, policies and strategies of the prosecutorial system, administrative instructions or any act that constitutes a criminal offence.¹¹²

Furthermore, regarding the prevention of conflict of interest, the Code of Ethics specifies that prosecutors cannot solicit and receive any form of gifts, rewards and other unfair advantages for themselves or for any other person which may lead to, or appear to lead to, undue influence on official decisions and actions. The prosecutor cannot receive occasional gifts of a total value exceeding €500 per year, and they cannot receive more than one gift per year from the same person or institution.¹¹³

Prosecutors also can not engage in any economic activity, including any kind of work or business, to acquire material or non-material interests that may affect his or her independence or may create the impression of using the duty for his or her interests.¹¹⁴

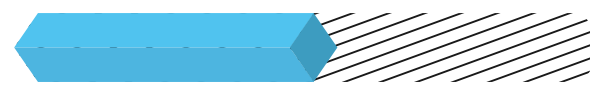
Citizens may file a complaint with the KPC regarding any hesitation by a prosecutor in discharging their official duties.¹¹⁵ The Prosecutor must investigate and prosecute criminal offences filed by anyone with reasonable suspicion that an offence is taking place.¹¹⁶

The Law on State Prosecutors stipulates that the prosecutor's mandate is terminated upon resignation, retirement age or dismissal from office.¹¹⁷ When the retirement age of 65 is reached, the prosecutor is not allowed to work in public institutions but can act as a lawyer and give legal advice as an independent lawyer.¹¹⁸

After the end of their term, no legal provision prohibits prosecutors from participating in entering the private or public sector, even for entities that they were investigating. The legislation regulates only the aspect of the incompatibility of exercising the function while exercising the prosecutor's function, determining that prosecutors cannot engage in any function or political activity.¹¹⁹

INDICATOR 4.2.6 INTEGRITY MECHANISM (PRACTICE)

50/100



There is a piecemeal and reactive approach to ensuring the integrity of members of the prosecution.

Compliance with the code of ethics and conduct is ensured by the KPC and the Chief Prosecutors of the Prosecutor's Offices. The KPC also owns the Prosecutor's Office Performance Evaluation Unit, which supports the process of evaluating the performance of individual prosecutors and prosecutors.¹²⁰ In 2022, the KPC made 62 performance evaluations for prosecutors of all levels, and in 2021, it conducted 61 evaluations. In 2020, one prosecutor was evaluated with "very good" performance, 24 prosecutors had a "good" evaluation, 39 had "average" evaluations, and one "insufficient". In 2022, no prosecutor was evaluated "very good", 28 of them were evaluated "good", while 32 prosecutors were evaluated "average" and one prosecutor "insufficient".¹²¹

The KPC follows and investigates cases of disciplinary violations against prosecutors, but it is not efficient in proposals for the dismissal of prosecutors. For example, the KPC did not initiate disciplinary procedures against the former Chief Prosecutor, Aleksander Lumezi, who has been the target of numerous scandals reported in the media.¹²² The KPC mainly takes disciplinary sanction measures, which tend to be expressed at the level of demotion from the position of a prosecutor,¹²³ reduction in salary or even transfer to another Prosecutor's Office.¹²⁴ For example, the KPC demoted the former prosecutor Shemsije Asllani after the media reported that she allegedly had undue influence to appoint a judge (see 3.1.4).





After the end of the mandate, there are no restrictions from any regulation that prohibit prosecutors from working in the private sector. When engaged in the private sector, prosecutors usually work as lawyers and this is permissible.

There is no extensive training for prosecutors and staff on integrity issues. The KPC does not produce materials or any brochures on this aspect.

Meanwhile, citizens are able to and can oppose the impartiality of a prosecutor if they are dissatisfied with the way a case is handled. For example, in the case covering the rape of an 11-year-old girl, there was a citizen protest demanding the dismissal of the prosecutor and the Chief Prosecutor of the prosecution in Pristina, because they allegedly failed to prosecute the perpetrators in a previous case.¹²⁵

In practice, prosecutors declare their assets (see 4.2.2).

issues related to gender, human rights and diversity does not appear in any job description within the prosecution service.¹²⁸

All these reflect the result of the lack of knowledge, capacities, the lack of internal policies that regulate this issue, the lack of familiarisation with the concept and the lack of trained staff responsible for these issues. In fact, there are no mandatory gender and inclusion trainings in the prosecution service for prosecutors or for administrative staff.¹²⁹

In the 2021 work report, published on the Prosecutor's Office website, no KPC data are disaggregated based on gender regarding the number of complaints received, nor any statistical data presented regarding the processing time of complaints submitted or rejected from a gender perspective.¹³⁰

INDICATOR 4.2.7 GENDER

0/100



In the State Prosecutor's Office, there are no protocols and guidelines for gender sensitivity.

Despite the regulation of gender representation determined according to the Constitution¹²⁶ and the law on gender equality,¹²⁷ no bylaws of the prosecution system mention gender integration in their documents and policies. Gender-disaggregated data is collected regularly, but it is not used for policy-making.

In general, the internal strategies and policies of the Kosovo Prosecutor's Office ignore gender issues, and do not address the potentially different needs and concerns of women and men. There are no gender focal points and handling



Role

INDICATOR 4.3.1 CORRUPTION PROSECUTION

50/100



In many cases, the indictments have substantive problems as they lack financial expertise regarding the damage amount, do not clearly identify the injured party or do not have quality evidence that could prove the perpetrators' guilt of criminal offences of corruption.¹³¹ However, there were few disciplinary measures from the KPC for the issue of the performance of prosecutors (see 4.2.4).

The State Prosecutor's Office remains ineffective in fighting corruption. Throughout 2021, there has been a continuous decline in the efficiency of the performance of the Prosecutor's Office in prosecuting the perpetrators of criminal offences of corruption (see table below).

	Number of corruption indictments filed ¹³²	% increase(+)/decrease(-) from previous year
2022	98	-4
2021	102	-18.40
2020	125	-19.87
2019	156	-5.45
2018	165	-26.01
2017	223	





In 2021, 1,025 corruption cases involving 1,827 persons proceeded. Of these, only 793 cases (77.32 per cent) have been resolved, involving 1,316 persons (72.3 per cent).¹³³ This clearly shows that throughout 2021, there has been a poor performance of the Prosecutor’s Office in filing and proceeding with corruption cases against persons and officers at different levels.¹³⁴ Meanwhile, for the year 2022, the State Prosecutor’s Office has filed a total of 98 indictments for corruption cases. Of these cases, the Special Prosecutor’s Office has charged 25 people, seven of them high-profile. Meanwhile, the prosecution in Pristina has charged 19 people, including one high-profile person. The lowest number of indictments for corruption is held by the prosecution of Ferizaj, with only three people accused of corruption.¹³⁵

In terms of the performance of the Prosecutor’s Office in the sequestration and confiscation of assets acquired by criminal offences, the official data presented by the Prosecutor’s Office indicate very low figures for asset confiscation. According to 2021 data, assets worth more than €14 million were frozen or sequestered, while assets worth only about €770,000 were confiscated.¹³⁶

In addition to problems identified in previous years, the prosecutorial system was challenged by the COVID-19 pandemic, especially in 2020, which inevitably deteriorated the performance of the prosecution. Only a small number of cases were filed and proceeded regarding corruption.¹³⁷ The overall trend of handling these cases throughout the last five years remains concerning. In 2021, Kosovo courts received fewer corruption cases than in the previous year, but they also solved fewer cases, although in practice, they had less work.¹³⁸

The small number of indictments related to criminal offences of corruption in 2021 has also been manifested in a small number of cases of indictments for money laundering. In 2021, the Prosecutor’s Office filed only seven indictments for money laundering cases.¹³⁹

The State Prosecutor’s Office provides special statistics on the criminal prosecution of corruption cases by providing periodic reports, either every six months¹⁴⁰ or even annually.¹⁴¹ They are comprehensive and provide detailed information with statistical data on the treatment of these subjects.



Interactions

The State Prosecutor’s Office has close cooperation mainly with the police, the judiciary, and the Agency for the Prevention of Corruption.

There are memoranda of understandings between KPC, CIVIKOS and the Press Council of Kosovo (PCK) on capacity building and communication channels for reporting cases identified by media and civil society. There is also a memorandum of cooperation between the State Prosecutor’s Office, the CEC and the police on the smooth running of the elections, as well as the agreement between KPC and the Academy of Justice on mandatory training and additional training for prosecutors.¹⁴²

The KPC Chairman signed various cooperation agreements with local and international institutions on behalf of the KPC. Among them are the agreement between KJC and KPC on the case management information system (SMIL) electronic data exchange.¹⁴³ The SMIL system is a project prepared by the KJC and the KPC that deals with the registration of cases in electronic ways, and which provides public access to the data on the administration of matters from these two institutions.

However, in practice, there are problems in the efficient resolution of cases, delays in trials and also a lack of effective punishment in cases of corruption (see 3.2.2).

Pillar Recommendations

- Fully approve the budget requests of the KPC so they can increase the recruitment for prosecutors and professional staff to fulfil their role of corruption prosecution.
- Amend the law on the KPC regarding its composition and appointment to make it truly pluralistic following the recommendations of the Venice Commission: election by simple majority should be replaced by a proportional system of election and the appointment of some lay members by external independent institutions or civil society.
- Push for amendments of the Law on Disciplinary Responsibility of Councils and Prosecutors to include the possibility of dismissal of prosecutors for low performance.
- Organise, with the Academy of Justice, additional specialised training on corruption and economic crimes. This should include a list of mandatory training regarding the investigation process and the drafting of better-quality indictments for the criminal offences of official corruption and money laundering. Special training is also needed for prosecutors on the development of skills in the investigation and collection of evidence in cases of confiscation of illegally acquired assets. The KPC should commit to prosecutors participating in special training on this issue in the projects of the Council of Europe in Pristina, which organises annual workshops and training related to money laundering issues and unjustifiable asset confiscation.
- Increase the level of the KPC’s transparency by fixing the technical issues of its website and recruiting spokespersons. In this regard, the KPC should also change paragraph 2 of Article 10 of the Regulation on the Public Communication Service in the Prosecution so the spokesperson does not need to ask the relevant Chief Prosecutors or KPC for permission before providing information.
- Create, with the State Prosecutor, a protocol or sub-legal regulation that deals with issues with gender sensitivity by drafting special regulations on the determination of gender policies in the institution of the Prosecutor’s Office.
- Ensure the recruitment of an officer for gender equality in all prosecution centres in Kosovo, who would have the task of handling and examining issues related to gender, human rights and diversity within the prosecution.





ENDNOTES

- 1 It is also exclusively responsible for the most complicated and high-risk cases related to terrorism, genocide and war crimes.
- 2 Law No.03/L –225 On State Prosecutor, Article 21.1.1, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2710>
- 3 See "Betimi për Drejtësi", 15 prill 2023, <https://kli-ks.org/jkd-rritet-numri-i-rasteve-te-pazqijdhura-te-korrupsionit-gjykatat-dhe-prokurorite-u-treguan-joefikase-ne-vitin-2022/>, [accessed on July 11, 2023]
- 4 Interview with the Chairman of the Prosecution Council of Kosovo, Jetish Maloku, July 2022.
- 5 One coefficient defines a certain amount and each salary class gets assigned a certain coefficient factor.
- 6 The budget is submitted to the Ministry of Economy and Finance, which then submits the budget as part of the Kosovo Consolidated Budget to the National Assembly for approval. See: Law No. 03/L-048 on Public Financial Management and Accountability, Article 66.2, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2524>
- 7 Law on Kosovo Prosecutorial Council, Article 7.1.10, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18920>
- 8 Law on Public Financial Management and Accountability, Article 66.1, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2524>
- 9 Law on Public Financial Management and Accountability, Article 20.2, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2524>
- 10 Law On State Prosecutor, Article 21.1.1, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2710>
- 11 The salary of the Prosecutors of the State Prosecutor's office is equivalent to 90 per cent of the salary of the Chief State Prosecutor, the salary of the Chief Prosecutor of the Special Prosecution Office is equivalent to 95 per cent of the salary of the Chief State Prosecutor, and the salary of the prosecutors in the Basic Prosecutor's Office is not less than 70 per cent of the salary of the Chief State Prosecutor.
- 12 Law On State Prosecutor, Article 21, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2710>
- 13 The salary of the Chief State Prosecutor should be equivalent to the President of the Supreme Court's salary, whose salary should be equal to the salary of the Prime Minister. Therefore, salaries automatically increase when the Prime Minister's salary increases See: Law No.03/L –225 On State Prosecutor, Article 21.1.1, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2710>; Law On Courts, Article 35.2, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18302>
- 14 Law On State Prosecutor, Article 21.10, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2710>
- 15 Balkan Investigative Reporting Network (2020), New Kurti Cabinet Repeals Former Kosovo Government's Decisions, <https://balkaninsight.com/2020/02/12/new-kurti-cabinet-repeals-former-kosovo-governments-decisions/>
- 16 Law on Public Sector Wages.
- 17 Judgment Case No. K0219/19 of the Constitutional review of Law No. 06/L-111 on Salaries in Public Sector, https://gjk-ks.org/wp-content/uploads/2020/07/gjk_ko_219_19_agj_ang.pdf
- 18 For example, because of exceptions for some institutions, (i.e. Kosovo Specialist Chambers, Kosovo Intelligence Agency, Privatisation Agency of Kosovo, Central Bank of Kosovo, and the Assembly. For more details see: Group for Legal and Political Studies (2021), The New Law On Salaries In Kosovo: what is missing, and what is needed to ensure an equal, efficient and non-discriminatory salary policy, http://www.legalpoliticalstudies.org/wp-content/uploads/2021/01/GLPS_PolicyAnalysis_Law-on-Salaries_Rr.H.pdf
- 19 <https://www.dukagjini.com/del-ne-konsultim-publik-projektligji-per-pagat/>; <https://www.gazetaexpress.com/enver-hasani-draft-ligji-aktual-i-pagave-nuk-i-kalon-filtrat-e-gjykates-kushtetuese/>
- 20 Law on the Budget Allocations for the Budget of the Republic of Kosovo for the year 2022.
- 21 Law on the Budget Allocations for the Budget of the Republic of Kosovo for the year 2022.
- 22 The data presented in the table were provided by the Prosecutorial Council of Kosovo through a request for access to information, dated July 13, 2023. The figures presented in the table are data for the final budget of the KPC determined after the review of the budget that takes place in June of each calendar year.
- 23 Interview with Valdrin Krasniqi, Acting Director of the Secretariat of the Kosovo Prosecutorial Council, June 2022.
- 24 Law No. 08/L-167 On State Prosecutor, Article 19 paragraph 1, May 2023.
- 25 See, Kallxo.Com Portal, 28 December 2017: <https://kallxo.com/shkurt/tahiri-gjyqtaret-dhe-prokuroret-pagat-te-larta-ne-rajon/>, [accessed on July 2023]
- 26 See, "Betimi për Drejtësi", 28 December 2017, <https://betimiperdrejtesi.com/pagat-mujore-te-gjykatesve-dhe-prokurore-ve-kosovare/>, [accessed on July 2023]
- 27 For example, a Prosecutor serving in the General Department now receives a monthly wage of approximately €1,700. Based on this orientation, prosecutors who serve in higher departments receive a salary above €2,000. See: Agency for the Prevention of Corruption, March, 2022, "Declarations" https://akkks.org/en/deklarimi_i_pasuris/2044/Prokuroria_e_Shtetit/2044 [accessed on October 5, 2022]
- 28 See, Reporter.net Portal, November 2022, <https://reporteri.net/lajme/ligji-i-ri-ul-pagat-ne-drejtesi-ky-eshte-koeficienti-per-gjyqtaret-dhe-prokuroret/> [accessed on July 12, 2023]
- 29 Kallxo.Com Portal, April 2023, <https://kallxo.com/lajm/ligji-per-paga-dergohet-ne-kushtetuese/> [accessed on July 12, 2023]
- 30 From January to December 2021, the Academy of Justice has conducted 114 training activities. With respect to the 2022 training programme, the total number of trainings planned to be carried out by the Academy of Justice is 104. This information was provided by the Public Relations Office of the Academy of Justice, according to the request for access to information, sent on July 4, 2022.
- 31 Justice Today, "Deficiencies of indictments in criminal corruption offences", (Pristina: GLPS, 2021), page 5.
- 32 Constitution of the Republic of Kosovo, Article 109 paragraph 1 and 2.
- 33 Constitution of the Republic of Kosovo, Article 144.
- 34 Constitution of the Republic of Kosovo, Article 110.
- 35 Law on State Prosecutor, Article 26.

- 36 Law on the Kosovo Prosecutorial Council, Article 7, paragraph 1, point 3.
- 37 Chief State Prosecutor; seven members, prosecutors from basic prosecution offices, represented by one member each, elected by prosecutors of that prosecution office; one member, prosecutor of the Appellate Prosecution, elected by prosecutors of that prosecution office; and one member, a prosecutor from the Special Prosecution Office, selected by the prosecutors of that prosecution office.
- 38 One member, lawyer from the Kosovo Bar Association; one member, university professor of law; and one member representative of civil society.
- 39 Law on the Kosovo Prosecutorial Council, Article 9, paragraph 1 point 1 to 4.
- 40 Law on the Kosovo Prosecutorial Council, Article 7, paragraph 1, point 3.
- 41 Venice Commission, Opinion No. 1063/2021 of the Venice Commission on the "Draft Amendments to Law on the Prosecutorial Council" (Strasbourg: Venice Commission, 2021), p. 7
- 42 See Draft Law on amending and supplementing Law no. 06/L-056 on Kosovo Prosecutorial Council, Article 20, paragraph 4.
- 43 Venice Commission, Opinion No. 1063/2021 of the Venice Commission on the "Draft Amendments to Law on the Prosecutorial Council" (Strasbourg: Venice Commission, 2021), p. 14
- 44 See Constitutional Court of Kosovo, Judgment in Case no. K0100_101/22, April 5, 2023 [accessed on July 21, 2023]
- 45 See also Constitutional Court of Kosovo, Judgment in case no.Ko.100,101/22 paragraph 294.
- 46 Moreover, by the Judgment of Constitutional Court, paragraph 319, it has also recommended, but maintains that i) it must be decided on five votes, namely two-thirds in the two rounds of voting; and (ii) any way of determining the decision of the Council must be evaluated in its general light, avoiding the self-governance of the prosecutors but also the politicisation of the Council, with emphasis on its functionality, because the operation or non-efficiency of a performance such as the KPC, has a tremendous impact on the rule of law and the functioning of the rule of law. Therefore, and a clarification as above, such a solution adapted through paragraph 2/a of the disputed article, regarding the most essential constitutional functions of the KPC and in the context of the culture of participating in the KPC, part of their non-prosecutor membership would violate the functional "complete independence" of the Council, outside of paragraph 1 of Article 110 of the Constitution and would also violate the principles of separation and balance of powers, specified through Article 4 of the Constitution.
- 47 Constitution of Republic of Kosovo, Article 109 paragraph 7.
- 48 Regulation no. 06/19 for the appointment of Chief State Prosecutor and Chief Prosecutors of the Republic of Kosovo Prosecutions, of Kosovo Prosecutorial Council.
- 49 Constitution of the Republic of Kosovo, Article 109.
- 50 Criteria determine that the candidate must be a prosecutor with a permanent term, they should not have an indictment filed, not be convicted of a criminal offence, have a positive performance evaluation in the last three years and not have a disciplinary measure imposed in the previous five years. In addition, the candidate must have at least eight years of work experience as a prosecutor. See: Regulation no. 06/19 for the appointment of the Chief State Prosecutor and Chief Prosecutors of the Republic of Kosovo Prosecutions, of Kosovo Prosecutorial Council, Article 3, paragraph.1. & Regulation no. 06/19 for the appointment of the Chief State Prosecutor and Chief Prosecutors of the Republic of Kosovo Prosecutions, of Kosovo Prosecutorial Council, Article 4, paragraph 1, point 1.
- 51 This is determined by the council's regulations for the reappointment, examination, and appointment of prosecutors, where it is emphasised that the Council can sign cooperation agreements with local and international organisations in monitoring this process. For more, see the Regulation for the Reappointment, examination, appointment of prosecutors, Article 5.
- 52 Law on the Kosovo Prosecutorial Council, Article 25.
- 53 Constitution of Republic of Kosovo, Article 109 paragraph 6.
- 54 Kallxo.Com Portal, April 2022, <https://kallxo.com/gjate/pavaresia-financiare-e-cunguar-e-keshillit-gjyqesor-dhe-prokurorial-te-kosoves/> [accessed on October 6 2022]
- 55 Balkan Transitional Justice (2018), Kosovo Prosecutor Resigns After Alleged Threats, <https://balkaninsight.com/2018/08/15/kosovo-prosecutor-quits-amid-alleged-threats-08-15-2018/>; Balkan Transitional Justice (2018), Kosovo Ex-Prosecutor Probing Veterans' List Faced 'Constant Threats', <https://balkaninsight.com/2018/08/20/fake-veterans-lists-damaged-kosovo-post-war-budget-the-most-prosecutor-08-20-2018/>
- 56 "Betimi për Drejtësi", March 2022, <https://betimiperdrejtesi.com/perseri-hudhet-poshte-aktakuza-per-korrupsion-ndaj-liburn-aliut-dhe-te-tjereve/> [accessed on August 3, 2022]
- 57 See the "Betimi për Drejtësi", February 2022, <https://betimiperdrejtesi.com/kpk-degradon-dhe-transferon-prokuroren-shemsije-asllani/> [accessed on July 21, 2023]
- 58 See Nacionale.Com Portal, April 2023, <https://nacionale.com/drejtesi/degradohet-ish-kryeprokurori-buzhala-gjykata-supreme-konfirmon-vendimin-e-kpk-se/> [accessed on July 21, 2023]
- 59 Kallxo.Com Portal, September 2022, <https://kallxo.com/lajm/keshilli-prokurorial-i-kosoves-dhe-prokurori-i-shtetit-reagojne-ndaj-deklarave-te-kryeministrit-kurti-dhe-ministres-haxhiu/> [accessed on October 6 2022]
- 60 Law on the Kosovo Prosecutorial Council, Article 7 paragraph 1 point 24 and 30.
- 61 Law on State Prosecutor, Article 10.
- 62 Law on the Kosovo Prosecutorial Council, Article 12, paragraph 3.
- 63 Law on the Kosovo Prosecutorial Council, Article 12, paragraph 3...
- 64 Law on the Kosovo Prosecutorial Council, Article 4.
- 65 Law on the Kosovo Prosecutorial Council, Article 4.
- 66 Law on Access to Public Documents, Article 16.
- 67 Regulation for the Reappointment, examination, and appointment of prosecutors (June 2022)
- 68 Regulations for the transfer and advancement of state prosecutors, (November 2021)
- 69 Law on Disciplinary, Liability of Judges and Prosecutors, (December 2018).
- 70 Regulation for Evaluating the Performance of Prosecutors (January, 2021).
- 71 Telegrafi portal, May 2021, <https://telegrafi.com/prokurori-shtetit-publikon-udhezimin-per-aktivitetet-e-ketij-institucioni/> [accessed on July 4, 2022]
- 72 Website of the Kosovo Prosecutorial Council, <http://www.psh-ks.net/?page=1,1> [accessed on June 23, 2022]
- 73 Website of the Kosovo Prosecutorial Council, <https://prokuroria-rks.org/> [accessed on June 23, 2022]



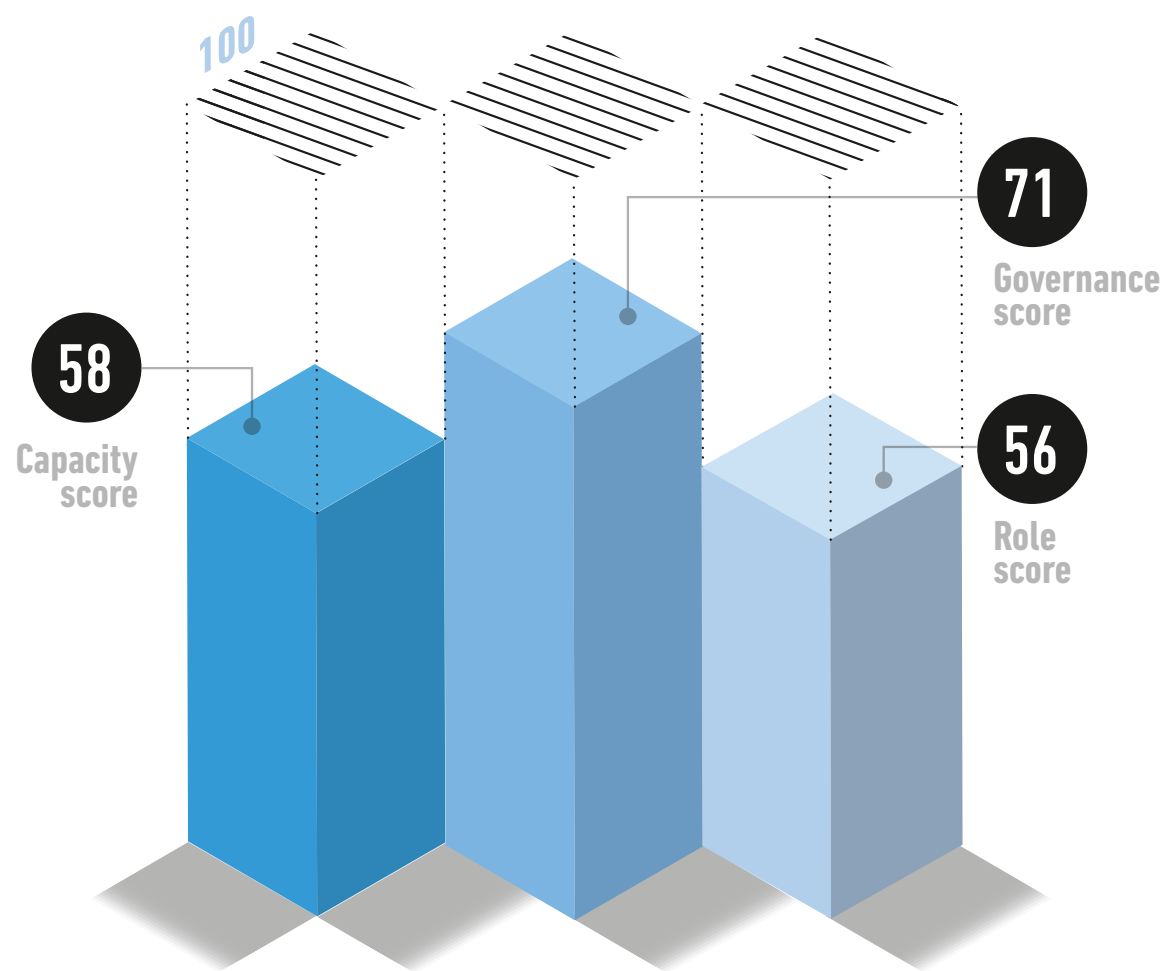
PUBLIC SECTOR



SUMMARY

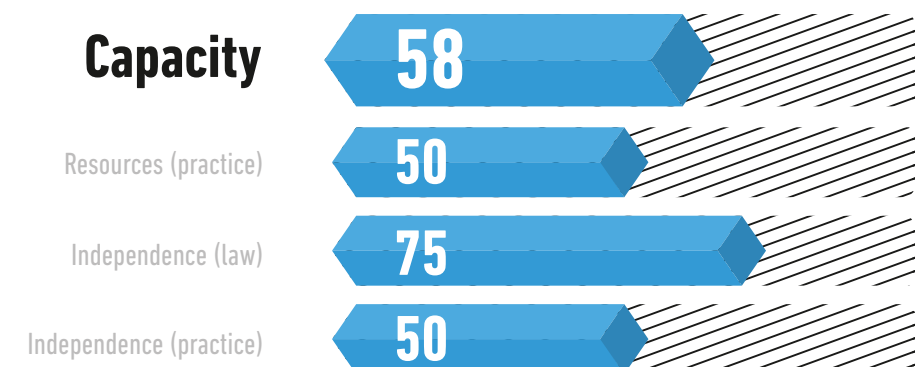
The public sector is one of the most complex in the country, with approximately 90,000 employees at the national level and municipalities.¹

62/100 Overall pillar score

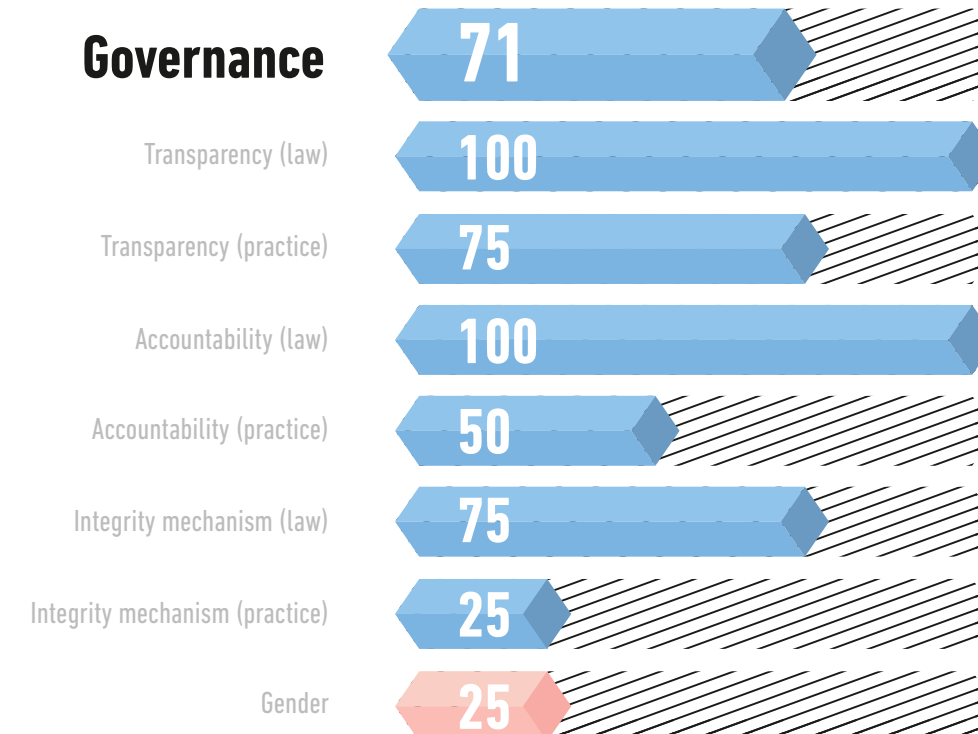


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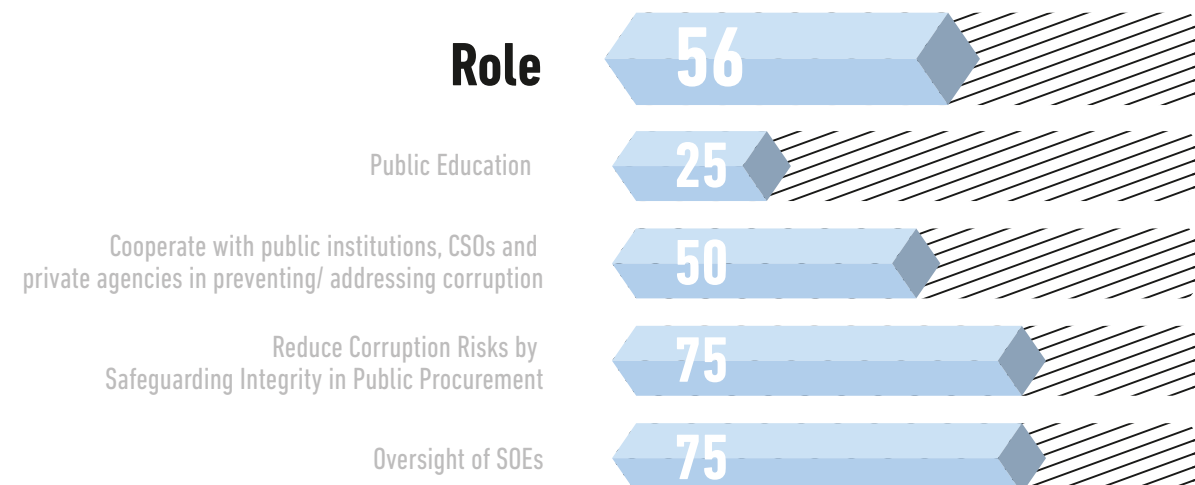
Capacity



Governance



Role



|||||



The sector has been the subject of significant changes in 2022. Public administration in Kosovo is organised into several categories of civil service. These categories are divided between central and local authorities. The Office of the Prime Minister and the ministries are the most senior offices of the public administration. Central authorities are dependent on the civil service to perform non-ministerial and other administrative duties. The local civil service is part of the municipal authority. The legislation also recognises independent bodies of the public administration as legal entities established to carry out administrative activities that require a high degree of independence in the public interest.

Several institutions are responsible for overseeing the operation of various aspects of the public sector, such as the Auditor General, the Independent Oversight Board, and the Ombudsperson Institution. The Public Enterprises (PE) Monitoring and Policy Unit is responsible for monitoring state-owned enterprises (SOEs), but it has limited resources and authority in decision-making regarding strategic assets. The unit lacks transparency, with infrequent performance reports, and operates without a leader.

The public sector grapples with human resource gaps, particularly due to non-competitive salaries and labour strikes. While Kosovo has comprehensive laws to ensure public sector independence, there are concerns about political influence, especially in senior civil servant appointments. The Independent Oversight Board plays a role in safeguarding employees' rights but has faced operational challenges. Accountability in the public sector is considered unsatisfactory, with an increase in reported abuses and a lack of effective sanctions for corruption. Corruption remains prevalent and enforcement is often lacking, contributing to the perception of impunity among politicians and civil servants. Ethical behaviour is not effectively regulated and integrity training is insufficient.

Kosovo has strong legal provisions for transparency, allowing the public access to information on public sector activities. Notably, there have been improvements in the availability of public procurement data via an e-procurement platform and transparency in job vacancy announcements. Public procurement, especially in the health sector, is reported to be corrupt, leading to inefficiency and waste. The Regulatory Commission of Public Procurement faces challenges in monitoring procurement activities, including a shortage of staff, and some senior officials involved in corruption continue to act with impunity.



Capacity

 **INDICATOR 5.1.1
RESOURCES (PRACTICE)**

50/100



The public sector has various resources. However, there are significant gaps in human resources, in particular in terms of non-competitive salaries, which contributes to a certain degree of ineffectiveness in the performance of its duties.

In 2022, the budget allocated for public sector wages and salaries was about €670 million. This marks a 5 per cent increase compared to 2021, when the budget allocated was €640 million.² Despite this increase, and largely due to the economic crisis caused by the COVID-19 pandemic, the country has faced constant pressure from public sector trade unions, leading to strikes. The strikes sought an increase in public sector salaries and the allocation of €100 as a one-off payment to employees until the Draft Law on Salaries entered into force.³

Public sector salaries are expected to increase with the new Law on Salaries, which provides for the levelling of coefficients in public sector salaries. Still, the non-determination of the monetary value of a coefficient for public sector salaries has become an ongoing source of dispute with trade unions.⁴

According to the European Commission's report, progress toward the simplification of administrative procedures has slowed. The "e-Kosova" portal is operational, however, it still lacks a number of digital services that would make it more effective and easier for citizens and businesses to use.⁵

 **INDICATOR 5.1.2
INDEPENDENCE (LAW)**

75/100



There are comprehensive laws ensuring the public sector's independence. However, the newly adopted legislation on public officials on September 2023 provides unnecessary discretion in the recruitment, transfer and disciplinary procedures, creating problems for merit-based recruitment.

The Law on Public Officials⁶ and the Law on Civil Servants are the key legal mechanisms governing the functioning of the public sector. The Law on Public Officials stipulates that the employment of public officials in the institutions of the Republic of Kosovo is based on merit, moral integrity, impartiality and stability.⁷ However, the law in this form has been criticised for not addressing the comments of the EU and Organization for Economic Cooperation and Development (OECD)'s Support for Improvement in Governance and Management (SIGMA). According to the EU Office in Kosovo, "the new law on public officials is problematic with regard to ensuring a merit-based civil service that can effectively manage human resources, as it adds excessive discretion in the recruitment, transfer and disciplinary procedures of civil servants, potentially making the civil service vulnerable to politicisation."⁸ The Law on Civil Servants defines the management and organisation of an impartial civil service.⁹

The Regulation on Admissions and Careers in the Civil Service regulates civil service recruitment and promotion. According to the regulation, recruitment and promotion panels are established by the government and consist of five





members, one of whom is an external expert.¹⁰ Regarding appointments and dismissals within certain departments in the public sector, senior managers are part of the evaluation committees and have discretion in staff redeployments.¹¹

The Independent Oversight Board of the Kosovo Civil Service (IOBKCS) is a mechanism for the protection of public sector employees. The law vests the Board with the power to examine and make decisions on the complaints of civil servants and candidates for admission to the civil service.¹² This Board also oversees the selection procedure and decides whether the appointment of civil servants at the senior management level has been carried out in accordance with the relevant legislation, rules and principles.¹³ The Board's decisions are final and can only be appealed before the competent courts.

Kosovo has not regulated the issue of parliamentary lobbying for the inclusion or non-inclusion of certain projects or issues in the governing programme or budget.¹⁴

**INDICATOR 5.1.3
INDEPENDENCE (PRACTICE)**

50/100



State institution bearers, especially those representing parties in power, occasionally interfere in public sector activities, such as the recruitment process in this sector.

Such interference is manifested in practice through political appointments, which over the years have affected the activities of this sector. For example, 2020 research published by the Balkans Policy Research Group (BPRG) found that recruitment and promotion to public sector positions are rarely based on institutional needs or the qualifications of candidates.¹⁵ Staff recruitment or hiring processes remain highly politicised. Thus, party loyalty is often more import-

ant than professional capacity.¹⁶ In June 2021, following concerns about political influence and unsubstantiated appointments on merits, the Assembly dismissed the five members of the board of the Independent Supervisory Council of the Civil Service.¹⁷

The European Commission's report also underlines that a centralised system for merit-based recruitment for the senior category of public officers is lacking and sometimes with political influence.¹⁸ For example, Naim Bardiqi was dismissed from the position of secretary of the Ministry of Health in 2020 when Armend Zemaj (part of the Democratic League of Kosovo [LDK]) was in charge of the minister position under allegations that he abused his official duty. This dismissal came as a result of changes in the political governance of the ministry in question, after Bardiqi was appointed as secretary during the time of minister Uran Ismajli.¹⁹ Upon taking the position of Minister of Health, Arben Vitia (part of the Self-Determination Movement [LVV]) had returned him again to the position of secretary of the Ministry of Health.²⁰ In the justification of this decision, it is stated that since the decision of Zemaj on 2020, when Naim Bardiqi was suspended without pay, the disciplinary procedure against him has not been initiated, developed and completed.²¹ Another case is the dismissal of the general secretary of the Minister of Infrastructure Izedin Bytyqi in 2020 by the former Minister of Infrastructure Arban Abrashi (LDK) to return to the same position in July 2023 by Minister Liburn Aliu (LVV). Bytyqi's dismissal was seen as an interference in the appointment and release of positions.²² A similar situation has also been noticed in other ministries, where many dismissals, appointments and transformations of high positions have taken place with the change of government.²³

The Law on Public Officials has entered into force in 2023; however, this law risks creating and exacerbating existing gaps in administrative capacities.²⁴ Also, the overall pace of public administration reforms remained insufficient to deliver tangible results.²⁵

The IOBKCS protects the rights of public sector employees, reviewing complaints submitted by civil servants and candidates for admission to the civil service. During 2022, the Board examined 1,692 complaints and rendered decisions for 971 of them, of which 287 were approved.²⁶ However, during two periods of time, in 2019-2020 and 2021, the Board was not operational due to a lack of members.²⁷



Governance

**INDICATOR 5.2.1
TRANSPARENCY (LAW)**

100/100



There are comprehensive provisions allowing the public to obtain information on the activities of the public sector, relevant decisions and how such decisions are made.

According to the Law on the Declaration, Origin, and Control of Assets and Gifts, public sector senior officials are obliged to declare their assets to the Agency for the Prevention of Corruption for a one-year period. The declarations have to be published on the website of the Agency.²⁸

The Law on Access to Public Documents is the sole legal basis governing public information management.²⁹ The law obliges public institutions to pro-actively publish all public documents produced, received, held or controlled in electronic form.³⁰

Appointments in public sector institutions are regulated by the Law on Public Officials. The law sets the obligation that the recruitment procedure is based on "open and public competition". However, this is not further defined on what exactly needs to be published about the recruitment process.³¹

Public procurement data in Kosovo is regulated by the Law on Public Procurement in Kosovo, which was amended and supplemented in 2014 and 2016 by the new Law on Public Procurement, and they are required to be public. This includes data on the terms of the contract, notice of the award of the contract and details of the beneficiary.³² The Public Procurement Review Body is responsible for maintaining data related to public procurement.³³

**INDICATOR 5.2.2
TRANSPARENCY (PRACTICE)**

75/100



The public can obtain most relevant information on public sector activities. However, CSOs and the media have criticised some institutions for limiting access in some cases.

Citizens are able to access information on public sector activities via institutional platforms. However, CSOs and the media have repeatedly criticised public institutions, especially Ministry of Health, and the government regarding the Security Fund³⁴ for not addressing their requests for access to public documents and claimed that public institutions are selective in the documents they provide access to and tend to hide important contracts.³⁵ Journalists and researchers encounter challenges accessing public documents. For instance, Saranda Ramaj, a journalist, invested 78 days, sent numerous follow-up emails, and filed a complaint with the Information and Privacy Agency before receiving a response from the Ministry of Health.³⁶ The Agency for Information and Privacy is an independent institution according to the law on access to public documents. During 2022, this institution received more than 180 complaints for access to public documents.³⁷

Declaration of assets of public sector officials and employees that have to declare their assets (see 5.2.6) are easily accessible on the Agency for the Prevention of Corruption's official website.³⁸ At the request of the Agency, central and local bodies, public sector institutions, holders of public authorisations and other public or private legal entities, must present them without payment to the Agency, within 8 days after such re-





quest, all data, including personal data and documents required for the performance of the Agency's duties.³⁹

The Public Procurement Regulatory Commission (PPRC) regularly publishes data related to contracts, invitations and other notices related to procurement procedures on the e-procurement portal.⁴⁰ Data relating to tendering procedures are also published on the platforms of the respective institutions, such as the name of the contracting authority, the activity, the country, the type of supply, the subject, the value, the procedures and the dates⁴¹

Transparency regarding the publication of public sector job vacancies is quite satisfactory. In most cases, vacancy announcements are public and are made typically on online platforms and also in the media.⁴²

INDICATOR 5.2.3 ACCOUNTABILITY (LAW)

100/100

There are strong provisions ensuring that public sector employees must report and be accountable for their actions. The new Law on Public Officials has further strengthened accountability by including provisions on reducing the period of evaluation of the contractual period from five years to four years.

The Law on the Protection of Whistleblowers, which superseded the Law on the Protection of Informants, regulates the protection of corruption whistleblowers. The provisions of this law are comprehensive and explain forms of whistleblowing or exposure. The law provides that the responsible officer for whistleblowing in institutions is responsible for receiving reports from whistleblowers regarding violations or abuse of official duties.⁴³



The Law on Public Officials provides for sanctions for public sector employees if they are considered to have violated their work duties and legal obligations through extortion, bribery, corruption or abuse of privileged state information.⁴⁴ In addition to disciplinary sanctions, criminal sanctions are provided for in the Criminal Code in relation to the misuse of an official position or authority.⁴⁵

Citizens can file complaints against public sector authorities with the Agency for the Prevention of Corruption, the Ombudsperson Institution, and the Office of the Auditor General, depending on the nature of the complaint. Regarding complaints about public procurement procedures, the Procurement Review Body (PRB) is the highest legal authority for examining complaints or applications from economic operators and contracting authorities and rendering relevant decisions. Only the judiciary can reverse PRB decisions.⁴⁶ On the other hand, the IOBKCS is the body that examines and decides on civil servants' complaints against the decisions of the institutions to which they belong.⁴⁷

The National Audit Office and the Internal Audit Unit are the main mechanisms for public sector auditing (see National Audit Office pillar).⁴⁸ Independent agencies are required to report to the Assembly of Kosovo periodically.⁴⁹

INDICATOR 5.2.4 ACCOUNTABILITY (PRACTICE)

50/100

While public sector employees must report and be accountable for their actions, this accountability is partial since there are a large number of reported abuses.

The accountability level of public sector officials is considered unsatisfactory according to reports by the European Commission, mainly in the implementation of the Law on Organisation and Functioning of the State Administration and Independent Agencies.⁵⁰



According to the chairperson of IOBKCS, there has been an increase since 2021 in the cases and complaints reported about abuses by public sector employees.⁵¹ There have been cases where disciplinary proceedings and charges for criminal offences have been initiated against public officials, especially high-profile ones. Since the declaration of Kosovo's independence, prosecutors have filed 298 indictments against 216 politicians – the vast majority of them for criminal offences of corruption. However, none of them have been sentenced to effective imprisonment by a final judgment.⁵²

In 2021, the IOBKCS received a total of 884 complaints which were submitted directly by civil servants as well as by candidates for admission to the civil service of the Republic of Kosovo.⁵³ In addition to the number of complaints, the IOBKCS also received 328 judgments from the Basic Court in Pristina, where a total of 1,235 complaints were examined. Out of these complaints, there was a legal obligation to implement 217 board decisions, of which 182 were final. Meanwhile, 27 decisions have obliged the employment entities to reconsider their decisions.⁵⁴

Procurement monitoring is a key to controlling procurement activities. By mandate, the PPRC Monitoring Department must control procurement activities in two phases, namely before the contract award and after the contract award.⁵⁵ While the department conducts monitoring before the contract award, they do not conduct monitoring after the contract award; one of the problems is the lack of staff.⁵⁶ There are no statistics on the number of whistleblowing cases related to public procurement. The Agency for the Prevention of Corruption has some statistics in its summary, but they do not detail whether such cases result from whistleblowing or other forms.⁵⁷

The US Department of State report points out that there are many cases where senior officials in the public sector have been involved in corruption yet still act with impunity.⁵⁸



INDICATOR 5.2.5 INTEGRITY MECHANISMS (LAW)

75/100

There are provisions in place to guarantee the integrity of civil servants. However, the Code of Conduct does not provide for specific sanctions for violations committed by officials.

Integrity mechanisms are regulated through the Civil Service Code of Conduct,⁵⁹ the Law on the Declaration, Origin, and Control of Assets and Gifts, and the Law on the Prevention of Conflict of Interest in the Discharge of a Public Function.⁶⁰ However, the Code of Conduct, which has been in force since 2015, does not provide for specific sanctions for violations committed by officials.

The Civil Service Code of Conduct specifies professional independence, personal integrity and accountability as basic principles for fulfilling duties. Misuse of financial assets, conflict of interest, post-employment restrictions and the use of official information are also included in this framework.⁶¹ However, these regulations are elaborated only as principles and are not structured in sufficient detail to provide regulation for the integrity of civil servants.

According to the Law on Public Officials, accepting bribes in direct or indirect forms – such as accepting gifts, favours or other benefits given because of a duty performed – is considered a serious violation. The disciplinary measures that can be imposed in such cases are categorised into four levels and can range from a reprimand to dismissal from the Civil Service.⁶²

Regarding public procurement, the law provides that each tender dossier that is prepared and includes all contractual documents also contains a separate "Declaration under Oath". This document serves as a basis for holding operators to account who may face criminal and civil prosecution, fines and penalties in cases related to eligibility requirements, including corruption.⁶³



INDICATOR 5.2.6 INTEGRITY MECHANISMS (PRACTICE)

25/100



There is a partial and reactive approach to ensuring the integrity of the public sector and abuse of office continues to be present.

In the 2021 Corruption Perception Index, Transparency International has again ranked Kosovo among the countries with a high level of corruption, despite slight progress.

Office abuse, especially corruption, remains widespread, despite political promises to fight it and an existing legal basis to do so. Enforcement remains deficient, strengthening the public impression that elected politicians and civil servants operate with impunity. Progress in the fight against corruption is particularly limited with regard to high-level cases and the confiscation of assets, and anti-corruption agencies lack the necessary staff.⁶⁴

Punishment for unethical behaviour is not regulated in the Code of Conduct despite the recommendations made by the complaint mechanisms, and as such, it weakens to enforce of ethical behaviour by public sector employees.⁶⁵

According to the chairperson of IOBKCS, the Kosovo Institute for Public Administration, as a government institution established to train civil servants, provides regular training⁶⁶ in different categories to public sector employees.⁶⁷ However, there are no specific categories for integrity training. In practice, the public sector's core values are comprehensive and, as such, are included in the contracts and duties of all public sector employees.⁶⁸

Public procurement remains one of the most corrupt sectors in the country.⁶⁹ Organisations in the country have also raised concerns about corruption in public procurement. Reports of local non-governmental organisations have identified numerous violations during the COVID-19 pandemic in health

sector public procurement.⁷⁰ The reports identify some highly problematic areas of expenditure, which, in addition to affecting the efficiency of procurement, lead to significant waste, because of payments that are 3 to 300 per cent higher than in their contracts with the institutions.⁷¹

INDICATOR 5.2.7 GENDER

25/100



Gender-sensitive protocols and guidelines for public sector complaint mechanisms do not exist, but there is some gender-disaggregated data on complaints received.

The number of women in decision-making positions in the public sector is still small, there are no initiatives to create adequate policies that will encourage women to apply for decision-making positions, and no formulation of competitions that reflect gender sensitivity.⁷² The IOBKCS has five members in its internal organisational structure, two of whom are women.⁷³

The IOBKCS, as a complaint mechanism, publishes gender-disaggregated data about complaints submitted by public sector employees in its annual reports.⁷⁴ However, according to the chairperson of the IOBKCS, the protocols implemented by the public sector complaint and investigation mechanisms do not include any specific gender-sensitive policy. All complaints are dealt with within the deadlines and no priority is given to gender-based cases.⁷⁵

The Kosovo government adopted the Gender Equality Programme 2020-2024, which includes steps to be taken to strengthen gender equality in all sectors, including the public sector, such as economic empowerment, women's rights, access to justice, human development and gender relations.⁷⁶ This strategy is based on three pillars, which include economic empowerment and well-being, development of gender roles and well-being, and rights, access, and security for women.⁷⁷



Role

INDICATOR 5.3.1 PUBLIC EDUCATION

25/100



Existing campaigns in educating the public about corruption and the role of citizens in fighting it are primarily led by the Agency for the Prevention of Corruption. There are no actions of this kind in the rest of the public sector.

In general, public outreach campaigns do not have high-level political support. Support for such campaigns mainly derives from civil society in the country.

On the other hand, the Agency for the Prevention of Corruption has regularly organised campaigns to educate the public about its role in fighting corruption (see 10.3.2).⁷⁸ The Agency also has a hotline where citizens can report corruption, while institutions such as the Kosovo Police and Kosovo Customs have made available toll-free numbers where citizens can report corruption.

INDICATOR 5.3.2 COOPERATE WITH PUBLIC INSTITUTIONS, CSOS AND PRIVATE AGENCIES IN PREVENTING/ ADDRESSING CORRUPTION

50/100



While the public sector cooperates with other stakeholders on anti-corruption initiatives, these initiatives are few and do not find much high-level support.

The drive for cooperation mostly comes from civil society and independent agencies such as the Agency for the Prevention of Corruption seeking to establish cooperation with public sector institutions in fighting corruption.

The Agency for the Prevention of Corruption, the main authority for fighting corruption, regularly cooperates on anti-corruption initiatives with civil society organisations in the country and the region. In 2022, the Agency cooperated with the Regional Anti-Corruption Initiative, giving advice on the forms of reporting and the possibilities to encourage the reporting of violations through whistleblowing.⁷⁹





The public sector also interacts with civil society in implementing projects in certain areas that are mainly related to public sector capacity building, such as “Measuring the performance of justice institutions”,⁸⁰ and the “Reform of Public Administration”.⁸¹

INDICATOR 5.3.3 REDUCE CORRUPTION RISKS BY SAFEGUARDING INTEGRITY IN PUBLIC PROCUREMENT

75/100



There are provisions in place to ensure that the public sector exercises its public procurement responsibilities legally and ethically. However, in practice, delays in the procurement process remain a problem.

The Law on Public Procurement defines open bidding as a general rule.⁸² As a result, 85.23 per cent of procurement activities in Kosovo are conducted through open procedures, except for emergencies and classified contracts.⁸³ The law has well-defined rules and provides standard documents for tendering and evaluation, which ensure criteria aimed at achieving objectivity in bid evaluation.⁸⁴ At the same time, the law obliges the contracting authority to inform all interested parties of any changes during the tendering process, as well as contract award decisions.⁸⁵ Implementing the electronic platform “e-procurement” has enabled its application in practice, avoiding the possibility of negligence by the contracting authority, because it makes information on contract details, amount, implementation period and contractor available to the public.⁸⁶

The law defines three key authorities controlling public procurement activity: the PPRC,⁸⁷ the PRB⁸⁸ and the Central Procurement Agency (CPA).⁸⁹ The PPRC and PRB are independent authorities appointed by the government and elected by the Assembly.⁹⁰ However, in practice, complaints to the PRB have prolonged procurement processes in the absence of legislation that provides for sanctions for delays in decisions issued by the PRB.⁹¹ Furthermore, throughout most of 2021, this body was non-functional due to the absence of the governing board, which had the effect of holding up around 700 complaints related to the procurement procedures.

The Law on Public Procurement contains only three clauses regarding contract management which define the selection of the contract manager and the form of reporting.⁹² The law⁹³ clearly defines that all personnel involved in the various stages of procurement must be different, to avoid conflict of interest.⁹⁴

In March 2022, Kosovo joined the Transparent Public Procurement Rating as the 42nd country to be assessed within the framework of the Institute for Development of Freedom of Information (IDFI’s) international initiative.⁹⁵



INDICATOR 5.3.4 OVERSIGHT OF SOES

75/100



The State’s ownership policy is inconsistent. The monitoring unit has a limited role in the management of SOEs and has insufficient resources to effectively perform its mandate.

The Constitution grants the government the authority to maintain ownership of all public enterprises, and it allows for the possibility of privatisation, concessions or leases, as long as these actions are conducted in accordance with the law.⁹⁶ Public enterprises in the Republic of Kosovo are divided into central and local public enterprises.

These enterprises operate based on the Law on Public Enterprises and the Law on Business Organisations.⁹⁷ The law on public enterprises requires that the PE Monitoring and Policy Unit must publish a set of information about all PEs on their website.⁹⁸

The primary responsibility of the PE Monitoring and Policy Unit is to supervise the operations of SOEs that report to the Ministry.⁹⁹ Nonetheless, the PE Monitoring and Policy Unit does not participate in making decisions concerning strategic assets that are of enduring importance to the state. This authority is retained by the government, which is accountable for providing credible information about how central SOEs serve the public’s interests.¹⁰⁰

Transparency within the PE Monitoring and Policy Unit is notably lacking. The GAP Institute has noted that this unit has not released a performance report for public enterprises for several years. They attribute this to the fact that these reports have not received approval from the Assembly.¹⁰¹

The number of employees in the Unit for Policies and Monitoring of Public Enterprises is 12. However, this unit has been operating without a leader since 2021 when former leader Besnik Krasniq resigned.¹⁰²





Interactions

The Public Sector collaborates closely with the government, the Agency for the Prevention of Corruption, civil society and other law enforcement institutions. This interaction is based on the law. The public sector is directly supervised by the government¹⁰³ while supporting it in producing state strategies, legal initiatives and supervision of their implementation.

The Agency for the Prevention of Corruption is responsible for overseeing the declaration of assets of public officials and thus positively impacts the transparency of public officials.¹⁰⁴ The public sector also interacts with civil society in implementing projects mainly related to public sector capacity building. However, such cooperation is not sufficiently strong in relation to the development of campaigns and programmes, especially in fighting corruption.

Pillar Recommendations

- Amend the Code of Ethics to include disciplinary sanctions for violations of the Code.
- Provide internal training sessions on integrity for public sector institutions.
- Amend PPRC and PRB legislation in order to include a deadline by which a new board member must be elected to avoid blocking the operation of such bodies in conducting public procurement, and to ensure the continuity of processes and procedures.
- Engage more with other state agencies, CSOs and businesses that are directly related to the fight against corruption. This should be in the form of memoranda of understanding that foresee training on integrity issues, whistleblowing, etc.
- Develop clear gender-sensitive protocols for the public sector, especially for complaint management.



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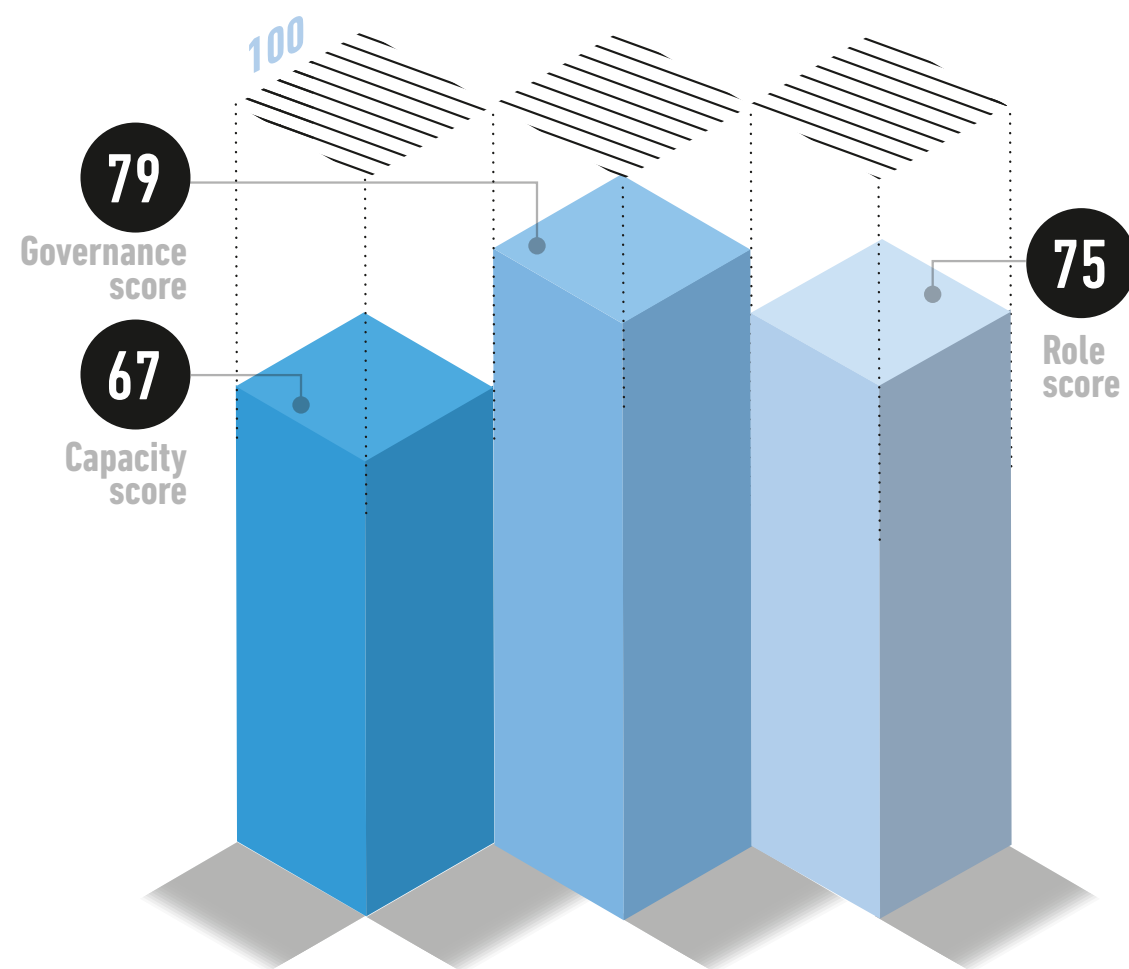
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LAW ENFORCEMENT AGENCIES



SUMMARY

The Kosovo Police (KP) is a constitutional institution responsible for maintaining public order and security throughout the territory of the Republic of Kosovo.¹





It functions within the scope of the Ministry of Internal Affairs. The KP is led by the General Director, whom the Prime Minister appoints on the Minister of Internal Affairs' recommendation.² The General Director reports and answers directly to the Minister.³ The KP has five main departments: operations, investigations, border, human resources, and support services.

The police are organised at the central and local levels. The General Directorate of the Kosovo Police is the central level responsible for the entire Republic of Kosovo. Meanwhile, the local level consists of eight regional directorates, including police stations and sub-stations, which are responsible for the local police in each municipality.⁴

The Kosovo Police Inspectorate is an institution that inspects the structures and functions of the Kosovo Police to ensure accountability, effectiveness and efficiency in the applicability of laws, bylaws and the standard operating procedures in force.⁵

The KP is partially independent, as it manages its own operations, but organisational matters, such as appointments and budget allocation, are influenced by the executive, including the election of the Police General Director. Kosovo police officers face low salaries. Integrity tests for the police are also missing. The Police Code of Ethics is not comprehensive because it does not provide ethical standards for senior police officers.



Capacity

**INDICATOR 6.1.1
RESOURCES (PRACTICE)**

75/100



The KP had sufficient human resources, however the resignation of Serbian officers led to some human resource gaps. However, there are some gaps in financial resources, leading to a certain degree of ineffectiveness in the performance of its tasks.

The Police budget is prepared by the Police Director,⁶ and it is approved by the Ministry of Finance⁷ after being proposed by the Ministry of Internal Affairs.⁸ The Police Budget for 2021 was €87,036,096.⁹ Compared to 2020, this budget represents a cut of around €10 million.¹⁰

Table 6.1: Annual budget of the KP, 2019-2023

	Total budget in €	Budget increase/decrease in % per year
2023	115,357,617	3.91
2022	111,014,078	27.54
2021	87,036,096	-10
2020	96,701,309	0.65
2019	96,077,535	0.76

According to the Kosovar Centre for Security Studies (KCSS), which oversees the sector, the budget and the salaries of police officers are considered low given the duties and risks involved in being a police officer. As salaries are low, police officer roles are less attractive to qualified and dedicated staff, where basic salary increases, but the allowances decrease.¹¹

The number of active-duty police officers for 2021 is 9,079.¹² However, in 2022 the number decreased to 8,699 leading to a lack of human resources in KP caused by the resignation of Serbian community police officers from this institution.¹³

To build managerial and technical capacities, the KP continuously enriches its logistical and operational skills with external support. The UNDP is one of the main donors to the Kosovo Police.¹⁴ According to the KCSS, the donations received are appropriate to meet the KP's logistical needs.¹⁵

However, the COVID-19 pandemic has increased the difficulty of the police's routine tasks and their obligations to safeguard the nation's law and order.

The KP has specialised mechanisms dealing with the fight against corruption: the Directorate for Investigation of Economic Crimes and Corruption and the Special Investigations Unit.¹⁶ The police have expert and specialised personnel for the investigation of corruption.¹⁷





**INDICATOR 6.1.2
INDEPENDENCE (LAW)**

75/100



There are laws that ensure a degree of KP independence, especially operationally. However, there is no rule on political affiliation for the General Director.

According to the legislation, the General Director of the KP is appointed by the Prime Minister.¹⁸ The recruitment for General Director is internal and appointment is based on professional criteria. Candidates must be graduates, must have held the police rank of colonel, lieutenant colonel or major for at least five years, and must not have been convicted of a criminal offence.¹⁹ The recruitment process is public and announced by the Ministry of Internal Affairs.²⁰ The Law on the Police provides that the General Director or Deputy General Directors may be relieved or dismissed from office by the Prime Minister due to poor performance. If the mandate of the General Director and Deputy General Directors of the Police ends in the calendar year of a general election, then their tenure is automatically extended for one year after the certification of the elections.²¹

As for the professional criteria for appointing other police officers, the rules are clear and specify the criteria on which they can be appointed. The standards required for appointment are in accordance with the standards set by the Code of Ethics. The Code provides that candidates must be appointed based on their educational qualifications to fulfil their professional duties and undergo professional training.²²

The legislation clearly defines the obligation of police officers not to fall under the influence of any political party and to ensure their performance does not depend on their political affiliation in any way.²³ However, such a rule does not apply to the General Director.

**INDICATOR 6.1.3
INDEPENDENCE (PRACTICE)**

50/100



The Ministry of Internal Affairs and the executive in general are influencing the work of the police, including organisation, appointments and budget allocation.²⁴

A significant challenge is the selection of the General Director of Police, who is appointed directly by the Prime Minister, based on the recommendation of the Minister of Internal Affairs. Since the Director has responsibility for appointing other police leaders, other subordinate appointments may be subject to political influence. Concerns are frequently reported about the politicisation of the KP, emphasising that, in many cases, police directors are not politically impartial.²⁵ In 2020, former Prime Minister Avdullah Hoti dismissed the former director of the Kosovo Police, Rashit Qalaj, "due to poor performance".²⁶ This decision was allegedly intentional revenge against the arrest of ruling party officials from the LDK at that time. The legal process of this case is ongoing.²⁷ Rashit Qalaj was elected as the head of the KP in 2018. After resigning from this position, he became part of the PDK (Democratic Party of Kosovo) in 2021 and is running for the position of deputy of the PDK in 2021 where he was elected as a member of the parliament of Kosovo,²⁸ which "calls into question his activity during the time he was in charge of the Kosovo Police."²⁹ In many cases, international reports have highlighted the operational independence of the police as a problem faced by this institution.³⁰ KCSS concludes that as a result, Ministers of Internal Affairs are involved in announcements about actions taken by the police, which are not part of the minister's duties.³¹ As a result, the minister undermines the reputation of the police by attributing neither success nor criticism to their activities.³²

So far, there have been no reported cases of police officers being obstructed in the performance of their investigative duties.



Governance

**INDICATOR 6.2.1
TRANSPARENCY (LAW)**

100/100



Comprehensive provisions are in place which allow the public to obtain information on the organisation and functioning of the law enforcement agencies on decisions that concern them and how these decisions were made.

The Law on the Police states that the KP shall be guided by the principle of transparency, such as providing information to citizens and being open to the public.³³

In legal terms, the KP, as a public institution, is obliged to publish all documents it issues. The Law on Access to Public Documents requires that all public documents be publicly disclosed within 15 days.³⁴ The same rules apply to the Police Inspectorate of Kosovo.³⁵

The new Law on Declaration, Origin, and Control of Assets and Gifts, which came into force in August 2022, specifies that senior police officials, including the General Director of Police, Deputy Directors of Police, Divisional Directors, Directors of Departments, Directors of Directorates, Regional Directors of the Kosovo Police and Commanders of the Kosovo Police Stations are subject to the declaration of assets.³⁶ Senior police officers declare their assets to the Agency for the Prevention of Corruption, which has to publish them on the Agency's website.³⁷

The legislation also provides that the KP must provide information at the request of any person who makes a request,

except in cases where the provision of such information may prejudice investigations.³⁸

**INDICATOR 6.2.2
TRANSPARENCY (PRACTICE)**

75/100



The public can generally receive information about the organisation and activities of the KP but not about decision-making processes, especially operational ones.

The police prepare and publish 24-hour reports, which are distributed to the public and national media. General data, including annual reports and statistics, regulations and internal administrative instructions of the KP are published on the official website.³⁹ The police also present information about operations and actions in press conferences, which are also posted on social networks.⁴⁰

Regarding the declaration of assets, the legislation in force provides that only the directors of the police declare assets, which is accessible on the website of the Agency for the Prevention of Corruption.⁴¹

There are cases of bad practice when the KP did not publish internal police documents,⁴² such as reports, decisions, agreements and memoranda.⁴³ However, it is still unclear if all regulations and administrative instructions exist (which constitute secondary legislation) or not, since only a certain number of them are available on the police website.⁴⁴s





The Kosovo Police has drawn up a plan for the Strengthening of Integrity in the Kosovo Police, which also includes the internal organisational aspect of the KP. As such, it emphasises the need for improving the chain of reporting in organisational units to ensure effective supervision and auditing of police decisions and duties.⁴⁵

INDICATOR 6.2.3 ACCOUNTABILITY (LAW)

100/100



Current legislation has provisions to ensure that the KP must report and be accountable for its actions.

The General Director of the KP reports and answers directly to the Minister of Internal Affairs on police administration and management.⁴⁶ The Director is obliged to report to the Parliamentary Committee on Security and Defence Affairs of the Assembly of Kosovo when issues in their area of responsibility appear.⁴⁷

The Kosovo Police Inspectorate (KPI) is an independent agency to which the KP is accountable. The Inspectorate is directly responsible for preventing, detecting, documenting and investigating criminal offences committed by KP officers.⁴⁸ Citizens can also submit complaints to this institution regarding the behaviour of police officers during the exercise of their duties.⁴⁹

KP officers do not have immunity from criminal prosecution. Therefore, they can be investigated, especially by the KPI, for involvement in the commission of criminal offences.⁵⁰ The KPI may request assistance from the KP and other law enforcement institutions in its legal activities. Where a case directly involves the KP, it must immediately undertake all measures and actions to secure evidence and notify the Inspectorate without delay.⁵¹

As for victims' rights, all persons who feel victimised by a crime have the right to report the case to the police. The police collect information from investigations which they send to the relevant prosecutor's office. While for the aspect of police misconduct, the Police Inspectorate of Kosovo is responsible for the investigation of criminal offences committed by the employees of the Kosovo Police.⁵²

INDICATOR 6.2.4 ACCOUNTABILITY (PRACTICE)

75/100



The existing provisions are largely effective in ensuring that the police must report and answer for their actions in practice. However, the increase in complaints shows, on the one hand, an increase in the control and accountability of the KP for its actions, but also a deterioration in the behaviour of the police.

In 2022, the Inspectorate received 1,697 complaints against police officers, of which 291 cases, or 15 per cent, were submitted by the KP, 30.2 per cent of complaints were submitted by citizens, and 33.6 per cent of complaints were submitted in electronic form. Complaints were also received by the KPI in other forms as well.⁵³ After examining these complaints, 108 arrests were made, 164 recommendations were issued for suspension and 106 criminal reports were filed against suspects for criminal offences, including corruption cases.⁵⁴

An increase in the number of cases submitted to the KPI⁵⁵ shows, on the one hand, an increase in the control and accountability of the KP for its actions, but also a deterioration in the behaviour of police officers. The KPI reviews the admissibility of complaints within a short five-day period.⁵⁶ Subsequent procedures depend on the volume of cases.⁵⁷



	Number of complaints per year	Complains increase/decrease in % per year
2022	1,697	-15.69
2021	2,013	21.41
2020	1,658	15.21
2019	1,439	1.40
2018	1,419	15.74

At the beginning of 2022, 48 police officials were arrested and criminal proceedings were initiated against them due to suspicions of involvement in illegal and corrupt schemes.⁵⁸ This shows that in practice, police officers do not enjoy immunity for any criminal offence, especially while performing official duties.

INDICATOR 6.2.5 INTEGRITY MECHANISMS (LAW)

75/100



Comprehensive provisions are in place to guarantee the integrity of police officers in Kosovo. The KP has a Code of Ethics, consolidating the provisions of various laws covering this field.⁵⁹ However, the Code of Ethics does not apply to senior officers and the General Director and police officers are not subject to integrity tests.

The KP is implementing the 2021 Integrity Strengthening Plan, valid until 2025. This plan foresees clear objectives

to strengthen integrity and activities that each mechanism within the police must undertake to achieve the set objectives. Progress in achieving these objectives is measured based on this plan. The provisions of this plan are designed to increase integrity.⁶⁰

Preventive and punitive measures are foreseen by law to prevent conflicts of interest. Being public officials, police officers are also obliged to comply with provisions of the Law on Prevention of Conflict of Interest in the Discharge of a Public Function, which refers to a conflict of interest as the private benefit of any public official that may affect the performance of public duty with transparency, honesty and legality.⁶¹ However, in Kosovo's case, police officers are not subject to integrity tests, as in many other countries.⁶²

The law on the police specifies that police personnel cannot accept a position or obligation or participate in activities that may create conflicts of interest, such as appointment or election to public office or other government positions, employment or participation in any business activity for compensation or active participation in any political party. However, the definition of the positions and activities that constitute a conflict of interest include, but are not limited to, specific engagements, and leaves unclear what the options are for police officers to engage in other activities.⁶³ The legislation specifies that senior police officers do not have the right to engage in contractual relations directly or with the institution where they exercised their public function for a period of up to two years after the end of their public function. This provision applies specifically to high-ranking officials, such as the General Director and Chief of the Police Inspectorate.⁶⁴ At the same time, the legislation does not





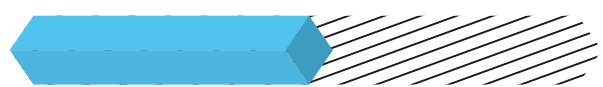
contain provisions regarding restricting the employment of regular police officers after their service in the KP.

Police Officers must complete a standard 40 hours of training⁶⁵ annually in the areas foreseen as necessary by management.⁶⁶

The new Law on Declaration, Origin, and Control of Assets and Gifts, which came into force in August 2022, specifies that senior police officials, including the General Director of Police, Deputy Directors of Police, Divisional Directors, Directors of Departments, Directors of Directorates, Regional Directors of the Kosovo Police and Commanders of the Kosovo Police Stations are subject to the declaration of assets. For non-declaration of assets, two types of measures are taken against high-ranking police officials: administrative fines and the filing of criminal charges with the relevant Prosecutor's Office.⁶⁷

INDICATOR 6.2.6 INTEGRITY MECHANISMS (PRACTICE)

50/100



There is a primarily a reactive approach to implementing measures that ensure the integrity of police officers. Codes of conduct and mechanisms responsible for integrity are poorly implemented in practice due to insufficient monitoring.

Police officers are not subject to integrity tests, as in many other countries.⁶⁸

The KP has created supervision mechanisms for its officials, which include direct supervisors and other levels of the inspection sector in the Kosovo Police, the Audit Directorate, the Internal Investigations Directorate, the Internal Disciplinary Commission, the Complaints Commission and

Use of Force Assessment Commission.⁶⁹ This mechanism operates within the Division for Professional Standards.

The police make public the disciplinary cases administered by the Internal Investigations Directorate and the Internal Disciplinary Commission.⁷⁰ However, the information and data in reports published by these bodies, which assess the effectiveness of disciplinary mechanisms, are only briefly mentioned in the annual reports of the police, and data is, therefore, insufficient. Irregularities are also present when informing parties about disciplinary procedures following standard operating procedures.⁷¹

So far, there are no criminal charges filed against police officers for not making declarations.⁷² However, according to the Agency for the Prevention of Corruption, unlike in previous years, there are now directors and former directors of the KP who have not declared assets, and criminal charges are expected to be filed against them.⁷³

The arrest of police officers in 2022 somewhat undermined this perception compared to past years when the KP was seen as a reliable but slightly corrupt institution.⁷⁴

According to the 2020 Security Barometer, as far as trust in the country's institutions is concerned, 41 per cent of the respondents said the KP was the institution they trusted the most.⁷⁵

The KP has training programmes in various fields related to their duties. Training is mainly offered by the Kosovo Academy for Public Safety periodically and by category.⁷⁶ Police Officers must complete a standard 40 hours of training annually in the areas foreseen as necessary by management.⁷⁷ However, integrity tests are missing for police officers.



INDICATOR 6.2.7 GENDER

25/100



The KP lacks sufficiently clear protocols and guidelines regarding gender sensitivity. The police do not provide training on the implementation of gender equality.

On the other hand, the complaint mechanisms at the KPI have protocols on gender equality.⁷⁸ In its annual reports, the KPI publishes gender-disaggregated data, including the number of complaints submitted by women and men for one year.⁷⁹ However, the Kosovo Police does not produce such gender-disaggregated data.

The KPI employs women officers as personnel in the department of investigations and complaints management, but their number fluctuates depending on the volume of complaints.⁸⁰

The KP has an agenda for gender equality in the Action Plan 2021-2023, with a long-term objective of increasing the contribution of women in all decision-making positions, ranks and levels.⁸¹ But this is not effectively implemented in practice. The KP does not take action to improve equal gender representation in this institution.⁸² In KP structures, no women have obtained high ranks and there have been no promotions of women officers to senior positions.⁸³

In the annual training plan for 2022, no training on gender equality is foreseen.⁸⁴





Role

**INDICATOR 6.3.1
CORRUPTION PROSECUTION**

75/100



The KP has the legal authority to conduct investigations on corruption cases, which are followed in practice. However, the powers of the Police are directly interdependent with the Prosecutor's Office and the lack of human resources lead to certain levels of ineffectiveness.

KP does not have direct powers to investigate corruption cases because they are interconnected and reciprocal with the prosecutor.⁸⁵ The police is only authorised to use investigative tools and techniques, which include conducting checks on persons, objects and premises, interrogating suspects and witnesses, and seizing or confiscating things that serve as evidence.⁸⁶ Also, the police use covert and technical investigation measures, such as observation, photography, investigation, recording, interception of telephone calls and simulation of corrupt acts.⁸⁷

In 2022, the KP handled 318 cases combatting economic crimes, corruption and wealth. In these cases, 81 suspects were arrested, among which 178 criminal charges were filed against corruption cases.⁸⁸ In 2022, 75 per cent of the cases and criminal reports for offences related to corruption and economic crimes, which the Prosecutor's Office accepted, were initiated by the KP. In a report by the Kosovo Institute for Justice regarding corruption, the main factor they identified as explaining the lack of convictions against those accused of corruption is the low capacity of police officers engaged in the pursuit of corruption (see 6.1.1).⁸⁹



Interactions

The KP closely cooperates with the State Prosecutor's Office, the courts, the Agency for the Prevention of Corruption and other law enforcement institutions. These relations, as much as they are built on legal definitions, are also of a reciprocal nature and relate to the fight against corruption.

The police carry out orders and instructions lawfully issued by the prosecution and courts, and these interactions are defined by law.⁹¹

The KP also cooperates with the Agency for the Prevention of Corruption in providing two-way information in the prevention, investigation and prohibition of corrupt phenomena. These two institutions have even signed a memorandum of cooperation to strengthen cooperation in detecting and investigating corruption.⁹²

These interactions are positive because they aim to fulfil the legal obligation to pursue and fight corruption successfully. However, even though there is a common goal of interaction in the efficiency of corruption cases, the situation in practice shows a lack of concrete results in sentencing such cases, from impunity in higher instances.⁹³

Pillar Recommendations

- Implement a transparency mechanism for the recruitment and appointment of senior police leaders, ensuring that these processes are professional and not politically influenced. This mechanism should make it mandatory to publish all internal documents that may be of interest to the public, including scoring sheets of candidates and recruitment evaluation summaries and rationale.
- Amend legislation to include post-employment restrictions for senior police officers of the Kosovo Police
- Organise additional specialised training for the KP on integrity and conduct ongoing integrity tests for police officers.
- Increase transparency in the KP's decision-making processes, especially operational decisions, and in the publication of its internal documents.
- Amend the Kosovo Police Code of Ethics so that it also includes senior officers and the General Director.





ENDNOTES

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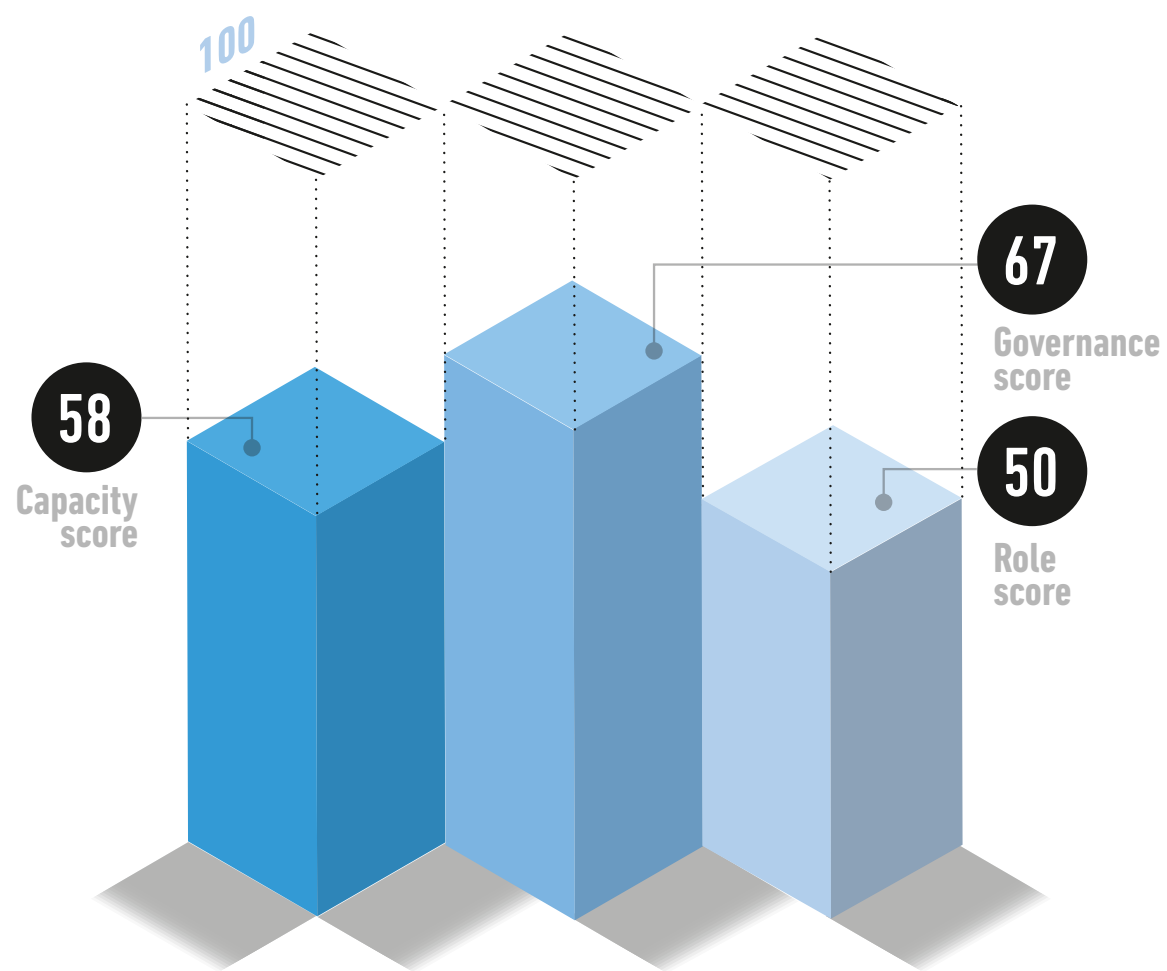
ELECTORAL MANAGEMENT BODY



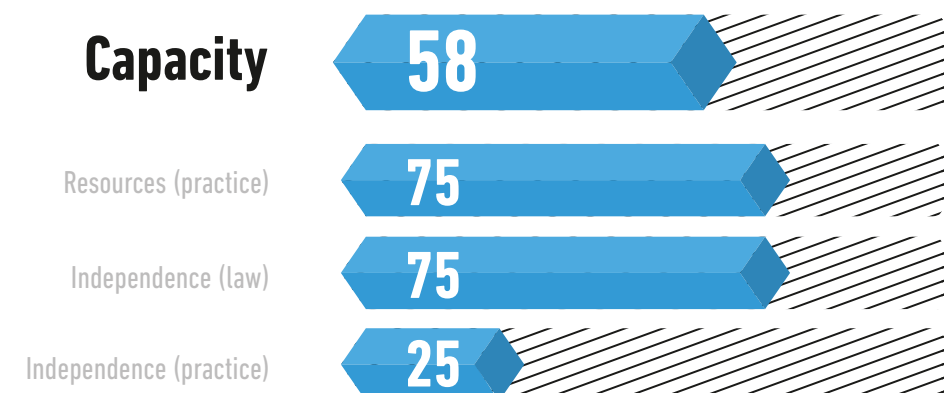
SUMMARY

This pillar analyses the Central Election Commission (CEC), including the CEC Secretariat and the Office for Registration, Certification and Financial Control of Political Entities (the Office).

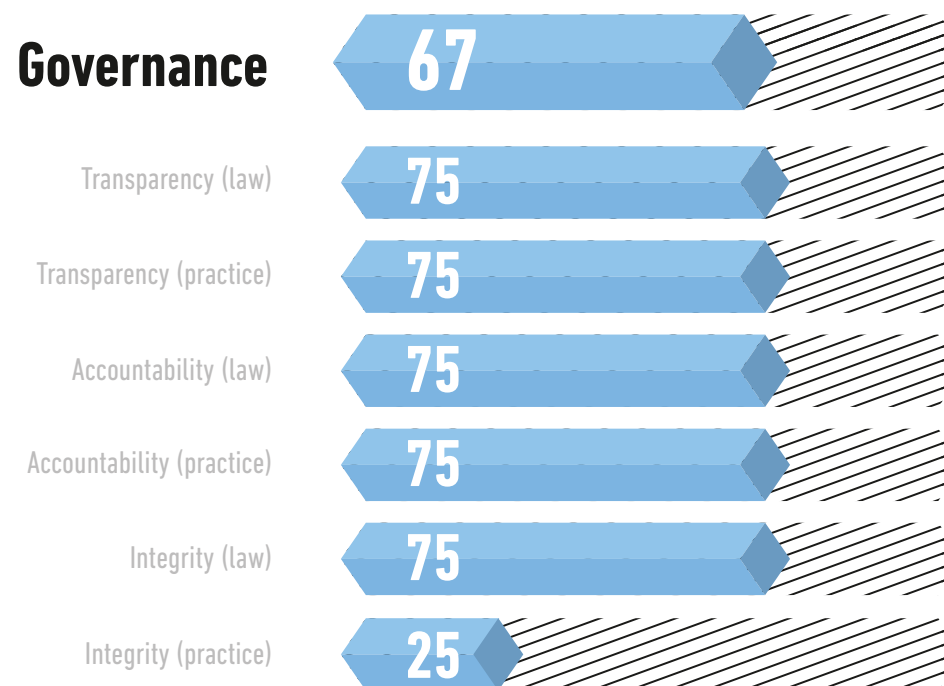
58/100 Overall pillar score



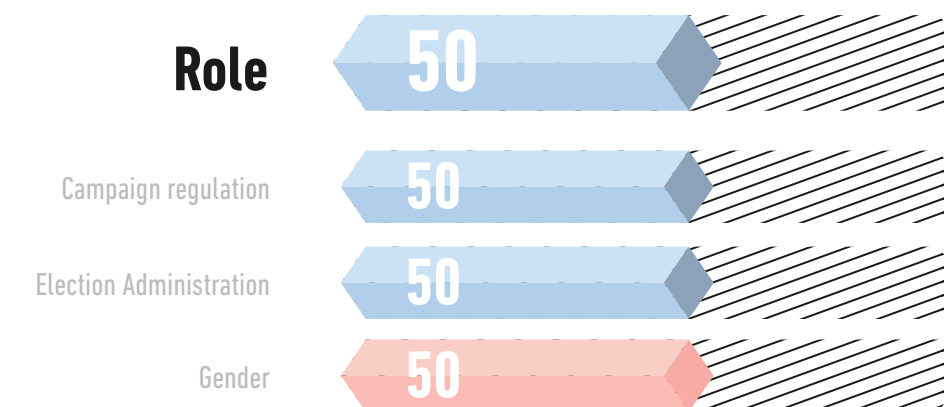
Capacity



Governance



Role





The CEC is responsible for the organisation and implementation of elections,¹ assisted by the CEC Secretariat.² The Office is responsible for updating and maintaining the register of political parties, certification of political entities and their candidates, limiting expenses during the campaign, monitoring and controlling the finances of political entities.³

The Central Election Commission has made limited progress since the National Integrity System (NIS) evaluations in 2011 and 2015. The CEC has continued to improve the level of transparency in its work and decision-making. The CEC is positively assessed for its regular organisation and administration of elections, especially within short timeframes. Holding elections under the full and practical jurisdiction of the CEC in the four northern municipalities of the country without the support of the OSCE is another positive development for election management bodies. Nevertheless, the electoral processes are still characterised by recurring problems, such as the high rate of assisted voting, difficulties in finding a name on the voter list, invalid ballots, issues relating to the counting process and those regarding out-of-country voting.

After over a decade, the Assembly has concluded the electoral reform process by adopting a new law on elections, which, apart from technical improvements, has undermined the electoral integrity regarding candidates' legal eligibility by allowing the candidacy of all individuals, except for ones who are sentenced with one or more years of effective imprisonment. There is also a rising politicisation of CEC members and staff which negatively affects the independence of the CEC and leads to a gap in the functioning of accountability and integrity mechanisms.



Capacity

 **INDICATOR 7.1.1
RESOURCES (PRACTICE)**

75/100



The financial resources of the CEC are overall sufficient to fulfil its role. However, regarding human resources, some CEC staff have a level of insufficiency in terms of proficient legal drafting skills and financial expertise. In terms of technical resources, the CEC is lacking proper office space to conduct its everyday work as well as a centralised file server.

According to the Law on General Elections, the CEC annually receives an appropriation of the Kosovo Consolidated Budget.⁴ In non-election years, the overall budget of the CEC is around €6 million. The allocated fraction of this budget for the Secretariat and the Office has been slightly increasing with a total budget in 2022 of €1.7 million. Also, the budget allocated for elections during election years increased from €8.1 million in 2017 to €13.9 million in 2021.⁵ This is likely related to an increase in the average cost per voter from €3.3 in 2013 to €4.1 in 2021.⁶ According to the chair of the CEC, the budget has been sufficient, since no election operations have failed due to a lack of budget.⁷

In terms of human resources, the CEC has 11 members and the Secretariat had a stable number of 86 to 93 employees, mostly with unlimited work contracts,⁸ between 2017-2023.⁹ This number includes an overall number of ten staff of the Office, seven of which will be recruited during 2023-24, as foreseen by the law.¹⁰ However, until 2022, the Office only had three staff members who, according to its former Director, lack the necessary financial expertise to

fulfil its new role to carry out financial controls (see 7.3.1).¹¹ In addition, according to anonymous sources within the CEC, some of the Secretariat staff lack legal writing skills.¹²

With previous legislation, the CEC members are required to have at least five years of work experience and a university degree in law, social sciences, election administration or statistics.¹³ The new law does not foresee any such requirements. In terms of non-permanent staff, the CEC lacks clearly defined job profiles that reflect the real needs of the Secretariat, which has led to political recruitments (see 7.1.3). International organisations and other donors, especially the OSCE, provide capacity-building training for the CEC staff.¹⁴

According to the CEO of the Secretariat, the CEC lacks necessary office space, and is subsequently forced to operate at up to four different facilities during elections, making communication and coordination between the various departments more difficult.¹⁵ Currently, the Secretariat does not have a centralised "file server", with all election-related documents saved and published on ad-hoc basis. There are plans to archive every document and material of the CEC from 2009 onwards,¹⁶ however it is not clear when the file server will be up and running.





**INDICATOR 7.1.2
INDEPENDENCE (LAW)**

75/100



While the Constitution guarantees the independence of the CEC,¹⁷ the appointment of its members according to the proposals of the political parties in parliament has led to the politicisation of the institution.

The previous legislation contained deficiencies pertaining to the dismissal of CEC's chairperson and members, marked by the incorporation of vague references to undermining CEC's integrity.¹⁸ Following the recent legislative amendments, while the law has delineated criteria for integrity violations, it has compromised the independence of the CEC by mandating that dismissals in such instances necessitate the approval of two-thirds of its members.¹⁹

Amongst the 11 members of the CEC, the President appoints the Chairperson from the ranks of judges and the other ten based on the proposals of the parliamentary groups represented in the Assembly of Kosovo. Parliamentary groups, regardless of the percentage in the Assembly, get one member.²⁰ The mandate of the Chairperson of the CEC is limited to seven years, with the possibility of re-election (limited to consecutive two mandates).²¹

Internally, the independence of the CEC is ensured through a legal separation of powers and function between the elected members of the CEC as a decision-making body and the administrative staff of the Secretariat as an implementer of decisions.²² The CEO heads the Secretariat and legally reports directly to the CEC.²³ The Director of the Office is directly accountable to the Chairman of the CEC.²⁴

Overall, the former law on civil service,²⁵ the current law on public officials,²⁶ and the internal regulations of the CEC²⁷

ensure that the recruitment of Secretariat and Office staff is based on meritocracy and non-discrimination. However, in 2020, the administrative instruction in relation to the recruitment process of the CEO was changed in terms of the composition of the recruitment panel (from five it was increased to all 11 CEC members).²⁸ This alteration exerted a direct political influence on the selection of the new CEO of the Secretariat of the CEC. The Independent Oversight Board for the Civil Service of Kosovo initially nullified the entire process.²⁹ Nevertheless, the Basic Court of Pristina suspended the execution of this decision pending the final resolution of the case.³⁰ Meanwhile, other staff at the Secretariat are recruited by an ad-hoc commission.³¹

The CEC Secretariat and Office staff is protected against unreasonable dismissal.³² Under the new electoral law, the dismissal criteria for members and the Chairperson of the CEC have been clarified to include actions such as holding another public position in Kosovo or elsewhere, occupying a decision-making role in political entities, disrupting CEC functions, and disclosing confidential information. However, the law introduces a potential for political influence, as the termination of a CEC chair or member's mandate requires a written proposal adopted by two-thirds of CEC members, allowing them to block termination even in the event of a violation. This contrasts with the previous legislation, which lacked a clear definition of dismissible behaviour,³³ granting the President excessive discretion in unjustified dismissal decisions. (For an illustrative case, refer to 7.1.3.)



**INDICATOR 7.1.3
INDEPENDENCE (PRACTICE)**

25/100



In practice, the independence of the CEC is limited by the partisanship of its members and secretariat staff, pushing and defending positions of the parties that nominated or hired them and politicised dismissal of CEC members.

Even though there have been no reported cases of involvement of CEC members in partisan activities or statements, the 2021 Election Observation Report by the "Democracy in Action" (DiA) network concludes that the CEC has internally become increasingly politicised.³⁴ For example, in 2021 there were harsh discussions on issues such as the certification of political entities³⁵ and their candidates and out-of-country voting, with political parties trying to push forward the certification of candidates, contrary to the law requirements and intense clashes.³⁶ According to an anonymous source from an international organisation interviewed for this report, there is mistrust between the members of the CEC and the Secretariat staff. This comes mainly because some of the staff working at the CEC is considered that was hired based on their political affiliation, during the period when Kosovo was characterised of state-capture and employment based on party affiliation. As a result of this mistrust, CEC members get involved in Secretariat matters, such as deciding on the validity of applications from out-of-country voting, appointment of members in the polling stations, or registration and certification of political parties.³⁷

An anonymous Secretariat staff member criticised that CEC members conduct the performance evaluation of managerial staff³⁸ based on an inadequate template that does not require detail information and assessment on the performance.³⁹ The anonymous source also claims that

in the context of interference by CEC members, the many Secretariat management positions are filled by promoting current employees rather than recruiting new staff, applying the merit-based recruitment system.⁴⁰

In 2021 the President Vjosa Osmani dismissed the CEC Chairperson, Valdete Daka, four years before the end of her legal mandate, and a day before the announcement of the elections. The official reasoning included the violation of personal data and errors within the voter lists. However, civil society and opposition parties criticised that these failures were "exclusively attributed to the CEC chairperson, despite the fact that the CEC chairperson is only one of the eleven voting members"⁴¹ and saw it as politically motivated.⁴²





Governance

INDICATOR 7.2.1 TRANSPARENCY (LAW)

75/100



There are relatively comprehensive provisions in place, which allow the public to obtain information on the organisation and functioning of the CEC on decisions that concern them and how these decisions were made. However, legal loopholes not requiring candidates to disclose their self-financing lead to a gap in the relevant information the Electoral Management Body (EMB) is required to provide to the public.

All acts of the CEC, regulations, electoral rules, decisions, instructions, conclusions and recommendations must be published on the website within 48 hours of approval.⁴³ CEC meetings must also be open to the public, except for specific cases when discussing personnel matters. Specific provisions regulate the publication of election results.⁴⁴ The Secretariat is obliged to publish the exact locations of all voting centres⁴⁵ and information on voting procedures, political entities and their candidates.

Election observers can monitor without hindrance and receive information on all matters before, during and after the elections.⁴⁶ On Election Day, observers are guaranteed unimpeded access to the voting process.

With a 2022 amendment of the legislation on political financing, the Office within CEC is now required to publish the annual financial statements by June 30th of the following year, the audit report within 15 days after receiving it and the financial report on the electoral campaign of political

entities within 45 days after the elections are held.⁴⁷ However, due to gaps in the law in relation to candidate financing and self-financing (see 7.3.1 and 11.2.1), the EMB is not required – or better said able – to disclose information on candidate financing to the public.

INDICATOR 7.2.2 TRANSPARENCY (PRACTICE)

75/100



The public can find much relevant information on the organisation, functioning and data on elections via the CEC webpage. However, the CEC sometimes did not keep the required deadlines for publishing decisions, confirmation of election results and financial statements of political entities. Transparency is also not extended to the local EMBs. Also, the annual reports 2017-2020 are not available on the website.

The 2022 report of the European Union Election Observation Mission assessed the work of the CEC as “mostly transparent”.⁴⁸ The CEC publishes all its core documents,⁴⁹ contact numbers for various sectors and departments⁵⁰ and a calendar with key dates⁵¹ (registration dates, party registration, Election Day) on its website.⁵² However, often not within the required 48 hours after approval. The website also does not list all the decisions.⁵³

The CEC publishes the locations of the polling stations on time (40 days prior to Election Day) on an online platform.⁵⁴ Since 2017, the CEC has published election results on its website in open, machine-readable data format (xls).⁵⁵ Since 2013, the CEC collects the preliminary results through



the online platform called the K-Vote system and publishes them. However, long periods of certification of the results (for example, in 2019, two months after the election) undermine the credibility of election results.⁵⁶ Since 2017, CEC has developed a platform for free reporting of election violations by citizens.⁵⁷

The annual activity reports (between 2017-2020)⁵⁸ and the financial reports of the CEC are not available on its website; according to the CEC this is due to some website problems. The audit reports are published only on the NAO website.⁵⁹

The CEC publishes financial statements and audit reports of political entities on its website, however, never within the required deadline (June 30 of the following year), due to ongoing delays in auditing. The former Law on Political Financing stated that financial statements should be published together with audit reports. The CEC interpreted this to mean that they cannot published unaudited reports. The 2022 amendment of the law changed this, and reports are being published within the legal deadlines.

The CEC follows the law on access to information. In 2021, the CEC received and approved ten requests for access to public documents.⁶⁰

CEC meetings are usually open to the public, although, during early elections, most sessions are on an ad-hoc basis.⁶¹ There are regular media conferences during elections, with up to four being held on the Election Day.⁶²

Local EMBs are not sufficiently transparent because their decision-making records are not public. None of the EMBs has a functional webpage or any other means by which they can publish relevant information.

INDICATOR 7.2.3 ACCOUNTABILITY (LAW)

75/100



A number of laws exist to ensure that, the CEC has to report and be answerable for its actions. However, the deadline for the Elections Complaints and Appeals Panel (ECAP) to decide on a complaint is too short to ensure the proper handling of complaints.

Annually in April, the CEC must submit an annual report including activities and recommendations that the CEC deems as necessary to be addressed by the Assembly. However, the law does not specify the level of details that the report has to include. It just states that the annual report has to include information about activities.⁶³ In addition, the CEC must submit an annual financial report for the previous year to the Ministry of Finance no later than January 31. The CEC must also prepare a full report on its election expenses, which the National Audit Office controls.⁶⁴ Annual and financial reports constitute a public document, therefore, according to the Law on Access to Public Documents, the CEC must publish all information within 15 days of them being accessible.⁶⁵

Political parties have the right to complain during and outside the electoral process at two levels: the Elections Complaints and Appeals Panel (ECAP) and the Supreme Court, which are obliged to handle complaints within a few days. The Basic Court only has powers in challenging the correctness of the electoral lists. The ECAP is an independent body in charge of deciding on complaints and appeals related to election administration.⁶⁶

Any person has the right to appeal to the ECAP when their rights in relation to the election process have been violated.⁶⁷ The time for deciding on complaints submitted to the ECAP is 96 hours (which marks an increase compared to





72 hours as it was in previous legislation).⁶⁸ However, this timeframe is too short for the ECAP to assess all cases properly, especially during elections when complaints increase drastically.⁶⁹ The ECAP has serious gaps in terms of human resources, since even during election years, it operates with only ten officials.

The ECAP's decisions that affect fundamental rights or provide for a fine higher than €5,000 may be appealed to the Supreme Court within 48 hours (according to previous legislation it was 24 hours). The Supreme Court has five days (according to previous legislation it was 72 hours) to decide on the case.⁷⁰

INDICATOR 7.2.4 ACCOUNTABILITY (PRACTICE)



While members of the EMB have to report and be answerable for certain actions of theirs, there were delays in the approval of the annual report 2020, with claims of inaccuracies. While the ECAP demonstrates efficient handling of complaints, concerns linger around delayed approval and limited scrutiny of the CEC's annual reports by the Assembly and limited online document accessibility.

In 2022, the annual work reports were reviewed and approved without delays in the Assembly by the Parliamentary Committee for Legislation, and the Parliamentary Committee for Budget. However, in 2021, the adoption of CEC's annual report for 2020 was delayed, because the two committees recommended not to approve the annual report and voting in the Assembly had failed.⁷¹ The MPs from the ruling party, who led the relevant parliamentary commissions, contended that the CEC's 2020 report fails to demonstrate a commitment to addressing systemic elec-



tion issues in Kosovo. They argued that the report does not adequately identify areas in need of improvement, including inaccuracies in the voter list, address deficiencies, incorrect voter allocation across polling stations, challenges in overseas voting, multiple recounts, inaccuracies in completing voting forms and numerous invalid ballots. In contrast, opposition parties interpreted the disapproval of the report as an attempt to justify the removal of the former head of the CEC, Valdete Daka. The CEC has made progress in the evaluation by the NAO, reducing the number of auditors' recommendations from about 20 in 2016 to only two in the 2022 report.⁷²

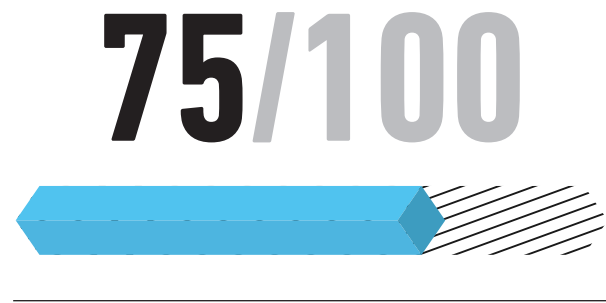
All parties involved in elections widely use the right to appeal. According to the 2021 report of the EU Election Observation Missions, the ECAP has a very positive performance in handling complaints in optimal periods of time and with a high level of professionalism,⁷³ despite not having enough staff.⁷⁴ In 2021, the ECAP examined 1,920 cases. Most of these were complaints from political entities. ECAP decisions were appealed to the Supreme Court in 70 cases, only six of which were approved. Also, the ECAP has sent 48 cases to the State Prosecutor's Office due to suspicion of criminal offences.⁷⁵

The ECAP also imposed hefty fines on political entities, with over €250,000 in fines only for breaking the electoral silence.⁷⁶ To date, the imposition of sanctions has consistently occurred, as non-payment of ECAP fines has the potential consequence of denying certification for political entities or their candidates to participate in elections, though such a denial has not happened thus far.

The CEC organises regular meetings with political parties to discuss issues within their scope of work, especially before election processes.⁷⁷



INDICATOR 7.2.5 INTEGRITY (LAW)



There are relatively comprehensive provisions in place to ensure the integrity of Secretariat staff.⁷⁸ However, there is no Code of Conduct for CEC members.

CEC members must take an oath that they will perform their duties in an honest, loyal, impartial, professional and responsible manner.⁷⁹ However, there is no specific code of conduct for members.

The CEC Rules of Procedure specifies that members are not allowed to be part of decision-making regarding matters in which they or their family members have interests that may call into question the member's ability to act impartially.⁸⁰ Concerning the prevention of conflicts of interest, the Secretariat's staff code prohibits employees from letting their private interests conflict with their position. Additionally, employees are not permitted to undertake other private or public responsibilities that may conflict with their position and commitment.⁸¹ CEC members and Secretariat staff are not allowed to request or accept gifts or favours, for themselves or their family members, except for protocol and occasional gifts,⁸² which are related to their official duties and may influence their performance.⁸³ The former Law on Civil Service and current Law on Public Officials regulate the integrity of the Secretariat's employees, by supporting political non-partisanship.⁸⁴ There are no explicit provisions that prohibit the Secretariat staff from being part of political parties or participating in their gatherings, although this was foreseen by previous legislation. None of the codes include commitment to the provision of quality service to voters, or an explicit commitment to maintain the integrity of electoral processes.

Members can be dismissed if they violate the integrity of the CEC, among other reasons. Previous legislation had no definition of what kind of behaviour and actions this includes,⁸⁵ whereas the new electoral law outlines dismissal criteria for CEC members, including holding other public positions, decision-making roles in political entities, disrupting CEC functions and disclosing confidential information. If Secretariat staff violate the provisions of the codes, disciplinary measures are foreseen and they can only be dismissed if this violation constitutes a criminal offence.⁸⁶

As senior public officials, the Chairperson and members of the CEC are subject to the declaration of assets and income.⁸⁷





**INDICATOR 7.2.6
INTEGRITY (PRACTICE)**

25/100



In practice, the approach to ensuring the integrity of CEC members is very piecemeal. A lack of disciplinary measures, politicised dismissals and the need for the Agency for the Prevention of Corruption to step in to point out conflicts of interest all point towards insufficient integrity mechanisms.

All Secretariat staff must sign⁸⁸ the Code of Conduct for Civil Servants,⁸⁹ and the Code of Conduct for the Staff of the Secretariat.⁹⁰

However, despite Secretariat staff signing the Code of Conduct for Secretariat staff⁹¹ and complaints and disciplinary commissions within the Secretariat, the Code of Conduct does not seem to be effective, because there have been no cases of imposing disciplinary measures against staff.⁹² Even in a case where a disciplinary measure was imposed on the members of a recruiting commission for the position of a Senior Officer for the Voters' List, due to procedural wrongdoings by the members of the committee,⁹³ the same decision was abolished a month later, without providing an explanation for the decision.⁹⁴

The only case where the integrity mechanism seemed effective was in November 2020, when the President Vjosa Osmani terminated the mandate of CEC member Nenad Rikalo because he had been appointed to a high public position (as Deputy Head of the so-called Office for Kosovo) in the government of Serbia.⁹⁵ In another dismissal case of the former CEC Chairperson, Valdete Daka, for alleged integrity violations,⁹⁶ civil society have criticised the President's reasoning as politically motivated (see 7.1.3). Another failure of the CEC integrity mechanism is the 2022 case, when the CEC Chairperson, Kreshnik Radoniqi, wanted to enter the

race for the Head of the Court of Appeal. Only after the Agency for the Prevention of Corruption pointed out the conflict of interest did the Chairperson withdraw from the race.⁹⁷

According to observations by KDI, no CEC members has been seen to participate in public rallies, although they have constantly expressed and defended the party's interests in the CEC meetings. Despite the extreme politicisation of discussions⁹⁸ (see 7.1.3), which can be perceived as a violation of the oath and the integrity of the CEC, no procedures have been initiated by the President of Kosovo.⁹⁹

All information about the property and income of members of the CEC is available to the public on the Agency for the Prevention of Corruption website.¹⁰⁰ So far, because members have provided their declarations in time, no procedure has been initiated against members for non-disclosure of assets.



Role

**INDICATOR 7.3.1
CAMPAIGN REGULATION**

50/100



While the CEC does seek to regulate candidate and political finance, its success is limited due to loopholes with regards to candidate financing and self-financing, and previous failures to publish the annual financial and campaign reports of political entities in time. Moreover, the fines for violations of political financing regulations are relatively low and lack sufficient deterrent effect.

With an amendment to the Law on Financing of Political Entities and the Law on General Elections in 2022 the CEC, or more specifically the Office, now has wide competencies, beyond registration, including regulating political party financing, conducting financial control, and publication of annual financial and campaign reports.¹⁰¹ The amendments also ensure increased functional independence and additional resources for the Office.¹⁰²

Recent legal changes have reinstated the responsibility for overseeing the finances of political entities to the CEC, specifically the Office. This includes the selection of auditors for annual financial reports and election campaigns through an open public call competition.¹⁰³ The Director of the Office will also have enhanced powers for ex-post control of audit reports.¹⁰⁴ According to the law, the entire audit process for annual financial reports must be concluded by June 15 of the following year,¹⁰⁵ providing ample time for the audit, including any procedures for challenging, supplementing or correcting auditor findings. On the other hand, according to previous legislation, by the 30th of June the following year, the CEC had to disclose centralised on the CEC websites the

annual financial and audit report and the financial election campaign report of political entities.¹⁰⁶ However, because of delays in auditing, this never happened in time (see 7.2.2).¹⁰⁷ In addition, the minimal number of fines¹⁰⁸ against political entities indicate inadequate control, which might be linked to a lack of financial expertise of the Office staff (see 7.1.1).¹⁰⁹

Political entities registered are required to submit their annual financial reports to the CEC by no later than March 1 of the subsequent year.¹¹⁰ These reports must include the balance sheet reflecting assets, liabilities and capital, the profit and loss statement detailing income and expenses, and a statement of payments exceeding €5,000 made to any individual. The reports also encompass invoices for all expenses, bank balances and a register of contributions exceeding €100 from a single source. The Office and political entities must publish these annual financial reports by July 30 of the following year.¹¹¹ In addition, each political entity participating in the election is legally required to submit a financial declaration for the election campaign within 30 days from the certification of the electoral results.¹¹² This report must be made public within 6 months after the election day.¹¹³

The new legal amendments represent a significant setback in terms of the potential financial penalties for violations. The law specifies a broad range of fines, ranging from a mere €4,000 to only €40,000.¹¹⁴ Fines are also foreseen to their other participants, including responsible party officials, mayoral candidates and independent candidates.¹¹⁵ Notably, the law does not establish fines or other sanctions for candidates of political entities, such as candidates for deputies or municipal assemblies, in cases of violations of legal provisions.

However, it is still difficult for the CEC to fulfil its role of financial control because of remaining loopholes in the Law on Financing Political Parties. According to this law, only political entities can receive donations and carry out all expenses through a single bank account.¹¹⁶ The law does not contain such provisions for candidates of political entities, which therefore allows unreported financing and self-financing of candidates,¹¹⁷ which is a prevalent phenomenon¹¹⁸ (see 11.2.1 and 11.2.2).

There is also no regulation on "Online" and third-party campaigning.¹¹⁹ In the last local elections of 2021 alone, EU Election Observation Mission found that third parties sponsored





close to one-third of campaign ads that circulated on Facebook and Instagram prior to the second round of elections.¹²⁰

The CEC has no responsibilities regarding media allocation, as this is regulated and controlled by the Independent Media Commission.¹²¹

INDICATOR 7.3.2 ELECTION ADMINISTRATION

50/100



The CEC is somewhat active in ensuring free and fair elections. However, its success is slightly limited due to ongoing problems with inaccurate voter lists, out-of-country voting, invalid ballots, delays in certifying results, problems with votes of the candidates and recounts of a significant number of polling stations.¹²²

Since 2015, the CEC had to administer around ten electoral processes (three national and at least six local/municipal elections). Since 2019, it organises elections in northern municipalities of the country without the help of the OSCE mission.¹²³

Political entities, non-governmental, governmental and inter-governmental organisations, as well as international organisations, have the right to accredit observers for all electoral operations. Observation by individuals is not foreseen. DiA is the leading coalition of civil society organisations to observe the elections. In the 2021 elections, for the first time in the history of Kosovo, the DiA applied the Parallel Vote Tabulation methodology for election observation.¹²⁴

Domestic and international observation missions still observed inaccurate voter lists in the last elections in 2021. Reasons for this are the inclusion of the deceased in the list, incorrect address lists and the fact that the voters' list has more voters than Kosovo has residents according to statis-

tics.¹²⁵ The accuracy of the voter list can be challenged and contested by citizens,¹²⁶ but short deadlines and bureaucratic procedures demotivate citizens from exercising this right.¹²⁷ The voters' list for each polling station cannot contain more than 750 voters.¹²⁸ The average number of voters per polling station is 761, with close to 1.9 million voters distributed in around 2,500 polling stations.¹²⁹ Despite the proportional distribution of voters in the polling stations, they still face difficulties finding their names at the polling stations, with two-thirds of the polling stations reporting cases of voters having problems finding their names on the voter list.¹³⁰

The CEC actively publishes on its website the locations of all Polling Centres 40 days before election day and the preliminary results a few hours after the end of the voting process (see 7.2.2). However, due to irregularities with the votes of the candidates, technical problems and decisions of judicial institutions, the CEC had to recount between 30 per cent and up to 90 per cent of polling stations (88.2 per cent in 2019 parliamentary elections).¹³¹ A notable change in Kosovo's electoral process is the introduction of Municipal Counting Centres, where only votes for political party candidates will be tallied. This decentralisation aims to address irregularities and challenges encountered in counting votes for candidates of political entities at the municipal level.

Out-of-country voting stands out as one of the most sensitive and vulnerable election processes in Kosovo, marked by irregularities and manipulations in nearly every electoral cycle. In 2017, manipulations¹³² led to the cancellation and repetition of mayoral elections in the Municipality of Istog.¹³³ Similarly, in 2021, misuse¹³⁴ resulted in the annulment and rerun of elections in the Municipality of Dragash.¹³⁵ Even in 2021, the administration of the out-of-country voting faced numerous challenges in administration of the process.¹³⁶ In this regard, one of the key changes in the new election law pertains to out-of-country voting and introduces three forms of voting: physical voting in diplomatic missions, voting in mailboxes outside Kosovo and voting in mailboxes within Kosovo. The law also outlines procedural deadlines and application methods for voters abroad, with voter registration facilitated through an electronic platform and the CEC's post-al box for verification.

The new election law introduces a substantial change, increasing the number of preferential votes for voters from five to ten. However, this adjustment seems to shift conflicts among voters rather than enhancing representation in the Assembly. Statistically, voters typically choose around four candidates, even though they have the option to select up to five. The 2007 elections, which allowed preferential voting for ten candidates, saw an average selection of only 5.3 candi-



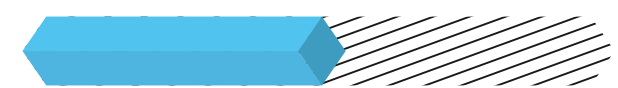
dates. Apart from reflecting voter preferences, the increase to ten preferential votes poses practical challenges for the administration of the electoral process. It not only extends counting times but also raises the potential for manipulation by commissioners, especially when voters mark fewer than the maximum ten candidates, providing opportunities for undue influence.

Among the recent legal changes, the most concerning aspect is the integrity of candidates. The proposed provision denies the right to run only to those sentenced to effective imprisonment of one year or more. This narrow interpretation allows candidates without such sentences to be included in electoral lists in upcoming elections.¹³⁷

The relatively high number of invalid ballots, ranging from 3 to 5 per cent in parliamentary elections, and up to 10 per cent in local elections, is a clear indicator that informing the public about the electoral process,¹³⁸ overseen by the Supervisory Council of Public Information within CEC,¹³⁹ has not been effective.

INDICATOR 7.3.3 GENDER

50/100



There are legal provisions in place to ensure women have the right to vote and run for election, and mandate the CEC to monitor and protect the political participation of women in terms of voting. However, often women's votes get controlled by male relatives through the misuse of assisted voting. In addition, quotas in the Law on General Elections are not aligned to the Law on Gender Equality and only one of the 11 CEC members is a woman, due to gaps in the law.

In practice, women can exercise their active and passive right to vote freely. The CEC monitors women's participation in elections by preparing reports on voter turnout that

include voter turnout based on gender.¹⁴⁰ However, election observation reports evidence the high usage of "assisted voting" in 98 per cent of polling stations, with up to 50 cases of assisted voting per polling station.¹⁴¹ And, since according to CEC reports, this phenomenon is spread especially in rural areas amongst women voters, who make up about 70 per cent of assisted voters,¹⁴² indicating a tendency of misuse of this form of voting by male relatives as a form of undermining women's voting in secrecy.

According to the Law on General Elections, double gender quotas are applied: legislative quotas of 30 per cent in the lists submitted by political entities and 30 per cent reserved seats in the Assembly of Kosovo. Legislative quotas are mandatory, and failure to fulfil this obligation during the application to participate in the elections may result in the rejection of certification.¹⁴³ However, these laws are not in line with Law on Gender Equality that foresees equal representation of women at 50 per cent.¹⁴⁴

There is no legislation mandating that a certain percentage of CEC members have to be women. Even though political parties signed a declaration committing to elect at least 40 per cent of women as CEC members,¹⁴⁵ only one of the current 11 members of the CEC is a woman. The CEC does not provide training on equal gender political participation. Even in polling stations, women's involvement is low, with close to 30 per cent as members and less than 20 per cent as chairpersons.¹⁴⁶





Interactions

The CEC is accountable to the Assembly of Kosovo and the National Audit Office. The ECAP and Supreme Court ensure the accountability of the CEC to voters and political entities (see 7.2.4). The CEC interacts with the government only regarding its annual budget and budgets for extraordinary elections (see 7.1.1).

The CEC interacts directly with political parties in relation to administering the electoral processes, with political parties nominating the polling station committees and municipal election commissions. Also, CEC interacts with political parties regarding financial reporting.

The CEC has signed many memoranda of cooperation with institutions, such as the Ministry of Education, the electricity supply company, various associations of marginalised groups, and international organisations. The most important memorandum of the CEC is the one signed in 2016 with the Kosovo Police, State Prosecutor’s Office, ECAP and KJC to prevent electoral violations and the handling of cases that conflict with the electoral law.¹⁴⁷ Because of this memorandum, which initiated a higher level of cooperation between these institutions, there has been a significant improvement in the administration of the electoral process.

Throughout the electoral process, and especially during the verification of candidates, the CEC receives databases of convicted persons, from the Kosovo Judicial and Prosecutorial Councils, the Kosovo Security Force, Kosovo Police, Kosovo Customs, the Kosovo Intelligence Agency, etc. They also inform the CEC if candidates who have applied for certification are part of their ranks.¹⁴⁸

In cases of initiation of investigative procedures for criminal cases against electoral staff by the Prosecutor’s Office, the CEC must cooperate in sharing of relevant information. However, there are gaps in terms of notifying the CEC about the verdicts of criminal cases by the Prosecution. As a result, the CEC does not follow up on such cases.¹⁴⁹

Pillar Recommendations

Although the Assembly of Kosovo has adopted a new law on general elections in 2023, many issues and topics were not addressed. Therefore, a comprehensive electoral reform must take place:

- The Assembly must complete the necessary electoral reform process, including:
 - Consider the substantive and political aspects of the electoral system, covering issues like electoral zones, the electoral threshold, the method of electing the President, party lists, the 50-50 per cent gender quota and CEC composition.
 - Raise the standards for the legal eligibility of candidates: To ensure integrity in candidacies, individuals convicted by a final decision for serious criminal offences as defined in Article 22 of the Code of Criminal Procedure of Kosovo should be denied candidacy, irrespective of the type and severity of the punishment. The restriction on running for office due to a criminal offence from should be increased from three to four years, aligning it with the duration of the mandate.
 - Limit preferential voting to only three candidates: Restricting preferential voting to three candidates, with consideration for counting the vote for the political subject as a vote for the list holder, could enhance fairness in the competition between candidates.
 - Introduce the “zebra” model of equal representation (50-50) of women in political entities’ lists of candidates.
 - Change the composition of the CEC members by increasing the number of judges nominated by Kosovo Judicial Council in order to create a balance with representatives of political entities.
- Amend the Law on General Elections to align with the Law on Gender Equality to mandate that the lists of commissioners proposed by the parties at the state and municipal level consist of a minimum 50 per cent of women, and that at least 30 per cent of presidents of polling stations are women.
- Develop and conduct capacity-building programmes with the support of the OSCE and other international or domestic organisations to strengthen the capacities of CEC Secretariat and Office staff, particularly on legal writing, financial skills and public presentation.
- Extend transparency and accountability provisions of the CEC to the local levels of election management bodies.
- Revise electoral and political financing laws to require candidates of political entities to report their financing and expenses. Additionally, fines should be foreseen for candidates of political entities in cases of violations.
- The audited financial reports of political entities to be presented in more user-friendly and easily understandable manner.
- The GoK to allocate a separate budgetary code for the newly established Office on Political Party Financing, and allocate the required budget for the independent operation and functioning of the office.



ENDNOTES

- 1 Law No. 08/L-228 On General Elections in the Republic of Kosovo, Article 3, paragraph 1.12. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=77074>
- 2 Law on General Elections in the Republic of Kosovo, Article 65.
- 3 Law on General Elections in the Republic of Kosovo, Article 12.
- 4 Law on General Elections in the Republic of Kosovo, Article 59, paragraph 2; and Article 113, paragraphs 1, 2, and 3.
- 5 2022 – 5.9 Mio EUR; Secretariat budget: 1.7 million – Accessible at: Law on Budget Appropriations for the Budget of the Republic of Kosovo for Year 2022. Pg. 76-77. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=51763>. For more, see the 2017-2021 state budgets: 2021 – €14.0 million; Secretariat budget: €1.7 million – Accessible at: https://kuvendikosoves.org/Uploads/Data/Documents/Ligjnr07L-041_JcrHewkrVb.pdf
2020 – €6.2 million; Secretariat budget: €1.5 million – Accessible at: https://kuvendikosoves.org/Uploads/Data/Documents/Ligjnr07L-001_tWxRxfzGn.pdf
2019 – €6.0 million; Secretariat budget: €1.6 million – Accessible at: https://kuvendikosoves.org/Uploads/Data/Documents/Ligjnr06L-133_TUvScadcyv.pdf
2018 – €5.6 million; Secretariat budget: €1.3 million – Accessible at: https://kuvendikosoves.org/Uploads/Data/Documents/Ligjnr06L-020perBuxhetineRepublikeseKosovespervitin2018_6KsBu2BSbU.pdf
2017 – €16.6 million; Secretariat budget: €1.5 million – Accessible at: https://kuvendikosoves.org/Uploads/Data/Documents/Ligjperndrysheligitperbuxhetin2017_vrmrAavkXe.pdf [accessed on March 18, 2022]
- 6 CEC Report on Expenditures for Local Elections (2021), page 28. Accessible at: https://kqz-ks.org/wp-content/uploads/2022/03/Vendimet-10-2022_al.pdf
- 7 Interview with Kreshnik Radoniqi, Chairperson of the Central Election Commission, March 2022.
- 8 The mandate of the high leadership positions within the CEC is limited, with the possibility of extension.
- 9 For more, see the 2017-2023 state budgets.
- 10 Law on General Elections in the Republic of Kosovo, Article 12, paragraph 1.5.
- 11 Interview with Nexhmedin Hyseni, former Director of the Office for Political Party Registration and Certification (OPPRC) at the CEC, March 2022.
- 12 Interview with an anonymous source within the CEC, March 2022.
- 13 Law No. 03/L-073 on General Elections in the Republic of Kosovo, Article 61.7. Accessible at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2544>
- 14 Interview with Burim Ahmetaj, Chief Executive Officer of the CEC Secretariat, April 2022.
- 15 Interview with Burim Ahmetaj, Chief Executive Officer of the CEC Secretariat, April 2022.
- 16 Interview with Mulë Desku, Head of the ECAP Secretariat, March 2022.
- 17 Constitution of the Republic of Kosovo, Article 139.
- 18 Law No. 03/L-073 on General Elections in the Republic of Kosovo, Article 61, paragraph 5.c. Accessible at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2544>
- 19 Law No. 08/L-228 on General Elections in the Republic of Kosovo, Article 61, paragraph 7.4, and paragraph 8.
- 20 Constitution of the Republic of Kosovo, Article 139. Note: The political composition of the CEC is generally reflected in other subordinate bodies, such as the Municipal Election Commissions, and the Polling Station Councils.
- 21 Law on General Elections in the Republic of Kosovo, Article 61, paragraphs 2 and 3.
- 22 Law on General Elections in the Republic of Kosovo, Article 65, paragraph 2.
- 23 Law on General Elections in the Republic of Kosovo, Article 66.
- 24 Law on General Elections in the Republic of Kosovo, Article 12, paragraph 2.
- 25 Law on the Civil Service of the Republic of Kosovo, Article 3. This law is not in force anymore, after the adoption of the new law on public officials.
- 26 Law No. 08/L-197 on Public Officials, Article 7, paragraph 1.
- 27 Regulation No. 03/2017 on the Procedures of Recruitment, Appointment and Probation Work of the Employees in the CEC. Article 3. Accessible at: https://kqz-ks.org/wp-content/uploads/2018/01/Rregullore-03_2017.pdf
- 28 Decision to amend the Administrative Instruction No. 01/2022 on the Appointment and Dismissal of KE/ZV/CECS, the Executive Director of OPRC and the Spokesperson. Article 1.
- 29 Koha.Net, “The appointment of the CEO of the SCEC is cancelled” (December, 2020). Available at: <https://www.koha.net/arberi/249386/anulohet-zgjedhja-e-kryeshefit-te-kqz-se/> [accessed on October 2, 2023]
- 30 Koha.Net, “The court with an “express” decision postpones the cancellation of the appointment of the CEO of the SCEC” (December, 2020). Available at: <https://www.koha.net/arberi/250134/gjykata-e-shtyn-ekzekutimin-e-vendimit-per-kryeshefin-e-kqz-se/> [accessed on October 2, 2023]
- 31 Regulation No. 03/2017 on the Procedures of Recruitment, Appointment and Probation Work of the Employees in the CEC. Article 7. Accessible at: https://kqz-ks.org/wp-content/uploads/2018/01/Rregullore-03_2017.pdf
- 32 The law foresees the dismissal of the staff only as a last measure, which is applied in case of serious violations or other criminal offences. See: Law on the Civil Service of the Republic of Kosovo, Articles 67 and 87. The dismissal of senior management at the Secretariat is done by a simple majority of the votes of the members of the CEC due to a committed criminal offence, poor performance, or a decision by disciplinary commissions. See: Administrative Instruction No. 01/2012 on the Appointment and Dismissal of KE/ZV/CECS, the Executive Director of OPRC and the Spokesperson, Article 8.
- 33 Law No. 03/L-073 on General Elections in the Republic of Kosovo, Article 61.5 Accessible at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2544>
- 34 “Democracy in Action”, Election Observation Report – Early Elections for the Assembly of Kosovo 2021, (Pristina: DiA, 2021), page 16.
- 35 During the 2021 parliamentary elections, political entities tried to influence the work of the CEC through their members, attempting to certify various candidates who did not actually meet the legal criteria for candidacy. Due to the pressures after the decision not to certify the candidates who had problems with the law, there were increased police near the CEC. See: KosovaPress news agency, October 2020, <https://kosovapress.com/forca-te-shtuara-te-policise-ne-kqz/> [accessed on March 25, 2022]





36 EkonomiaOnline news agency, October 2020, <https://ekonomiaonline.com/politike/nderpritet-mbledhja-e-kqz-se-zihen-elshani-dhe-kurtshih/> [accessed on March 23, 2022]

37 Interview with an anonymous source, May 2022.

38 The Chief Executive Officer, the Deputy Chief, the Director of the ORPPC and the Spokesperson of the CEC.

39 Interview with an anonymous source within the CEC Secretariat, March 2022.

40 Interview with an anonymous source, May 2022.

41 Koha portal, June 2021, <https://www.koha.net/arberi/275645/shoqeria-civile-kundershton-shkarkimin-dakes/> [accessed on March 23, 2022]

42 Kallxo portal, June 2021, <https://kallxo.com/lajm/shkarkimi-i-dakes-opozita-e-konsideron-tendence-per-qeverisje-autoritare/> [accessed on March 23, 2022] The dismissal of Valdete Daka, the Chairperson of the CEC, was widely viewed as a political move, stemming from the belief that the grounds cited for her dismissal were unfounded and stemmed from the President's misinterpretation of the situations. This event was preceded by an unprecedented incident during the 2021 parliamentary election process in Kosovo. Acting President Vjosa Osmani Sadriu, who was also a candidate in the election, held a press conference where she openly threatened actions against CEC members and the Chairperson concerning candidate certification issues. This included the non-certification of certain candidates, notably Albin Kurti, the leader of Vetëvendosje, while then-acting President, was running in the same list.

43 Rules of Procedure of the Central Election Commission, Article 17, paragraph 3.

44 Law on General Elections in the Republic of Kosovo, Article 106, paragraph 4.

45 Law on General Elections in the Republic of Kosovo, Article 83, paragraph 1.

46 Law on General Elections in the Republic of Kosovo, Article 56, paragraph 1.

47 Law No. 08/L-122 On Amending and Supplementing the Law No. 03/L-174 on Financing the Political Parties, amended and supplemented by the Law No. 04/L-058 and Law No. 04/L-122 and the Law No. 03/L-073 on General Elections in the Republic of Kosovo, amended and supplemented by The Law No. 03/L-256, Article 19, paragraph 16. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=62600>

48 EUEOM, Kosovo* 2021 Final Report – Municipal Elections, (Pristina: EUEOM, 2022), page 9.

49 For more, see the Legislation section on the CEC website: <https://kqz-ks.org/an/> [accessed on November 23, 2023]

50 For more, see the contact section on the CEC website: <https://kqz-ks.org/an/kontakti/> [accessed on April 6, 2022]

51 For instance, see the calendar of main electoral activities related to the election in the four northern municipalities that were held on April 23, 2023. Accessible at: <https://kqz-ks.org/keto-jane-afatet-e-aktiviteteve-per-organizimin-e-zgjedhjeve-te-23-prillit-per-kryetar-te-kater-komunave-dhe-per-anetare-te-dy-kuvendeve-komunale/>

52 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2021, (Pristina: DiA, 2021), page 8. Accessible at: <https://kdi-kosova.org/wp-content/uploads/2021/04/01-Raporti-Perfundimtar-i-Vezhgimit-te-Zgjedhjeve-ENG-03.pdf>

53 For more, see the Decisions' section on the CEC website: <https://kqz-ks.org/an/cec-decisions-2023/> [accessed on November 23, 2023]

54 CEC, Online Platform for Changing the Polling Station
For more, see: <https://eomp.kqz-ks.org/VChangeRequests/> [accessed on April 5, 2022] Note: the platform is only operational during elections

55 For more, see the following links: <https://kqz-ks.org/an/zgjedhjet-e-pergjiitshme/>; <https://kqz-ks.org/an/zgjedhjet-per-kuvende-komunale/> [accessed on April 5, 2022]

56 This was mainly due to court decisions on recounting, technical irregularities and delays in arrival of out-of-country ballots. See: "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2019, (Pristina: DiA, 2019), pages 4, 23, and 40. Accessible at: http://demokracianeveprim.org/wp-content/uploads/2019/12/DnV_ELECTION-OBSERVATION-REPORT-EN.pdf

57 For more, see the platform: <https://kqzkosova.usahidi.io/> [accessed on April 6, 2022]

58 For more, see the CEC website in the category of annual reports: <https://kqz-ks.org/raporte-per-kuvendin/> [accessed on April 15, 2022]

59 For more, see the NAO website and respective CEC's audit reports. Accessible at: <https://zka-rks.org/?s=komisioni+qendror+i+zgjedhjeve&search-type=publications>

60 Annual Report of the CEC regarding Requests for Access to Public Documents.

61 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2017, (Pristina: DiA, 2017), page 13. Accessible at: <https://kqz-ks.org/wp-content/uploads/2018/04/132-dnv-raporti-perfundimtar-zgjedhjet-parlamentare-2017-alb.pdf>

62 For more, see the CEC website, notification on the CEC conferences plan for 2021 general elections day: <https://kqz-ks.org/an/15986/> [accessed on April 8, 2022]

63 Law on General Elections in the Republic of Kosovo, Article 63, paragraph 10.

64 Law on General Elections in the Republic of Kosovo, Article 113, paragraph 7.
In addition, according to Article 23 of the Law on National Audit Office, the NAO publishes final audit reports of the institutions, a day after submitting them to the institutions. For more, see the law: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12517>
While, according to secondary legislation, the webpages of the institutions must include annual reports, including those financial. For more, see the administrative instruction on the websites of public institutions. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11007>

65 Law on Access to Public Documents, Article 6.

66 Law on General Elections in the Republic of Kosovo, Article 115, paragraph 1.

67 Law on General Elections in the Republic of Kosovo, Article 119.

68 Law on General Elections in the Republic of Kosovo, Article 89, paragraph 3; Article 106, paragraph 3; and Article 119, paragraph 1.

69 Interview with Mulë Desku, Head of the ECAP Secretariat, March 2022.

70 Law on General Elections in the Republic of Kosovo, Article 118, paragraph 4.

71 Kallxo.com portal, December 2021, <https://kallxo.com/lajm/mungesa-e-kuorumit-deshton-votimi-i-raportit-vjetor-te-kqz-se-per-vitin-2020/> [accessed on April 14, 2022]

72 National Audit Office, Audit Report, NAO Audit for the Annual Financial Statements of the Central Election Commission for 2022, (Pristina, NAO, 2023), page 6.

73 EUEOM, Kosovo* 2021 Final Report – Municipal Elections, (Pristina: EUEOM, 2022), page 36. "Democracy in Action", *Election Observation Report – Early Elections for the Assembly of Kosovo 2021*, (Pristina: DiA, 2021), page 9.

74 Interview with Mulë Desku, Head of the ECAP Secretariat, March 2022.



75 Annual Report of the Electoral Complaints and Appeals Panel (2021).

76 Annual Report of the Electoral Complaints and Appeals Panel (2021), pages 80 and 81.

77 For more, see the notification from the last meeting between CEC and political parties: <https://kqz-ks.org/kqz-mban-tryeze-me-perfaqesuesit-e-subjekteve-politike/> [accessed on April 15, 2022]

78 Law on General Elections in the Republic of Kosovo, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=77074>; Law on the Prevention of Conflict of Interest, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=16314>; Law on the Civil Service, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2679>; Law on Public Officials, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=81430>; and Code of Conduct for Civil Servants; Code of Conduct for the staff of the CEC Secretariat, https://kqz-ks.org/wp-content/uploads/2018/01/Rregullore-05_2017.pdf

79 Law on General Elections in the Republic of Kosovo, Article 62, paragraph 1.

80 Rules of Procedure of the Central Election Commission, Article 14.

81 Regulation No. 05/2017 – Code of Conduct for the Staff of the Secretariat of the Central Election Commission. Accessible at: https://kqz-ks.org/wp-content/uploads/2018/01/Rregullore-05_2017.pdf

82 According to the law, protocolary gifts include gifts given by a representative of another country or international organisation, during a visit or other occasion. Occasional gifts are the ones received in any special occasion that is not related to the exercise of the official function. For more, see Article 3 of the Law on Declaration, Origin and Control of Assets and Gifts.

83 Law No. 08/L-108 on Declaration, Origin and Control of Assets and Gifts, Article 22. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=61304>

84 Law No.03/L-149 on The Civil Service of The Republic of Kosovo, Article 6.1. Accessible at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2679>
Law No. 08/L-197 on Public Officials, Article 8, paragraph 1; and Article 25, paragraph 1. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=81430>

85 Law No. 03/L-073 on General Elections in the Republic of Kosovo, Article 61.5. Accessible at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2544>

86 Law on Public Officials, Articles 72, 73, and 74.

87 Law No. 08/L-108 on Declaration, Origin and Control of Assets and Gifts, Article 4, paragraphs 1.8 and 1.30, in relation to Article 6.

88 Interview with Burim Ahmetaj, Chief Executive Officer of the CEC Secretariat, March 2022. According to the law for civil service into force until September 2023, it was mandatory for all civil servants to sign a code of conduct. With the new law, it is stipulated that public officials (which as a notion includes CEC staff too) must act accordingly [among others] with the code of conduct, and that the government must approve such a code which is mandatory for all public officials.

89 Regulation (Grk) – No.04/2015 On Civil Servant Code Of Conduct Of The Republic Of Kosovo, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10764>

90 Regulation No. 05/2017 of the CEC on the Code of Conduct for the Staff of the Secretariat of the Central Election Commission, Articles 4, 9 and 11. Accessible at: https://kqz-ks.org/wp-content/uploads/2018/01/Rregullore-05_2017.pdf

91 Interview with Burim Ahmetaj, Chief Executive Officer of the CEC Secretariat, March 2022.

92 Interview with Burim Ahmetaj, Chief Executive Officer of the CEC Secretariat, March 2022.

93 Decision No. 252/2022 of the CEO of the Secretariat.

94 Decision to repeal the decision no. 252/A/20222.

95 Kallxo.com portal, November 2021, <https://kallxo.com/lajm/pas-punesimit-ne-qeverine-e-serbise-osmani-e-shkarkon-rikallon-nga-kqz-dokumenti/> [accessed on April 19, 2022]

96 Reporteri portal, June 2021, <https://reporteri.net/lajme/ky-eshte-vendimi-i-plote-i-presidentes-per-shkarkimin-e-valdete-dakes/> [accessed on April 19, 2022]

97 "Betimi për Drejtësi", April 2022, <https://betimiperdrejtesi.com/nje-kandidat-terhiqet-nga-gara-per-kryetar-te-apelit-per-pese-te-tjere-kqj-perfundon-intervistat/> [accessed on April 18, 2022]

98 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2021, (Pristina: DiA, 2021), page 16.

99 Interview with an anonymous source, March 2022.

100 For more, see the asset declaration section on the Agency for the Prevention of Corruption website: https://akk-ks.org/deklarimi_i_pasur-is/1664/2019/1664 [accessed on April 18, 2022]

101 Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Amended and Supplemented by Law No. 04/L-058, Article 11.6. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2705>

102 Law No. 08/L-228 on General Elections, Article 12, paragraph 1.3. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=77074>

103 Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Amended and Supplemented by Law No. 04/L-058, Article 11 (19), paragraph 10. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2705>

104 Law on General Elections in the Republic of Kosovo, Article 12, paragraph 1.9.

105 Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Amended and Supplemented by Law No. 04/L-058, Article 11 (19). Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2705>

106 Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Amended and Supplemented by Law No. 04/L-058, Article 6.1 and Article 8.5. Accessible at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=8866>

107 Law on amending and supplementing Law on Financing of Political Entities (2013), Article 11 (19), paragraphs 9 and 10.

108 According to data provided by the Office, during 2021, when two pairs of elections were organised, the Office imposed only eight fines, all in the amount of €1,000, for breaches regarding delayed submission of annual financial statements. None of the fines were imposed on parliamentary political entities. On the other hand, according to a KDI's report on campaign expenditures for general elections of 2019, political entities had spend almost twice more than they reported later in the annual reports. Moreover, according to this report, one political party's (LDK) expenditures exceeded the spending cap set by the CEC, by assessing only public activities cost.

109 Interview with Albert Krasniqi, Democracy Plus, March 2022.

110 Law No. 03/L-174 on Finances of Political Parties, Article 15. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2705>

111 Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Amended and Supplemented by Law No. 04/L-058, Article 8 (15). Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2705>

112 Law on General Elections in the Republic of Kosovo, Article 41.





113 Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Amended and Supplemented by Law No. 04/L-058, Article 8 (15), paragraph 5.2. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2705>

114 Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Amended and Supplemented by Law No. 04/L-058, Article 21, paragraph 6. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2705>

115 Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Amended and Supplemented by Law No. 04/L-058, Article 21, paragraphs 8, 9, 10, and 11. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2705>

116 Law No. 04/L-212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Amended and Supplemented by Law No. 04/L-058, Article 4.3.

117 EUEOM, Kosovo* 2021 Final Report – Municipal Elections, (Pristina: EUEOM, 2022), page 20.

118 EUEOM, Kosovo* 2021 Final Report – Municipal Elections, (Pristina: EUEOM, 2022), page 20.

119 "Democracy in Action", Election Observation Report – The Campaign of the Local Elections 2021 (Pristina: DiA, 2021), pg. 14.

120 EUEOM, Kosovo* 2021 Final Report – Municipal Elections, (Pristina: EUEOM, 2022), page 21.

121 Law on General Elections, Article 47.

122 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2021, (Pristina: DiA, 2021), page 7.

123 "Democracy in Action", Election Observation Report – Extraordinary Elections for Mayors of the Municipalities of North Mitrovica, Zubin Potok, Leposaviq and Zvečan (Pristina: DiA, 2019), page 11.

124 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2021, (Pristina: DiA, 2021), page 10.

125 Portal KOHA, May 2017, <https://www.koha.net/arberi/18989/me-shume-votues-se-banore-ne-kosove/> [accessed on April 26, 2022]

126 Law on General Elections in the Republic of Kosovo, Article 9.

127 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2021, (Pristina: DiA, 2021), page 23.

128 Law on General Elections in the Republic of Kosovo, Article 82, paragraph 1.

129 EUEOM, Kosovo* 2021 Final Report – Municipal Elections, (Pristina: EUEOM, 2022), page 8.

130 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2021, (Pristina: DiA, 2021), page 36.

131 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2019, (Pristina: DiA, 2019), page 4.

132 Klan Kosova, "The reasons that lead to the re-voting in Istog" (November, 2017). Available at: <https://www.youtube.com/watch?v=CyzpoWeUFxk> [accessed on November 23, 2023]

133 Ekonomia Online, "Municipality of Istog will have a re-voting" (December, 2017). Available at: https://ekonomiaonline.com/istogu-shkon-ne-rivotim/?page_similar_news=64 [accessed on November 23, 2023]

134 Telegrafi, "Supreme Court decides to repeat out-o- country voting for the Municipality of Dragash" (November, 2021). Available at: <https://telegrafi.com/supremja-vendos-qe-te-perseritet-votimi-nga-jashte-per-komunen-e-dragashit/> [accessed on November 23, 2023]

135 Insajderi, "Votes by mail annulled in Dragash" (November, 2021). Available at: <https://insajderi.org/anulohen-votat-me-poste-ne-dragash/> [accessed on November 23, 2023]

136 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2021, (Pristina: DiA, 2021), pages 8, 24, 25 and 26.

137 In this context, the concern lies in Kosovo's prevalent culture of impunity, particularly regarding corruption cases involving public officials. In 2021, among 108 corruption cases, only 22 resulted in effective imprisonment sentences. Fines were imposed in 31 cases, and conditional sentences in six. In 2022, out of 45 individuals convicted of corruption, only 15 received effective imprisonment sentences, with over 60 per cent receiving fines or probation. Additionally, only 19 individuals received supplementary sentences, exacerbating the situation. For more, see: BIRN&Internews Kosova, "Monitoring Report, 'Corruption Immunity'" (Pristina: June, 2022). Pgs. 26 and 27; Kosovo Law Institute, "Failure of the Justice in Fighting Corruption" (Pristina: April, 2023). Pgs. 18 and 19.

138 Voter information and education campaigns provide information on how to vote via video spots, GIFs, posters, flyers, and billboards, but remain insufficient to address the large number of invalid ballots or the obstacles citizens encounter in finding the correct polling stations. The information campaign materials are perceived to be uncreative and use similar templates. For more, see the CEC website on voter education and information component: <https://kqz-ks.org/an/informimi-publik/> [accessed on April 28, 2022]

139 CEC Secretariat, Public Information Strategy for Local Elections 2021 (Pristina: CEC, 2021), page 19. Accessible at: <https://kqz-ks.org/wp-content/uploads/2021/06/English-Strategjia-e-IP-se-per-Zgjedhjet-Lokale-2021.ueb.pdf>; The Supervisory Council of Public Information within CEC usually consists of five members, including members of the CEC and other members from the Secretariat.

140 CEC report on Elections Trends in the Republic of Kosovo 2009 – 2019, page 21. Accessible at: https://kqz-ks.org/wp-content/uploads/2021/02/Trendet-Zgjedhore-09-19_EN.pdf

141 "Democracy in Action", Election Observation Report – Early Elections for the Assembly of Kosovo 2021, (Pristina: DiA, 2021), page 36.

142 CEC analysis on voting by assistance for the early parliamentary elections of 2019. Accessible at: https://kqz-ks.org/wp-content/uploads/2020/09/Analiza-C3%AB-e-votave-me-asistenc%C3%AB-Zgjedhjet-e-parakohshme-p%C3%AB-Kuvendin-e-Republik%C3%AB-s%C3%AB-Kosov%C3%AB-2019_ALB.pdf

143 Law on General Elections in the Republic of Kosovo, Article 28, in relation to Article 27.

144 Law No. 05/L-020 on Gender Equality, Article 6.2.1 and 6.2.2. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923>

145 For more information, see the announcement from the non-governmental organisation D4D, as the initiator of the signing of this declaration: <https://d4d-ks.org/aktivitetet/nenshkrimi-i-deklarates-per-rrijten-e-perfshirjes-se-grave-ne-proceset-zgjedhore/> [accessed on April 29, 2022]

146 CEC report on Elections Trends in the Republic of Kosovo 2009 – 2019, page 21. Accessible at: https://kqz-ks.org/wp-content/uploads/2021/02/Trendet-Zgjedhore-09-19_EN.pdf

147 Memorandum of Cooperation between the CEC, KP, SP, ECAP and KJC, signed in 2016. Accessible at: <https://kqz-ks.org/wp-content/uploads/2018/02/6-Memorandum-me-PK-PSH-PZAP-KGJK.pdf> [accessed on May 3, 2022]

148 Law on General Elections, Article 30, paragraph 11.

149 Interview with Burim Ahmetaj, Chief Executive Officer of the CEC Secretariat, April 2022.



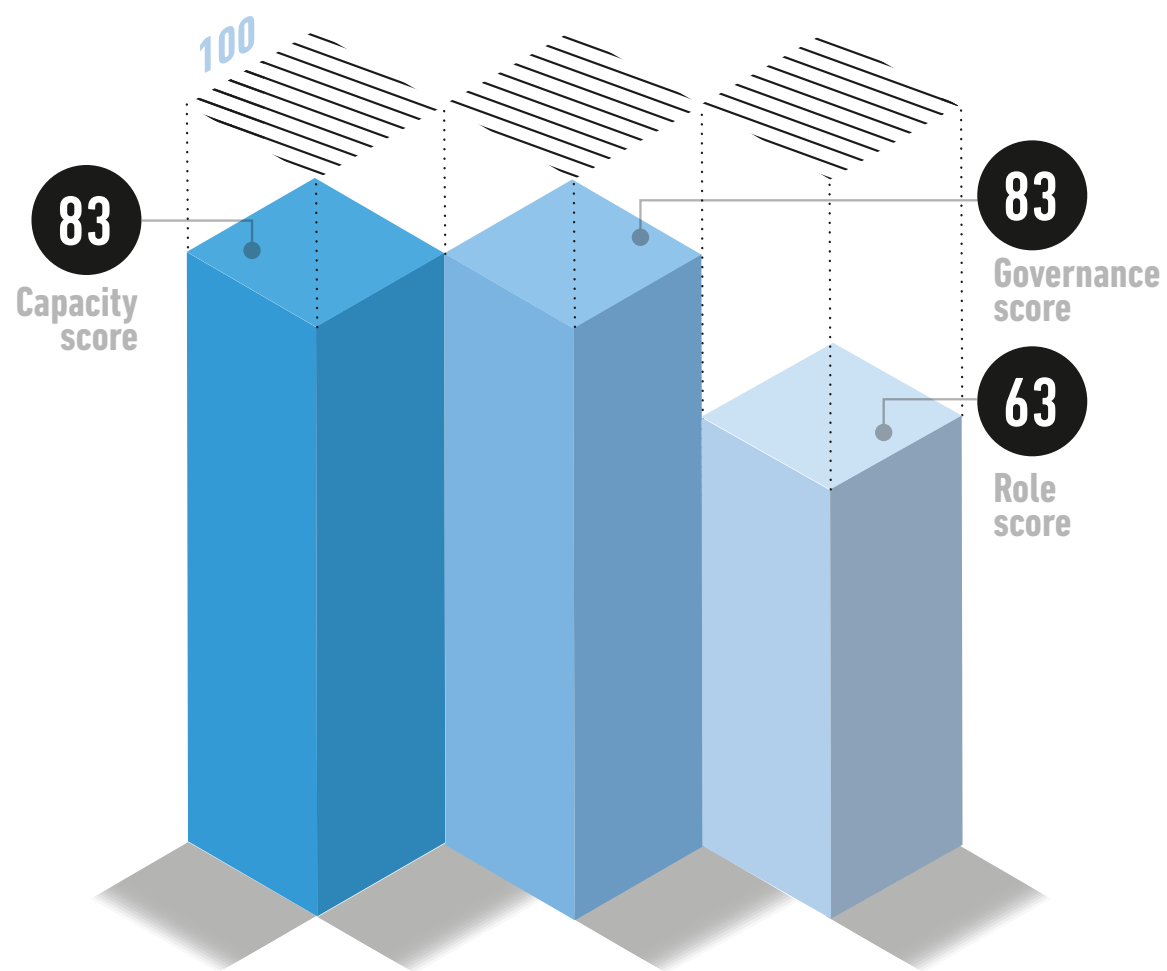
OMBUDSPERSON

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SUMMARY

The Ombudsperson Institution of Kosovo (OIK) is an independent institution¹ responsible for protecting the rights and freedoms of individuals from illegal actions or inactions of public authorities.²

76/100 Overall pillar score



Capacity

83

Resources (practice)

100

Independence (law)

75

Independence (practice)

75

Governance

83

Transparency (law)

100

Transparency (practice)

100

Accountability (law)

100

Accountability (practice)

75

Integrity Mechanisms (law)

75

Integrity Mechanisms (practice)

50

Gender

50

Role

63

Investigation

75

Promoting good practice

50



Included within the organisational structure of the Ombudsperson Institution is the Ombudsperson, the five deputies of the Ombudsperson – of which at least one must be from among the non-majority communities in Kosovo³ – as well as the institution’s civilian staff.⁴ OIK personnel include the office of the Ombudsperson, the General Secretary, the directors of the departments and the heads of the offices.

The authority and powers of the Ombudsperson extend to the entire territory of Kosovo.⁵ The headquarters of the Ombudsperson is in Pristina, while its services are also offered through regional offices, which are located in Ferizaj, Graçanica, Gjakova, Gjilan, South Mitrovica, North Mitrovica, Peja and Prizren.⁶

The Ombudsperson institution is considered to have sufficient financial and human resources. However, there is a need for more specialised staff to handle specific human rights issues effectively.


The Ombudsperson is active in handling complaints, but the non-implementation of its recommendations by responsible institutions remains a challenge. Although there are no specific policies and protocols adopted for the Ombudsperson’s complaints mechanism, the Ombudsperson Institution considers gender sensitivity and has special procedures for handling gender discrimination cases. Efforts to increase awareness of ethical standards and human rights issues are limited, reactive, and considered ineffective.

The ombudsperson is quite transparent and accountable and submits its annual and financial reports to the Assembly on time. Overall, the Ombudsperson institution is seen as one of the most trusted institutions in Kosovo. However, the Assembly’s handling of Ombudsperson reports is often delayed. There are comprehensive provisions to ensure the integrity of the Ombudsperson institution, including codes of ethics and declarations of assets, but the implementation of codes of conduct and regulations on integrity is considered reactive, and there is a lack of pro-active investigation and disciplinary procedures for potential violations.

The Ombudsperson institution has guaranteed independence from other institutions by the Constitution and law. However, the process of electing the Ombudsperson led to delays in appointing the Ombudsperson using it as political leverage.



Capacity

 **INDICATOR 8.1.1
RESOURCES (PRACTICE)**

100/100



The Ombudsperson institution has sufficient financial, human and infrastructural resources to fulfil its tasks and goals.

According to the Law on the Ombudsperson, this institution’s budget cannot be smaller than the previous year’s budget.⁷ Usually, the OIK budget requests are approved almost entirely by the Assembly, and respectively by the government.⁸ For 2023, the OIK has been allocated a budget of the amount of €1,296,704.⁹

In 2022, the OIK consisted of a total of 78 employed persons.¹⁰ The number of staff engaged has remained unchanged in recent years. According to a former Ombudsperson the number of staff is considered sufficient compared to the number of cases and complaints handled by the OIK.¹¹ For the salaries of these persons, a sufficient budget of approximately €1 million per year is allocated,¹² representing about 80 per cent of the annual budget for the salary category.¹³

Table 8.1: Budget allocation to the Ombudsperso

Year	Amount in €
2023	1,296,704
2022	1,282,766
2021	1,269,280
2020	1,373,815
2019	1,373,754
2018	1,373,167





Table 8.2: Number of employees in the Ombudsperson office

Year	Number of staff positions according to systemisation	Number of staff positions filled	% of unfulfilled positions
2022		78	
2021		78	
2020		78	
2019		81	
2018		78	

OIK staff are evaluated by non-governmental organisations as competent in the performance of their duties.¹⁴ They have gained increased experience by the daily handling of cases.¹⁵ However, the OIK lacks sufficient specialist staff capable of dealing with issues of specific natures of human rights, such as reproductive health, security issues and similar.¹⁶

The Ombudsperson is obliged to approve policies to build capacities and train staff at the OIK on tasks related to the scope and responsibilities of this institution.¹⁷ For this purpose, the approval and implementation of a training programme is foreseen in order to achieve the objectives of the work of the Ombudsperson.¹⁸ In addition to the general training organised by the OIK for staff in the field of human rights,¹⁹ staff have also participated in special training sessions developed by the Council of Europe and judges of the European Court of Human Rights.²⁰

INDICATOR 8.1.2 INDEPENDENCE (LAW)

75/100



The normative framework that ensures the independence of the Ombudsperson Institution is generally comprehensive. However, there is a legal loophole, since there is no cooling-off period for the Ombudsperson's prior political activity.

The Constitution guarantees the Ombudsperson independence from any other institution or power.²¹ According to the law, the Ombudsperson is guided by the principles of impartiality and independence,²² and has organisational, administrative, and financial independence.²³ The offices and materials²⁴ of the OIK enjoy immunity from any control by executive, administrative, judicial or legislative actions.²⁵

The Ombudsperson may not be a member of any political party, exercise political, state or professional private activity



or participate in the management of civil, economic or trade organisations.²⁶ However, these restrictions apply only after the moment of application for the position of the Ombudsperson, and not before.

The Ombudsperson is elected by the Assembly of Kosovo, with the majority of votes of all deputies. The mandate is five years, without the right to re-election.²⁷ The Parliamentary Human Rights Committee is responsible for the development of recruitment procedures.²⁸ The rules foresee up to three rounds of voting for the election of the Ombudsperson, in a maximum of two different sessions.²⁹

Salaries in the OIK are financed by the state budget.³⁰ Within the ranking of salary coefficients, the Ombudsperson has an equal coefficient with the leaders of other independent institutions, including the chairmen of CEC, the Independent Media Commission and the General Auditor and an approximate coefficient with deputies, ministers, judges and prosecutors.³¹

Personnel recruitment is carried out according to the Civil Service Law, but without interfering with the independence of the OIK.³² The recruitment procedure is developed according to the OIK Recruitment Plan, based on clear professional criteria.³³ The responsibilities of the Ombudsperson in relation to personnel are limited to the approval of policies, without the right to effective decision-making during recruitment.³⁴

The Ombudsperson and their deputies are protected from unreasonable or arbitrary dismissal.³⁵ The dismissal procedure can be initiated at the request of more than one-third of all members of the Assembly, while the dismissal can be implemented with the votes of two-thirds.³⁶ The Law on the Civil Service applies for the dismissal of OIK staff, according to which dismissal is the last disciplinary measure, in cases of poor performance, violation of codes of conduct, as well as violations of the law that have resulted in criminal offences.³⁷

All personnel of the Ombudsperson Institution enjoy immunity from criminal prosecution, civil lawsuits or dismissal for words given or written, for activities or decisions that are within the scope of the institution's responsibility.³⁸



INDICATOR 8.1.3 INDEPENDENCE (PRACTICE)

75/100



In practice, the Ombudsperson operates independently from the interventions of external actors. However, since the Assembly of Kosovo is responsible for appointing the Ombudsperson among the three candidates, there is a possibility of selecting the candidates preferred by the ruling party, as well as unreasonable delays.

In 2020, the election of the Ombudsperson failed in the absence of a quorum by the members of the Assembly.³⁹ Also, in 2021, the election of the deputies of the Ombudsperson failed in the absence of sufficient votes. So far, there has been no case of political interference in the activities of the Ombudsperson. Nor has any political interference or other interference of interest been reported in the recruitment of personnel to the OIK. Nonetheless, in 2020, as a result of legal loopholes (see 8.1.2), Naim Qelaj was elected Ombudsperson, although he had served as deputy minister from the ranks of the Alliance for the Future of Kosovo in the governing mandate 2017-2019.⁴⁰

However, after his appointment to the position of the Ombudsperson, and also in relation to previous mandates, no cases have been observed or reported, which include participation in activities or positions which may question the impartiality and the integrity of the Ombudsperson. So far, there has been no case of dismissal of the Ombudsperson before the end of the legal mandate. The OIK is not known for political or premature dismissals, even of management-level staff.⁴¹

There have been no reported cases when persons have accused the OIK of not respecting their right to privacy. In addition, there have been no repercussions (at least formally evidenced) on the persons who have reported cases to the OIK. Also according to the Deputy Ombudsperson, complaints can be submitted without any fear and the mechanisms for maintaining the confidentiality of all information and the security of the complainants are effectively implemented in practice.⁴²



Governance

INDICATOR 8.2.1 TRANSPARENCY (LAW)

100/100



There is a comprehensive and consolidated legal framework that enables the public to obtain information related to the work and decision-making of the Ombudsperson.

The Ombudsperson is obliged to publish information related to official activities, including announcements, opinions, recommendations, proposals and reports,⁴³ as well as statistical data collected about discrimination and equality issues.⁴⁴ According to the Law on Access to Public Documents, the Ombudsperson has a legal deadline of pro-actively publishing all information within 15 days of them being rendered accessible.⁴⁵ The public should be given access to data related to the work of the OIK through press releases or press conferences, as well as the publication of the time of the Ombudsperson meetings.⁴⁶

Citizens have the right of access to OIK documents in accordance with the Law on Access to Public Documents.⁴⁷

The OIK has to protect the confidentiality of all information they receive and handle, as well as to pay special attention to the safety of complainants, injured parties and witnesses.⁴⁸ The public cannot have access to information on the acceptance, examination and investigation of complaints, draft recommendations, draft decisions and any announcements made by OIK officials during the preparatory procedure and preliminary examination of requests.⁴⁹ The OIK has to be particularly careful when making public individual cases, especially those involving children. These

obligations apply even after the end of the mandate of the Ombudsperson.⁵⁰

The Ombudsperson, their deputies, the Chief of the Office of the Ombudsperson, the General Secretary, the directors of the departments, as well as the heads of the divisions, are obliged to declare their assets to the Agency for the Prevention of Corruption,⁵¹ every year from March 1 to 31.⁵²

The Ombudsperson is allowed to engage third parties for services related to the work of the OIK.⁵³ The Ombudsperson is expected to cooperate with social partners, as well as CSOs dealing with issues of equality and non-discrimination.⁵⁴ Cooperation with civil society organisations is done through the joint organisation of public hearings and the organisation of joint activities.⁵⁵

INDICATOR 8.2.2 TRANSPARENCY (PRACTICE)

100/100



The public can easily obtain all information related to the Institution of the Ombudsperson, including the organisation, operation and decision-making of the OIK regarding issues of public interest.

The OIK website is functional and easily accessible to the public. All data related to the OIK is available there, including annual reports since 2013,⁵⁶ case reports,⁵⁷ special reports,⁵⁸ *ex-officio* reports,⁵⁹ opinions,⁶⁰ recommendations,⁶¹ and a number of other documents.⁶² The annual reports contain detailed summary data on the number, percentage or description of investigated cases compared to the



overall submitted cases.⁶³ The report also contains detailed information on the handling of specific cases in the public interest.⁶⁴ The OIK reports and documents are always published as soon as they are approved.

During 2021, the OIK stated that it had published 26 reports on its website, while about 100 media releases had been issued.⁶⁵ During 2021, 15 requests for access to public documents were submitted to the OIK, to which an answer was provided.⁶⁶

The Ombudsperson, as well as other leading officials, declare their wealth to the Agency for the Prevention of Corruption. In 2022, all 18 persons provided by law, from the Ombudsperson Institution, had declared their assets.⁶⁷

Civil society and other experts are constantly involved in the work of the OIK, through roundtables, meetings, and joint focus groups.⁶⁸ In fact, in October 2021, the OIK established the Dialogue Forum with Civil Society to structure cooperation and the development of joint activities.⁶⁹

INDICATOR 8.2.3 ACCOUNTABILITY (LAW)

100/100



There are comprehensive provisions which ensure that the Ombudsperson must report and be accountable for their actions.

The Ombudsperson Institution must submit an annual and financial report directly to the Assembly of Kosovo, by March 31.⁷⁰ The annual report covers the work and activities of the OIK, as well as issues and recommendations for improvements regarding human rights violations by public authorities.⁷¹ In addition, the Ombudsperson must submit periodic reports or other reports as requested by

the Assembly.⁷² The reports of the Ombudsperson must be reviewed in a plenary session by the MPs during the spring session.⁷³ The Ombudsperson has legal responsibility for the publication of reports.⁷⁴

The Ombudsperson can make recommendations and proposes actions for public authorities,⁷⁵ which may include ministries, courts, etc. It can also refer specific human rights issues to the Constitutional Court.⁷⁶

Although the decisions of the Ombudsperson are final, they and the activity and work of the OIK cannot be subject to judicial review, due to the functional immunity of the institution's staff.⁷⁷

The Law on Protection of Whistleblowers⁷⁸ and the Regulation on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing provide concrete legal provisions that protect whistleblowers in the public sector, including the OIK.⁷⁹ The Ombudsperson is obliged to have an official responsible for whistleblowing.⁸⁰

INDICATOR 8.2.4 ACCOUNTABILITY (PRACTICE)

75/100



The provisions in force are relatively effective in ensuring accountability of the Ombudsperson for their actions in practice. However, the delays of the Assembly and the inadequate handling of the annual reports of independent institutions (see the Legislative Chapter for more) make the level of accountability of the Ombudsperson relatively superficial.

In 2020 and 2021, the Ombudsperson submitted its annual reports to the Assembly of Kosovo within the legal deadline.⁸¹ The reports contain detailed data on the state of re-





spect for human rights, children’s rights and equality before the law in the country, and the Ombudsperson’s view of this situation.⁸² The reports also present the activities, statistics and financing of the OIK.⁸³

However, the reports are generally not dealt with in a timely and substantive manner by the Assembly. The 2021 annual report, although submitted in March 2021, was only approved in January 2023.⁸⁴ The approval of the report was done without discussion by the members of the Assembly. On the other hand, the annual report of 2020 was approved only in October 2021.⁸⁵ During the revision at the session, the report in question was presented and discussed for about 20 minutes, by only four MPs.⁸⁶

The OIK has a designated person responsible to receive whistleblowing cases.⁸⁷ However, so far, no cases of whistleblowing have been reported,⁸⁸ which makes it impossible to assess the effectiveness of the whistleblowing policy itself.

INDICATOR 8.2.5 INTEGRITY MECHANISMS (LAW)

75/100



There are comprehensive provisions that ensure the integrity of the Ombudsperson Institution, However, this code is rather superficial outdated, having been adopted in 2011.⁸⁹

Integrity mechanisms are based on relevant laws for the prevention of conflict of interest,⁹⁰ declaration of gifts⁹¹ and OIK’s rules of procedure.⁹² OIK, accordingly with its Rules of Procedure, has a Code of Ethics, which, however, is outdated, having been adopted in 2011.⁹³

The Code of Ethics regulates in a general and superficial way the impartiality and independence of the staff, integrity, transparency, conflicts of interest, corruption, gifts and matters of representation of the institution. In relation to integrity, the Code foresees that the staff should not be influenced by political, social, religious or economic views, and should not perform actions that harm the image of the OIK.⁹⁴

The staff of the OIK are obliged to maintain the confidentiality of the information they possess, but without prejudice to the obligations arising from other laws for access to public information.⁹⁵ Employees are also obliged to declare and prevent cases of conflict of interest or potential conflict of interest, choosing conflicts in favour of the institution and not of private interests.⁹⁶ Requesting and accepting gifts or other benefits which may bring into question the independence and integrity of the institution is prohibited.⁹⁷

Similar rules are provided in cases of corruption, which are required to be reported immediately.⁹⁸ Employees of the Ombudsperson should not do favours for colleagues, complainants or other groups for financial and political favours or sexual or any other benefits.⁹⁹ Asset declaration is regulated only by other relevant laws.¹⁰⁰

INDICATOR 8.2.6 INTEGRITY MECHANISMS (PRACTICE)

50/100



The approach of the Ombudsperson Institution to the implementation of codes of conduct and other regulations on integrity is relatively inclusive, but reactive. There is also no training on integrity issues.¹⁰¹

The codes are evaluated as effective by the CSO representative and former Ombudsperson interviewed for this report.



However, this conclusion is largely based on the fact that there are no cases of violations of codes and other legal regulations that have been reported.¹⁰² According to a deputy Ombudsperson, there is a lack of pro-active investigation and initiation of disciplinary procedures for possible violations.¹⁰³ Also according to the former Ombudsperson, the OIK’s approach to dealing with cases where the integrity of the institution is potentially violated by staff members is mainly oriented towards resolving them in good faith with the staff member, except when there may potentially be elements of criminal offences.¹⁰⁴

The asset declaration reports of the Ombudsperson, the deputies, and other personnel who are obliged to declare their assets are published and accessible on the website of the Agency for the Prevention of Corruption.¹⁰⁵

in training that includes, among other topics, gender issues, organised mainly by international donors.¹¹¹ The staff responsible for receiving complaints are mainly women.¹¹²

The OIK disaggregates statistics and data related to complaints submitted to the Ombudsperson on a gender basis. The annual reports contain data on the gender of complainants and the gender of complainants in investigated complaints.¹¹³

INDICATOR 8.2.7 GENDER

50/100



Although there are no specific policies and protocols adopted, the Ombudsperson Institution acts by considering gender sensitivity. According to the Law on Gender Equality, the Ombudsperson is a gender equality institution that deals with cases related to gender discrimination.¹⁰⁶

The Ombudsperson is seen as one of the biggest promoters of the Law on Gender Equality.¹⁰⁷ According to the Rules and Procedure, the OIK implements special procedures for handling cases and complaints related to gender discrimination.¹⁰⁸ For this purpose, a special department was established specifically for protection against discrimination,¹⁰⁹ and one of the deputies of the Ombudsperson is responsible only for gender issues.¹¹⁰ The OIK develops and participates





Role

 **INDICATOR 8.3.1 INVESTIGATION**

75/100



The Ombudsman is generally active in reviewing and handling complaints submitted by citizens. However, the non-implementation of the recommendations by the responsible institutions remains a problem due to the non-binding nature of the decisions of the Ombudsman.

The procedures for submitting complaints are relatively simple. Complaints can be in written or verbal form.¹¹⁴ Complainants can submit their complaints to the central office or regional offices of the OIK, through mail, e-mail, fax, complaint boxes and even by phone calls.¹¹⁵ Finally, the Ombudsman has made it possible to submit complaints online through the institution's website.¹¹⁶

However, filing complaints is considered a bit difficult in cases of violation of the rights of non-majority communities, due to their education level and socio-economic status.¹¹⁷ These difficulties are manifested in the small number of complaints from these communities.¹¹⁸

Throughout 2021, the OIK has administered a total of 1,612 complaints involving about 2,500 people.¹¹⁹ Compared to the previous year (2020), an increase of approximately 200 cases was recorded.¹²⁰ The most frequent violations alleged in the complaints are related to the right to a fair and impartial trial, the right to legal remedies, as well as the right to work and practice a profession.¹²¹ However, almost two-thirds of complaints are categorised as inadmissible.¹²²


The Ombudsman has the power to conduct investigations on own initiative, relying on information received from any source, when there are grounds that human rights and freedoms have been violated.¹²³ Throughout 2021, the Ombudsman initiated 45 investigations, and reports were drafted for up to ten cases.¹²⁴ The number of *ex-officio* investigated cases is generally the same throughout the years.¹²⁵

The Ombudsman has little influence on the improvement of legislation and the work of institutions. However, institutions and public authorities neglect the OIK recommendations. In 2021, the Ombudsman offered 157 recommendations, of which only 43 (27 per cent) were implemented.¹²⁶ Over 70 per cent of the Ombudsman's recommendations are pending implementation and are repeated over the years.¹²⁷ The executive has the lowest level of implementation of recommendations from the OIK.¹²⁸

The Ombudsman is among the most trusted institutions in the country. According to the Balkan Barometer for 2022, 68 per cent of citizens trust the Ombudsman.¹²⁹ This statistic constitutes the highest level of confidence in the OIK since 2017. At the same time, this is the highest level of trust for an Ombudsman institution compared to all other countries in the region.

The OIK conducts information campaigns from time to time, mainly at the local level.¹³⁰ During 2021, it developed the campaign "*Get to know the Ombudsman Institution*" with young people from 14 municipalities.¹³¹



 **INDICATOR 8.3.2 PROMOTING GOOD PRACTICE**

50/100



Although the Ombudsman aims to increase public and executive awareness of ethical standards, the efforts made are quite limited and reactive, and as such are seen as ineffective.

Every public institution and authority, as well as persons exercising public activity, are under the jurisdiction of the work of the Ombudsman.¹³² All institutions are obliged to respond to the Ombudsman's requests.¹³³ In practice, the Ombudsman usually consults with the parties involved in cases, especially on sensitive issues.¹³⁴

The OIK has a legal responsibility to raise awareness about human rights with the public through information and educational campaigns, as well as through the media, and to combat all forms of discrimination.¹³⁵ However, public campaigns or campaigns for civil servants are not typical of the work of the Ombudsman. They are infrequent, reactive and take place during the marking of certain dates.¹³⁶

The Ombudsman institution is active in publishing findings, recommendations, and reports on cases. The Ombudsman's website contains updated data on cases handled and recommendations provided by the Ombudsman.¹³⁷ The Ombudsman also uses the media and social networks to present findings on various cases. The last case was the announcement of the Ombudsman regarding the case of Dejan Pantic, arrested and held in the northern part of the country, on suspicion of committing serious criminal offences. According to the announcement, the Ombudsman had discussed with him online about his health condition, as he was unable to go to the relevant centre due to the tense situation and the placement of barricades.¹³⁸

The findings, opinions and recommendations provided in advance are continuously monitored by the Ombudsman.¹³⁹ The level of their implementation is presented in the annual reports¹⁴⁰ as well as in the report section of the institution's website.¹⁴¹





Interactions

Due to its legal mandate and scope, the Ombudsperson Institution interacts with almost every public institution in Kosovo. However, the main institutions with which the OIK has the most frequent interaction are the Assembly of Kosovo, the government of Kosovo and justice institutions.

The Ombudsperson not only interacts with the Assembly in relation to direct accountability and budget allocation, but also on legislative processes, assessing the compatibility of legal acts with human rights standards and the fulfillment of the state's positive obligations to regulate certain rights and freedoms.¹⁴²

On the other hand, the interaction of the Ombudsperson with the courts involves giving recommendations for the functioning of the judicial system and opinions in the capacity of friend of the court (*amicus curie*), or individual recommendations in cases where court cases are delayed.¹⁴³ The Ombudsperson also has the right to initiate cases for constitutional review in the Constitutional Court.¹⁴⁴ Even cooperation with CSOs and social partners is regulated by law.¹⁴⁵

Pillar Recommendations

- Amend the Law on Ombudsperson so that candidates must not have been part of political parties, the executive or in other political positions for a period of at least five years before the application to be elected as Ombudsperson in order to guarantee an even higher level of independence of the Ombudsperson
- Adopt a new Code of Ethics which clearly defines the subjects to which it applies; determines the types of information that must be confidential; prohibits commitments and contributions to political entities; defines whistle-blowing policies; and specifies the supervision of implementation and the imposition of disciplinary measures. The amendments should also foresee the obligation of the OIK to develop specific training for employees related to integrity issues.
- Develop special awareness campaigns related to the promotion of good practices and standards of ethical behaviour. Targeted information campaigns should be developed for non-majority communities regarding the possibilities and forms of reporting potential cases of human rights violations.
- Focus, in cooperation with the Assembly of Kosovo, on finding ways to increase the level of implementation of the OIK's recommendations by public institutions. The conditionality of the allocation of funds for public institutions in relation to the implementation of the recommendations of the Ombudsperson should be taken into consideration.



ENDNOTES

- 1 Constitution of Kosovo, Chapter XII.
- 2 Constitution of Kosovo, Article 132, paragraph 1.
- 3 Constitution of Kosovo, Article 133, paragraph 2.
- 4 Law on Ombudsperson, Article 5.
- 5 Law on Ombudsperson, Article 16, paragraph 2
- 6 Regulation No. 03/2022 on the Internal Organisation and Systematisation of Job Positions in the Ombudsperson Institution, Article 5, paragraph 1, as well as Article 10, paragraph 1, point 7.
- 7 Law on Ombudsperson, Article 35, paragraph 2.
- 8 For the 2021 budget, the OIK budget request was €1,373,815, while the approved budget is €1,269,278.99, or about €50,000 less.
- 9 Law on Budget Appropriations for the Budget of the Republic of Kosovo for the year 2023, pages 77 and 85.
- 10 Law on Budget Appropriations for the Budget of the Republic of Kosovo for 2022, page 77.
- 11 Interview with one of the former Ombudsperson in Kosovo, August 2022.
- 12 Law on Budget Appropriations for the Budget of the Republic of Kosovo for 2022, page 77.
- 13 2021 Annual Report of the Ombudsperson Institution, page 207.
- 14 Interview with Blendë Pira, Programme Coordinator at Youth Initiative for Human Rights Kosovo, August 2022.
- 15 Interview with one of the former Ombudsperson in Kosovo, August 2022.
- 16 Interview with Majlinda Sinani-Lulaj, Deputy Ombudsperson, August 2022.
- 17 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 15, paragraph 1, point 5.
- 18 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 29.
- 19 Interview with Majlinda Sinani-Lulaj, Deputy Ombudsperson, August 2022.
- 20 Interview with one of the former Ombudsperson in Kosovo, August 2022.
- 21 Constitution of Kosovo, Article 132, paragraph 2.
- 22 Law on Ombudsperson, Article 3, paragraph 1.
- 23 Law on Ombudsperson, Article 3, paragraph 3.
- 24 Archives, cases, communications, properties, funds and other assets.
- 25 Law on Ombudsperson, Article 12, paragraph 2.
- 26 Constitution of Kosovo, Article 134, paragraph 3.
- 27 Constitution of Kosovo, Article 134, paragraph 1.
- 28 Law on Ombudsperson, Article 8.
- 29 According to the Law on Ombudsperson, Article 9, it is determined that in the first round all candidates proposed by the parliamentary committee are voted. The second round takes place between the two candidates with the most votes, if none of them previously secured the necessary votes. If, even after the second round, none of the candidates has achieved the necessary majority of votes, the third round takes place, where the candidate with the largest number of votes in the preliminary round is the only candidate.
- 30 Law on Ombudsperson, Article 34.
- 31 Law on Salaries in the Public Sector (2023), page 20.
- 32 Law on Ombudsperson, Article 20, paragraph 2.
- 33 Regulation No. 02/2017 on the Procedure of Recruitment, Appointment and Probationary Work of Employees in the Ombudsperson Institution, Article 5.
- 34 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 20, paragraph 3.
- 35 According to the Law on Ombudsperson, Article 13, the Ombudsperson can be dismissed due to physical and mental incapacity; sentencing by final decision for the commission of criminal offences punishable by six or more months of imprisonment; exercise of political functions; as well as participation at the leading levels of civil, economic and commercial organisations.
- 36 Constitution of Kosovo, Article 134, paragraph 5.
- 37 Law on the Civil Service of the Republic of Kosovo, Article 87.
- 38 Law on Ombudsperson, Article 12.
- 39 EkonomiaOnline news agency, May 2021, <https://ekonomionline.com/desh-ton-vojja-e-avokatit-te-popullit-ne-mungese-te-koorunit/> [accessed on August 16, 2022]
- 40 Indeksonline portal, September 2020, <https://indeksonline.net/kush-esh-te-naim-qelaj-i-sapo-lofur-avokat-i-popullit/> [accessed on August 16, 2022]
- 41 Interview with one of the former Ombudsperson in Kosovo, August 2022.
- 42 Interview with Majlinda Sinani-Lulaj, Deputy Ombudsperson, August 2022.
- 43 Law on Ombudsperson, Article 18, paragraph 1, point 6.
- 44 Regulation No. 01/2016 on Internal Organisation and Systematisation of Job Positions in the Ombudsperson Institution, Article 11.
- 45 Law on Access to Public Documents, Article 6.





46 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 27, paragraph 1.

47 Law on Access to Public Documents, Article 10.

48 Law on Ombudsperson, Article 18, paragraph 1, point 11.

49 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 27, paragraph 3.

50 Law on Ombudsperson, Article 18, paragraph 1.12.

51 Before the recent legal changes, the name of this agency was "Anti-Corruption Agency".

52 Law on Declaration, Origin and Control of Assets and Gifts, Article 4 paragraph 1.12.

53 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 22.

54 Law on Ombudsperson, Article 16, paragraph 16.

55 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 82, paragraph 2.

56 For more, see the OIK's website section on annual reports, at: <https://oik-rks.org/en/reports/annual-reports/>

57 For more, see the OIK's website section on case reports, at: <https://oik-rks.org/en/reports/case-reports/>

58 For more, see the OIK's website section on special reports, at: <https://oik-rks.org/en/reports/special-reports/>

59 For more, see the OIK's website section on ex-officio reports, at: <https://oik-rks.org/en/reports/ex-officio-reports/>

60 For more, see the OIK's website section on opinions, at: <https://oik-rks.org/en/reports/opinions/>

61 For more, see the OIK's website section on recommendations, at: <https://oik-rks.org/en/reports/letter-recommendations/>

62 For more, see the website of the Ombudsperson Institution. Accessible at: <https://oik-rks.org/> [accessed on August 19, 2022]

63 The annual reports contain statistics related to the total number of cases, the disaggregation of demographic data for the cases, the authorities to which the complaints were submitted, the type of decision-making for the cases and the level of implementation of IPA recommendations. For more, see as an example the annual report of the Ombudsperson for 2021. Accessible at: <https://oik-rks.org/2022/03/31/raporti-vjetor-2021/> [accessed on August 19, 2022]

64 For more, see chapter VI of the annual report of the Ombudsperson for 2021. Accessible at: <https://oik-rks.org/2022/03/31/raporti-vjetor-2021/> [accessed on August 19, 2022]

65 2021 Annual Report of the Ombudsperson Institution, page 192.

66 2021 Annual Report of the Ombudsperson Institution, page 192.

67 For more, see the section on the declaration of assets of the officials of the Ombudsperson Institution, on the website of the Agency for the Prevention of Corruption. Accessible at: https://akk-ks.org/deklarimi_i_pasuris/2033/Institucioni_i_Avokatit_t%C3%AB_Popullit/2033/ [accessed on August 19, 2022]

68 Interview with Blendë Pira, Programme Coordinator at Youth Initiative for Human Rights Kosovo, August 2022.

69 2021 Annual Report of the Ombudsperson Institution, pages 45 and 46.

70 Law on Ombudsperson, Article 29.

71 Ombudsperson Institution. 2014 Annual Report. No. 14. March 31, 2015, pg. 8.

72 Constitution of the Republic of Kosovo. Article 135, pg.52.

73 Law on Ombudsperson, Article 29, paragraph 3.

74 Law on Ombudsperson, Article 18, paragraph 1.6.

75 Constitution of the Republic of Kosovo, Article 135.

76 Constitution of the Republic of Kosovo, Article 135.

77 Law on Ombudsperson, Article 12.

78 Law on Protection of Whistleblowers, Article 9.

79 See Regulation on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing, April 2021.

80 Law on Protection of Whistleblowers, Article 17, paragraph 1.

81 The OIK annual report for 2021 was published on the institution's website on March 31, 2022. Accessible at: <https://oik-rks.org/2022/03/31/raporti-vjetor-2021/>

82 Annual Report 2021 of the Ombudsperson Institution, chapters II, III and IV.

83 Annual Report 2021 of the Ombudsperson Institution, chapters IX, X and XI.

84 For more, see the announcement of the Assembly of Kosovo for the session of January 18, 2023. Accessible at: <https://kuvendikosoves.org/shq/per-publikun/lajmi/vazhdimi-i-seances-plenare-31643/> [accessed on January 19, 2023]

85 Kallxo.com portal, October 2021, "The annual report of the Ombudsperson Institution for 2020 is approved". Accessible via: <https://kallxo.com/lajm/mirato-het-raporti-vjetor-i-institucionit-te-avokatit-te-popullit-per-vitin-2020/> [accessed on December 16, 2022]

86 Transcript of the plenary meeting of the Assembly of the Republic of Kosovo, held on October 19 and December 6, 2021, pages 83 to 91. Accessible via: https://kuvendikosoves.org/Uploads/Data/SessionFiles/2021_10_19_ts_Seanca_8EsjYPDzJf.pdf [accessed on December 16, 2022]

87 Interview with Majlinda Sinani-Lulaj, Deputy Ombudsperson, August 2022.

88 Interview with one of the former Ombudsperson in Kosovo, August 2022.

89 The Ombudsperson Institution Code of Ethics. Accessible at: <https://oik-rks.org/2018/08/20/kodi-i-etikes-se-jap-2011/> [accessed on December 16, 2022]

90 Law on Prevention of Conflict of Interest in the Discharge of a Public Function. Accessible via: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=16314>

91 Law on Declaration, Origin and Control of Assets and Gifts. Accessible via: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=61304>

92 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution. Accessible at: https://www.oik-rks.org/wp-content/uploads/2018/08/Rregullorja_IAP_02-2016_shqip.pdf

93 The Ombudsperson Institution Code of Ethics. Accessible via: <https://oik-rks.org/2018/08/20/kodi-i-etikes-se-jap-2011/> [accessed on December 16, 2022]

94 The Ombudsperson Institution Code of Ethics, Article 4.

95 The Ombudsperson Institution Code of Ethics, Article 5.

96 The Ombudsperson Institution Code of Ethics, Article 13.



97 The Ombudsperson Institution Code of Ethics, Article 15.

98 Ombudsperson Institution. The Ombudsperson Institution Code of Ethics. No. 01/2011, Articles 14 and 15.

99 Ombudsperson Institution. The Ombudsperson Institution Code of Ethics. No. 01/2011, Article 16.

100 Law on Declaration, Origin and Control of Assets and Gifts, Article 4, paragraphs 1.12 and 1.14, and Article 5, paragraph 2.

101 Interview with Majlinda Sinani-Lulaj, Deputy Ombudsperson, August 2022.

102 Interview with Blendë Pira, Programme Coordinator at Youth Initiative for Human Rights Kosovo, August 2022. Interview with one of the former Ombudsperson in Kosovo, August 2022.

103 Interview with Majlinda Sinani-Lulaj, Deputy Ombudsperson, August 2022.

104 Interview with one of the former Ombudsperson in Kosovo, August 2022.

105 For more, see the database of the Agency for the Prevention of Corruption, where asset declaration reports from the relevant staff of the Ombudsperson Institution are accessible. Accessible at: https://akk-ks.org/deklarimi_i_pasuris/2033/Institucioni_i_Avokatit_t%C3%AB_Popullit/2033/ [accessed on December 19, 2022]

106 Law on Gender Equality, Article 13.

107 Interview with Blendë Pira, Programme Coordinator at Youth Initiative for Human Rights Kosovo, August 2022.

108 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 69.

109 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 69, paragraph 3.

110 Interview with one of the former Ombudsperson in Kosovo, August 2022.

111 Interview with Majlinda Sinani-Lulaj, Deputy Ombudsperson, August 2022.

112 Interview with Blendë Pira, Programme Coordinator at Youth Initiative for Human Rights Kosovo, August 2022.

113 2021 Annual Report of the Ombudsperson Institution, Chapter XI, pages 211 and 213.

114 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 36.

115 Regulation No. 02/2016 on Rules of Procedure of the Ombudsperson Institution, Article 34, paragraph 2.

116 For more, see the website of the Ombudsperson Institution. Accessible at: <https://oik-rks.org/>

117 Interview with Blendë Pira, Programme Coordinator at Youth Initiative for Human Rights Kosovo, August 2022.

118 According to the OIK Annual Report for 2021, among the 1,612 complaints received, less than 10 per cent of them are from members of non-majority communities.

119 2021 Annual Report of the Ombudsperson Institution, Chapter XI, page 211.

120 2020 Annual Report of the Ombudsperson Institution, Chapter IX, page 160.

121 2021 Annual Report of the Ombudsperson Institution, Chapter XI, page 213.

122 2021 Annual Report of the Ombudsperson Institution, Chapter XI, page 213. Moreover, the main reasons for declaring the complaints as inadmissible are the finding that there is no violation but maladministration, the party is using legal remedies, and that other legal remedies have not been exhausted.

123 Law on Ombudsperson, Article 16, paragraphs 4, 6 and 7.

124 2021 Annual Report of the Ombudsperson Institution, Chapter XI, page 214.

125 According to the Annual Report of the Ombudsperson Institution for the year 2020, OIK had opened 43 cases for investigation by official duty.

126 2021 Annual Report of the Ombudsperson Institution, Chapter XI, pages 214, 215 and 216.

127 2021 Annual Report of the Ombudsperson Institution, Chapter XI, page 221.

128 According to the Annual Report of the Ombudsperson Institution for 2021, out of 100 recommendations addressed to the Government and ministries, only 21 of them have been implemented.

129 For more, see the Balkan Barometer database. Accessible at: <https://www.rcc.int/balkanbarometer/results/2/public> [accessed on December 16, 2022]

130 Interview with Blendë Pira, Programme Coordinator at Youth Initiative for Human Rights Kosovo, August 2022.

131 2021 Annual Report of the Ombudsperson Institution, Chapter IX, page 200.

132 Law on Ombudsperson, Article 1, paragraph 1.

133 Law on Ombudsperson, Article 25.

134 Interview with one of the former Ombudsperson in Kosovo, August 2022.

135 Law on Ombudsperson, Article 18, paragraph 1, point 4.

136 According to the Annual Report of the Ombudsperson Institution for the year 2021, OIK has been involved in campaigns related to the issues of media freedom, gender equality, environment, children's rights, persons with disabilities and workers. Usually, in the framework of the activities organised to mark the relevant days, OIK, through conferences or press releases, has asked the relevant institutions for commitment and concrete measures in addressing the relevant problems.

137 For more, see the reports section on the website of the Ombudsperson Institution. Accessible at: <https://oik-rks.org/raportet/> [accessed on January 23, 2023]

138 For more, see the post of the Ombudsperson Institution on the social network 'Facebook': https://www.facebook.com/permalink.php?story_fbid=pfbid-02VGDPo24bawQY6zqqr63H3FXmpWVqWK3Qedh6SdghJf3yvkRGru7XDtvjE3dbwHRl&id=100069494886197 [accessed on January 23, 2023]

139 Interview with Blendë Pira, Programme Coordinator at Youth Initiative for Human Rights Kosovo, August 2022.

140 2021 Annual Report of the Ombudsperson Institution.

141 For more, see the specific reports section on the website of the Ombudsperson Institution. Accessible at: <https://oik-rks.org/raportet/> [accessed on January 23, 2023]

142 2021 Annual Report of the Ombudsperson Institution, Chapter II, page 18.

143 Law on Ombudsperson, Article 16, paragraphs 8 and 9.

144 Law on Ombudsperson, Article 16, paragraph 10.

145 The Law on Ombudsperson, Article 16, paragraph 16, determines that the Ombudsperson cooperates with social partners and non-governmental organisations dealing with issues of equality and non-discrimination, as well as with international bodies similar to the Ombudsperson.



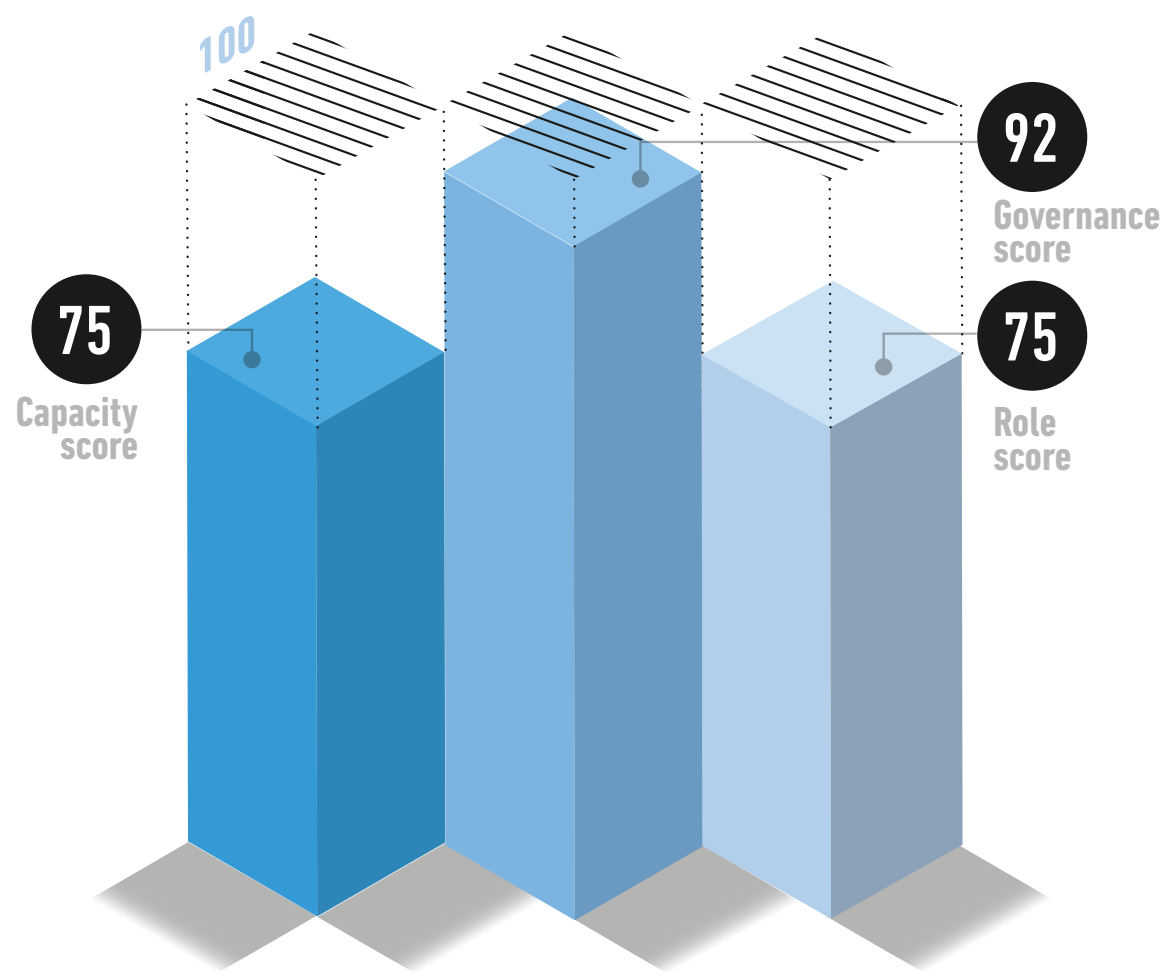
SUPREME AUDIT INSTITUTION



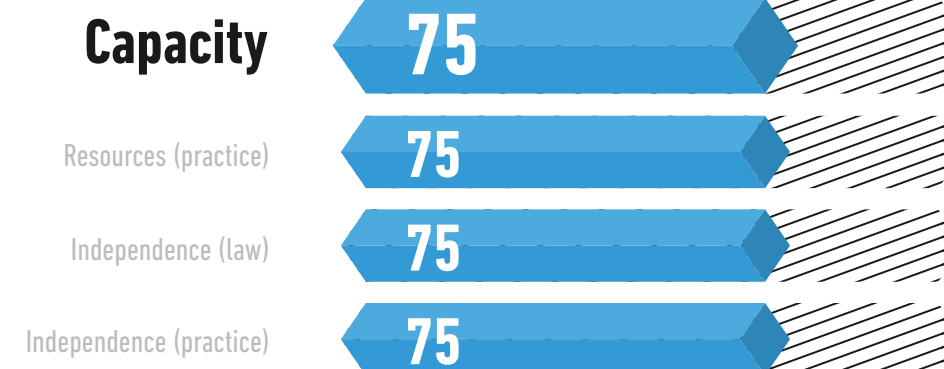
SUMMARY

The National Audit Office (NAO) is a permanent and independent constitutional body which is vested with powers to audit the economic activities of public institutions, public enterprises and other legal entities in which the state has a share.¹

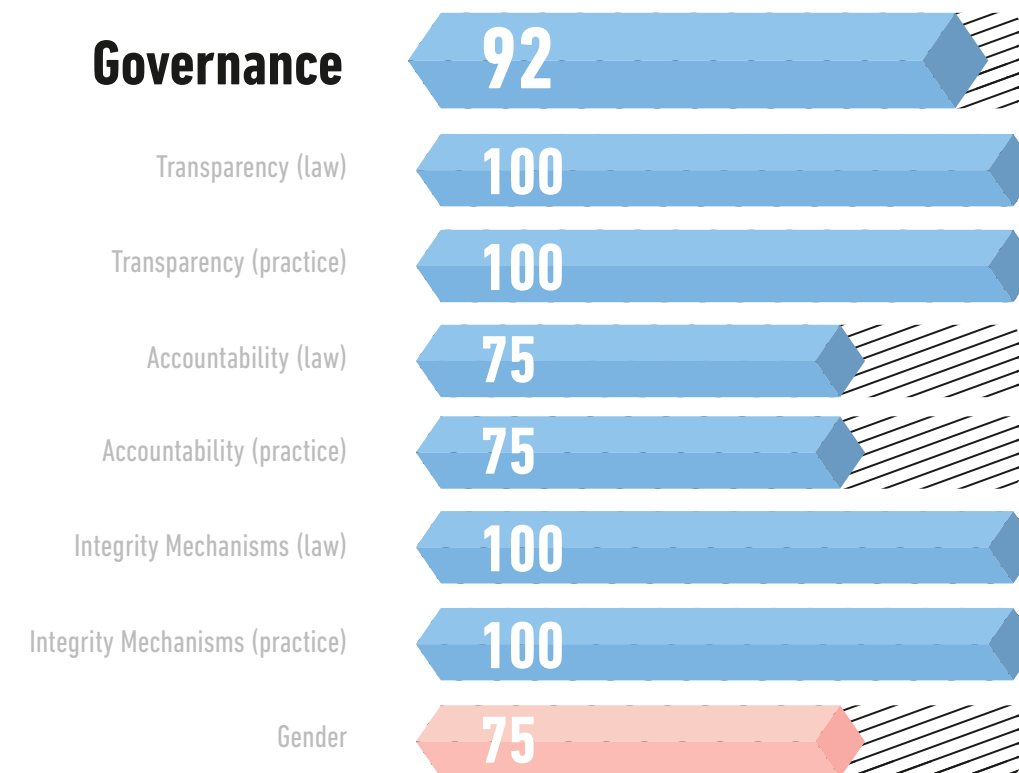
81/100 Overall pillar score



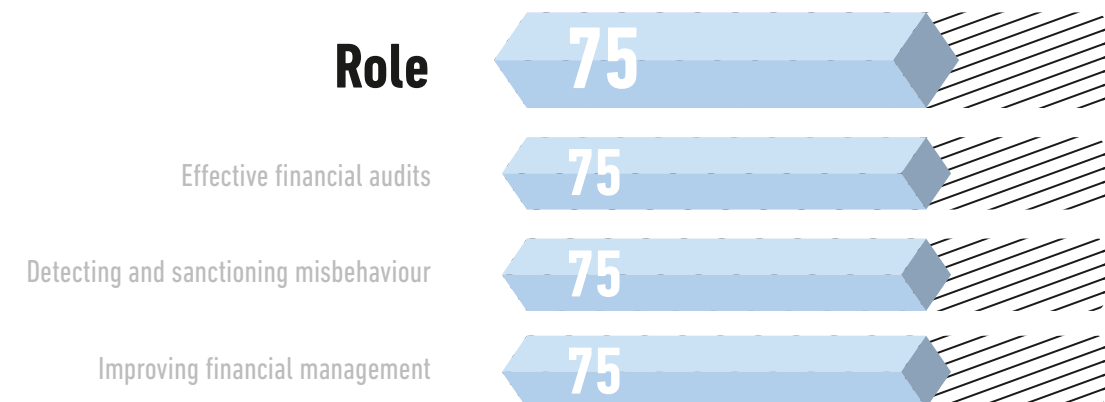
Capacity



Governance



Role





The auditor controls the use and protection of public funds by central and local government bodies. The activities of the Auditor General are supported by a Deputy Auditor, a Director General, six Assistant Auditors and the Director for Public Communications.² The National Audit Office has five organisational units, such as audit departments, support departments, divisions, units and internal audit. Furthermore, there are 15 audit departments in total, while there are also five supporting departments.

The NAO is a well-established institution which is perceived to be one of the institutions with the highest integrity and reliability in Kosovo.³ In addition to developing internal mechanisms to uphold professionalism and workplace ethics,⁴ this institution also established a special unit for coordination and cooperation with the prosecution in 2018.⁵ However, the assessment raises concerns for the lack of legal framework and mechanisms that provide the audited institutions with means of appealing the Auditor’s findings or take corrective action measures or sanctions based on the Auditor’s findings.

The reports of the National Audit Office find a wide application in the chain of accountability of the Assembly of Kosovo and the Prosecutor’s Office, but also in civil society, the media and international monitoring bodies. Although the Auditor General is appointed by the Assembly, and according to the legislation is considered to be an independent body, the assessment raises concerns that the Auditor General could expose the institution to more political interference due to a lack of legal dispositions pertaining to the process of selecting the candidate for the Auditor General.

Additionally, the assessment of the reports of the National Audit Office found no evidence of any institutional analysis on the root cause of the systematic findings, which in return would assist the government and Assembly to initiate improvements in processes and practices in the management of public finances.

Although the law on Access to Public Documents provides a deadline for publishing all public documents, the law on the National Auditor’s Office does not define by what date the NAO’s annual performance report including the audited financial statements, internal guidelines and regulations and other information regarding the Office administration, its activities and accountability must be published on the website.



Capacity

INDICATOR 9.1.1 RESOURCES (PRACTICE)

75/100



The National Audit Office has a good amount of resources to carry out its legal obligations related to regularity audits.⁶ However, it is not enough to enable the NAO to put a greater focus on performance audits and auditor salaries are below market rates, which may hurt the sustainability of the NAO.

The budget of the NAO in 2022⁷ was €3,066,355, which represents an increase of 9.8 per cent compared to 2021 (€2,791,388). The 2021 budget⁸ was about 10 per cent lower than in 2020.^{9,10}

According to the Auditor General, the NAO has addressed the government and the Assembly of Kosovo about the need for additional funds.¹¹ Due to the legal requirements that oblige the NAO to audit even small budget organisations, the needs of the NAO both in terms of budget and human resources are not met, reducing the possibility of a greater focus on performance audits (see 9.3.1).¹²

The number of employees has increased to 180 in 2022, with 20 new jobs created since 2017.¹³ During 2021, the NAO hired three new employees, and ten employees terminated their employment.¹⁴ However, according to the Auditor General, the NAO has no permanent office and continues to rent premises for workspace.¹⁵

Table 9.1: Annual budget of the NAO¹⁰ (the amounts are in €)

	Total budget in €	Budget increase/decrease in % per year
2023	3,266,591	6.53
2022	3,066,355	9.85
2021	2,791,388	-10.36
2020	3,114,149	-7.25
2019	3,357,792	-





Table 9.2: Human resources (data received from NAO's Annual Performance Reports 2017-2021)¹⁶:

	Number of staff positions according to systematisation	Filled positions	Unfilled positions	% of unfilled position
2022	180	-		
2021	173	164	9	5
2020	173	171	2	1
2019	172	171	1	1
2018	167	165	2	1
2017	160	159	1	1

The salaries of engaged auditors are below the market rate, which causes difficulties in motivating and retaining auditors, as well as a lack of interest in the labour market to join the NAO. According to the Chairman of the NAO Workers' Union during 2022, a vacant position for an auditor was announced three times, and all three times the competition was closed without any applicants.¹⁷ A total of 98 auditors are certified, of which 83 are certified auditors in the public sector, 11 auditors in the private sector and four assistant auditors in the public sector.¹⁸

However, according to the Chairman of the Workers' Union, so far there has been no concrete action to harmonise salaries with the market rate.¹⁹

The NAO auditors have academic training, as is legally required,²⁰ and certifications for auditor or certified auditor in the public sector. Likewise, within the institution there are mechanisms for promoting continuous professional development through internal training, as well as through training visits and international training.²¹ However, there is no public information on the number of training sessions and who received it.

INDICATOR 9.1.2 INDEPENDENCE (LAW)

75/100

The Constitution²² and the Law on the Auditor General and the NAO contain several provisions which ensure the NAO's independence.²³ However, it is slightly limited by the right of the government to modify its budget requests and high discretion in the selection of the Auditor General by the President.

The Constitution clearly defines the NAO as the highest institution of economic and financial control and defines its responsibilities.²⁴ The relationship between NAO and the legislature is also laid down in the Constitution.²⁵ There are no external institutions or state bodies that have the legal



power to intervene in the agenda of the National Audit Office. The National Audit Office has the freedom to design the annual Audit programme and plans according to International Organization of Supreme Audit Institutions (INTOSAI) methods and standards.²⁶ However, according to the current legislation, the government holds the right to modify the NAO's budgetary request.²⁷ The NAO has already requested an amendment to the law that such rights to be transferred to the Assembly of Kosovo in accordance with the Declaration of Lima and Declaration of Mexico on the Independence of the Supreme Audit Institutions.²⁸

The Auditor General is proposed by the President of the Republic of Kosovo and appointed by the Assembly.²⁹ The law defines certain criteria to ensure that the selected Auditor General is a person who possesses the required qualifications of high morals, impartial, honest and with integrity for the performance of the function.³⁰ Selection of the candidate for the Auditor General shall be done by a Commission established by the President, however, there are no legal dispositions pertaining to the accountability of the Commission nor the President's Office if the Commission's results are disregarded.³¹ On the other hand, the law only vaguely defines the obligation of the Auditor General to select the Deputy Auditor General, Assistant Auditor General and Director General of the Office via an open call, and it does not specify any criteria the hiring for these positions to be met.³² In terms of staff recruitment, the NAO employment criteria are based on professional skills.³³

The Auditor General has a five-year term,³⁴ with the possibility of being re-elected. The selected auditor must not have been politically active for at least three years prior to selection.³⁵ This ensures that Auditor General can carry out the mandate without fear of retaliation.

Independence of the NAO is further ensured by NAO leaders and other employees being restricted from holding any other function within the public sector, being a member of private sector boards, holding a function in a political party or following instructions from political parties, or exercising any additional remunerated activity unless previously authorised by the Auditor General.³⁶ There are no regulations as to whether the Auditor General can engage in political activities.

The Auditor General is protected by law from removal without relevant justifications. The Auditor General can be dismissed with a two-thirds majority of MPs, at the President's proposal, or on the initiative of one-third of MPs of the Assembly of the Republic of Kosovo.³⁷ The employment rights of NAO are protected by the law on labour,³⁸ as well as being immune from prosecutions resulting from the normal discharge of their duties.³⁹



INDICATOR 9.1.3 INDEPENDENCE (PRACTICE)

75/100

The audit institution operates independently from other actors and its activities are non-partisan and show no signs of bias. However, the 2021 recruitment of the Auditor General has been criticised by the opposition and media for constituting a conflict of interest.

There are no known cases of the Auditor General or other NAO staff conducting any political activities or holding positions which might compromise the NAO's independence.

The current Auditor General, Vlora Spanca, is in Office since 2021,⁴⁰ and her predecessor served his full five-year term. Also, none of the senior supreme audit institution staff has ever been removed from their position before the end of their term without relevant justifications (or for political reasons).

However, there is a lack of legal clarity (see 9.1.3) regarding the method for selecting the candidate, giving the President full discretion over the selection process. During the selection process for the candidate for Auditor General by the President, who was later presented to the Assembly, there were reports of some irregularities like a mismatch between the Evaluation Committee established with the support of the British Embassy and the recommendation of the National Evaluation Committee (established by the President).⁴¹ These were disregarded by the President during the selection process, and no justification on why the recommendations and evaluations of the national team were not taken into consideration was published or communicated to the evaluation teams.⁴² Furthermore, the Democratic Party of Kosovo (an opposition party) has raised concerns over an alleged conflict of interest, because the elected NAO is the sister of one of the Prime Minister's advisers.⁴³



Governance

INDICATOR 9.2.1 TRANSPARENCY (LAW)

100/100



There are comprehensive provisions which allow MPs and the public to obtain information about the organisation and functioning of the NAO, on decisions that concern them, and how these decisions are made.

The Law on the National Audit Office guarantees the public the right to receive information about NAO activities.⁴⁴ The NAO must publish final audit reports including regularity audit reports with opinions on the annual financial statements,⁴⁵ performance audit reports and the annual audit report one day after submission to the audited institution⁴⁶ on its website.⁴⁷

The law on the National Auditor's Office does not define by what date the NAO's annual performance report including the audited financial statements, internal guidelines and regulations and other information regarding the Office administration, its activities and accountability must be published on the website;⁴⁸ however, pro-active publication of all public documents within 15 days from their entering to force is mandated by the Law on Access to Public Documents.⁴⁹

INDICATOR 9.2.2 TRANSPARENCY (PRACTICE)

100/100



The public are able to easily obtain relevant information on the NAO organisation and operations, on the decisions that concern them and how these decisions are made, as well as reports and additional information about the institution's activities.

In 2021 and 2020 all legally required documents have been published on the website in time.⁵⁰ The NAO publishes annual audit reports, regular audit reports of all budgetary organisations, management audit reports, performance audit reports and NAO reports. The NAO also publishes action plans sent by budget organisations in response to issues raised by the auditor. The NAO official website⁵¹ is updated on a regular basis with new documents to be published and is accessible to all.

The Annual Audit Report 2021 contains detailed information on the following: auditing and external accountability; annual financial report of the Kosovo budget and government accountability; management and financial control; and public sector budget execution. This report is addressed to the members of the Assembly.⁵²

The NAO's Annual Report consists of five chapters that elaborate: (1) the legal framework and internal governance; 2) scope of work, quality of auditing and reporting; 3) financial and administrative management; 4) communication and cooperation with external parties; and 5) accountability and NAO's planned activities for the following year of the



reporting period. The report provides detailed information pertaining to NAO's activities on each of the aforementioned categories.⁵³

Moreover, in 2021, the NAO launched a digital platform of recommendations where the public can see in real-time the issues raised, the recommendations made and the degree of realisation (see 9.3.3).⁵⁴

INDICATOR 9.2.3 ACCOUNTABILITY (LAW)

75/100



There are ample legal provisions that ensure NAO has to be answerable for its actions to the Assembly, and in particular to the Public Finance Committee.⁵⁵ However, there is no mechanism to appeal to the NAO's decision for audited entities except by adding comments to the final report.

As an independent body, the Auditor General reports to the Assembly of Kosovo on its own activities as well as on the financial performance of public institutions in Kosovo.⁵⁶ The legal basis for accountability is also reflected in the current law on the Auditor General and the NAO, approved in 2016.

These provisions include the requirement that the NAO issue annual financial statements and annual performance reports that include opinions provided by an external auditor. The external auditor is selected by the Assembly.⁵⁷

NAO reporting to the Assembly of Kosovo is a constitutional obligation⁵⁸ according to which this institution is obliged to present to the Assembly a report on the implementation of the state budget. The Auditor General must also present to the Assembly an annual report on its activity within four months from the end of the fiscal year,⁵⁹ as well as information

about the results of the audits whenever they are requested by the Assembly.⁶⁰ Meanwhile, the law on public finance management and accountability⁶¹ defines that the content of audit reports on public institutions⁶² shall be submitted to the Assembly and audited institution⁶³ no later than 90 days after the audit of the institution's final Annual Financial Statements has been concluded.

However, there is no administrative body where the audited entities could appeal the NAO's findings or that handles complaints pertaining NAO's activities. Audited institutions that disagree with the Auditor's opinion can only send their comments to the Auditor within 15 days and they will be attached to the report.⁶⁴

INDICATOR 9.2.4 ACCOUNTABILITY (PRACTICE)

75/100



The legal provisions are effective in ensuring that the National Audit Office reports and is accountable for its actions in practice. However, due to a loophole in the NAO law, there are no mechanisms that ensure the right of audited institutions to appeal the NAO's findings.

In 2021, the National Audit Office became a member of INTO-SAI and the European Organisation of Supreme Audit Institutions (EUROSAI). Following the membership standards,⁶⁵ this membership means that NAO operates in high standards such as good governance, increased transparency and accountability, and increased professional competence.⁶⁶ The NAO also benefits from the membership in the term of professional advancements in step with the advancements of supreme audit institutions at the global level.⁶⁷

According to the Auditor General, NAO operations are constantly evaluated by the internal auditor, who assesses the efficiency of the internal systems.⁶⁸ Additionally, the Assembly of





Kosovo contracts an external auditor⁶⁹ who is required to audit NAO annual financial statements. The results of the external audit are attached to the annual NAO’s performance report.⁷⁰

In 2020,⁷¹ 2021⁷² and 2022⁷³ the NAO prepared its annual performance reports and sent it to the Assembly by the deadline of four months from the end of the previous fiscal year.⁷⁴ These reports have been reviewed and discussed in the Assembly in November 2021 and October 2022.

The NAO also sent the previous year’s audit reports in time to the Assembly for review before August 31. The Assembly examines the annual audit report during the plenary session. The last report for 2020 was reviewed and approved by the Assembly on July 30, 2021, while the Annual Audit Report of the Budget of the Republic of Kosovo for the year 2021 was submitted by the Auditor General to the Assembly of Kosovo on August 31, 2022.

The auditor’s reports are shared with all the relevant institutions, in which case these institutions have the right to accept or oppose the latter. There is no administrative body where the audited entities could appeal the NAO’s findings. Objections from the respective institutions are attached to the auditor’s final report, in which case the auditor’s opinion is also defined.⁷⁵

INDICATOR 9.2.5 INTEGRITY MECHANISMS (LAW)



There are comprehensive legal provisions which aim to guarantee the integrity of NAO officials. These include the code of conduct, rules regarding conflicts of interest, rules on gifts and hospitality, and post-employment restrictions.

The Code of Ethics and Conduct of the NAO is based on internationally recognised INTOSAI auditing standards. They



specify how all staff will carry out their duties independently and professionally.

The NAO has approved the INTOSAI code of ethics, upon which the professional code of conduct has been developed, and which should be implemented by all staff. This code complies with legal requirements to establish a Code of Ethics and Conduct for the employees, based on internationally recognised⁷⁶ and the requirements of the Declaration of Lima, the Declaration of Mexico, as well as Article 12 of the ISSAI 130 requirements.⁷⁷ In 2022, the NAO was equipped with a new code of ethics that contains four main parts: ethical values and principles; rules of behaviour; risks and protective measures; and monitoring of ethics. The NAO code of ethics and conduct covers all provisions related to unethical behaviour, including conflict of interest, rules on gifts, employment and independence, and the exercise of duty in a professional, impartial and objective manner.⁷⁸

The NAO law obliges NAO employees to have no connection with political parties for at least three years before their engagement in this institution, as well as not to create any workplace relations with any institution related to NAO activities for three years after leaving the institution.⁷⁹

Meanwhile, the code of ethics obliges NAO employees to refuse gifts or rewards that may influence or appear to influence their independence and integrity. Also, auditors should avoid all relationships with managers and staff of the audited entities and with other parties that could influence, compromise or threaten the auditors’ ability to act and appear to be acting independently.

The code of ethics also clearly defines that auditors should not use their official position for private purposes and should avoid relationships that involve the risk of corruption or that may raise doubts about their objectivity and independence, and they must not use the information collected in the course of performing their duties as a form of securing personal benefits for themselves or others.



INDICATOR 9.2.6 INTEGRITY MECHANISMS (PRACTICE)



There is a comprehensive approach to guaranteeing the integrity of NAO members, which includes effective enforcement of existing rules, pro-active investigations into alleged misconduct, sanctioning of misconduct and regular training of staff on integrity issues.

According to the Auditor General, the NAO law⁸⁰ and code of ethics⁸¹ and auditing standards⁸² are applicable in practice and guarantee the integrity and proper behaviour of NAO staff. NAO personnel are familiar with the code of ethics and conduct, and they sign it.⁸³ In addition, on an annual basis, all NAO personnel undergo a refresher training on the code of ethics.⁸⁴ Before starting an individual audit task, staff also sign a document confirming that they do not have any specific interest related to the project assigned.⁸⁵ The same was confirmed by the lead of the NAO’s workers union.⁸⁶

The NAO reports that there are several cases of measures taken against its employees related to violations of the code of ethics and conduct.⁸⁷ According to the Auditor General, in 2022, there was one violation of the Code of Ethics of the NAO, Regulation 04/2021 on Discipline and Complaints of Personnel in the NAO, and the individual was penalised by pay deduction for three consecutive months.⁸⁸ So far, there are no substantiated reactions to NAO reports, which may be an indicator that the existing integrity mechanisms work well.



INDICATOR 9.2.7 GENDER



Gender-sensitive protocols and guidelines are in place and actively enforced, there are trainings on gender-based protocols and also the Code of Ethics and Conduct, and the complaint mechanism has front-facing female staff. On its plan for 2022-2023, it has placed gender equality and women’s empowerment in the focus of performance audits.⁸⁹

The head of the complaints committee is a woman.⁹⁰ According to the Auditor General, protocols for dealing with issues raised by women have special provisions that are gender-sensitive.⁹¹ Also, these protocols provide special instructions on how to handle issues or complaints filed by women, which may be of a sensitive nature such as sexual harassment.⁹² However, the NAO has so far not produced gender-disaggregated data on complaints received.⁹³

As part of the annual training on the code of ethics and conduct, the NAO also addresses the issue of professional behaviour and work ethics.⁹⁴ In addition to the Auditor General, over 50 per cent of NAO staff are also women.⁹⁵ Also, the committee for reviewing workers’ complaints is made up of more than 50 per cent women.

In 2023, NAO signed an agreement with the Supreme Audit Institutions of Albania and North Macedonia for the realisation of the joint performance audit with the theme: “Gender equality and empowerment of women in rural areas through their inclusion in the labour market” for the period 2019-2023.⁹⁶ In addition, the NAO pledged to incorporate gender budgeting into their auditing procedures.⁹⁷



Role

INDICATOR 9.3.1 EFFECTIVE FINANCIAL AUDITS

75/100



The National Audit Office has full authority to supervise all public financial operations⁹⁸ and always reports the audit results to the Assembly. However, environmental impacts are not always assessed.

The National Audit Office also audits the functioning of the internal audit unit⁹⁹ of the respective institution as part of the regular audit.¹⁰⁰ In addition to 90 regulatory audits, during the 2021/2022 audit season, the NAO also conducted regularity audits in 12 state-owned enterprises (see 15.2.4), as well as 13 projects led by different branches of the government financed by the World Bank and other donors.¹⁰¹ Subsequently, the NAO also conducted the audit of the annual financial report of the budget of the Republic of Kosovo, as well as three compliance audit reports, two of which are reports with classified information (classification level – limited) as well as 14 audits¹⁰² of performance which are of particular importance and according to the Auditor General are not sufficient.¹⁰³

All auditor's reports are up-to-date and in accordance to the auditing manual based on the nature of the Audit¹⁰⁴ and were presented to the Assembly of Kosovo.¹⁰⁵

The National Audit Office had carried out several audits of investments with environmental impacts.¹⁰⁶ However, performance audit reports do not address the environmental and climate impact of public expenditures and projects,

unless the environmental and climate impact is subject to audit.¹⁰⁷

According to the Auditor General, the NAO has sent a recommendation to the legislature to remove the request for annual, regularity audits of all budget organisations, in order to reduce mandatory audits of small institutions and allocate resources to increase performance audits, which would increase the effectiveness of the NAO in this regard. Currently, the law on the NAO is in the process of being revised.¹⁰⁸

INDICATOR 9.3.2 DETECTING AND SANCTIONING MISBEHAVIOUR

75/100



NAO engages in detecting and investigating misconduct; however, the sanctioning of such actions is restricted due to limited powers in terms of investigating and sanctioning misbehaviour which fall under the responsibility of other authorities.

The NAO can perform, at any time, an audit of the work of any public institutions.¹⁰⁹ The NAO has adequate mechanisms to identify misbehaviour in financial management.¹¹⁰ NAO has the legal authority to investigate legal non-compliance. However, if the financial and legal non-compliance is identified,¹¹¹ its findings are sent to the State Prosecutor's Office,¹¹² who have the mandate to investigate further and establish the causes behind the misbehaviour in financial management.¹¹³



In 2019, the National Audit Office established a special unit which has the task of analysing the auditor's findings and comparing them against the Criminal and Civil Code of the Republic of Kosovo.¹¹⁴ The substantiated findings are forwarded to the State Prosecutor's Office and the relevant Basic Prosecutor's Offices. During the 2019-2021 audits, the NAO sent a total of 158 cases to the Prosecutor's Office.¹¹⁵ In 2022, 76 cases were sent to the Prosecutor's Office.¹¹⁶

The National Audit Office has no legal mandate to determine applicable sanctions. Decisions about sanctions and measures against based violations remain the responsibility of the relevant courts.¹¹⁷

INDICATOR 9.3.3 IMPROVING FINANCIAL MANAGEMENT

75/100



The NAO makes detailed, well-founded and realistic recommendations on how to improve financial management and the government effectively follows-up to ensure their implementation. However, implementation remains low and there is a lack of identifying root causes for issues the NAO finds repeatedly.

During the audit of the financial statements of the fiscal year 2020, the NAO gave 654 recommendations, of which only about 50 per cent were addressed, which marks an increase compared to 45 per cent of the recommendations addressed in the previous year.¹¹⁸

In order to present a better picture of the status of the implementations of the auditor's recommendations, the NAO launched a digital recommendation platform in 2021 which is available to the public and shows the status of the findings¹¹⁹ (see 9.2.2).

Still, implementation remains low, which can be explained by the lack of an administrative body¹²⁰ to fully investigate and sanction repeated issues, or the failure to address recommendations (see 9.3.2). After the end of the audit, the audited institution is obliged to submit an action plan.¹²¹ In addition to these action plans being made public on the NAO's website, the realisation of these plans is forwarded to each of the audited institutions and the Assembly and the government of the Republic of Kosovo's Committee for Oversight of Public Finances periodically, every three months, by the NAO.¹²²

The NAO analyses the same or similar issues identified within the budget categories and gives recommendations to the Assembly and the government of the Republic of Kosovo. In 2021, these included issues such as poor implementation of the capital investment budget, concerns about payments through enforcement procedures, and delays in payments.¹²³ However, the NAO does not analyse issues raised systematically with budget organisations over the years and analysis of the root cause of the problem. This has not changed since 2021.

NAO reports are taken as a benchmark by the responsible committees of the Assembly of Kosovo and are used as a basis for calls for reports by budgetary organisations.





Interactions

The National Audit Office has a legal obligation to cooperate with various institutions and organisations in the fields related to auditing or professional development, qualified firms or any other Supreme Audit Institution to assist them in carrying out any task of the Audit Office and the European Court of Auditors and the Supreme Audit Institutions of foreign countries and to represent Kosovo in INTOSAI. One of the closest collaborations is with the Assembly of the Republic of Kosovo.¹²⁴

In addition to these legal obligations, within the framework of strengthening mechanisms and efforts in the fight against corruption, the NAO has a cooperation memorandum with the State Prosecutor's Office, where suspected cases of corruption during the audit processes of budgetary organisations are prepared and submitted to the Prosecutor's Office. During the 2019-2021 audits, the NAO sent a total of 158 cases to the Prosecutor's Office. In 2022, 76 cases were sent to the Prosecutor's Office.¹²⁵

The NAO also has a cooperation agreement with the Public Procurement Regulatory Commission, where it has been given special access to the e-Procurement platform in order to avoid delays in accessing information during the Public Procurement Audit.¹²⁶ The NAO also has an informal agreement with the Information and Privacy Agency for purposes of common interest in terms of promoting transparency and the right to information.¹²⁷ The Auditor General has also asked the Director of the Agency for the Prevention of Corruption to create a cooperation link, but that has not yet been formalised.¹²⁸

For the purpose of professional advancement, the NAO has a continuous cooperation relationship with the Supreme State Audit Office of the Republic of Albania (SAA),¹²⁹ the National Audit Office of Sweden¹³⁰ and Helvetas.¹³¹ In relation to the contribution to the fight against corruption, the NAO has a continuous cooperation relationship with USAID¹³² and UNDP.¹³³

These inter-institutional collaborations have resulted in the National Audit Office of Kosovo being rated with the highest reliability among the audit institutions in the region.¹³⁴

Pillar Recommendations

- The government of Kosovo should:
 - Make the necessary legal adaptations to create mechanisms, including the administrative body, roles and procedures, which would deal with sanctions and punitive measures for the systemic issues identified by the National Audit Office and unaddressed recommendations.
 - Make the necessary legal adaptations to create the mechanisms, including the administrative body, roles and procedures, where the audited parties can appeal the findings reported by the National Audit Office.
 - Analyse the local labour market for the category of auditors and align its offer with the private market rate in order to ensure the quality of candidates as well as the stability of employment.
- The National Audit Office should:
 - Ensure the fulfilment of the obligations of the law on gender equality during all audits of the budgetary organisations.
 - Assess systemic issues at the local and national level, with the aim of identifying the root cause of the problem and contributing to the improvement of public processes and practices in the management of public finances.
 - Amend the Law on the Office of the Auditor General to limit the discretion of the President to nominate more than one commission for selection of the candidate for the Auditor General, hence creating possibilities to pick and choose amongst different candidates and clearly define procedures for merit-based recruitment of the Auditor General and accountability for overruling the set criteria.



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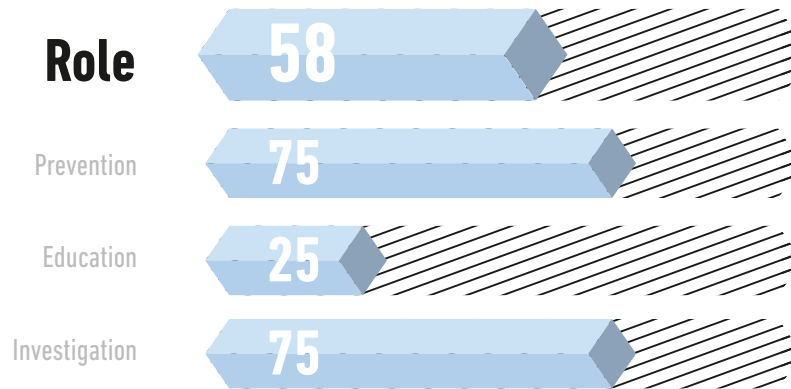
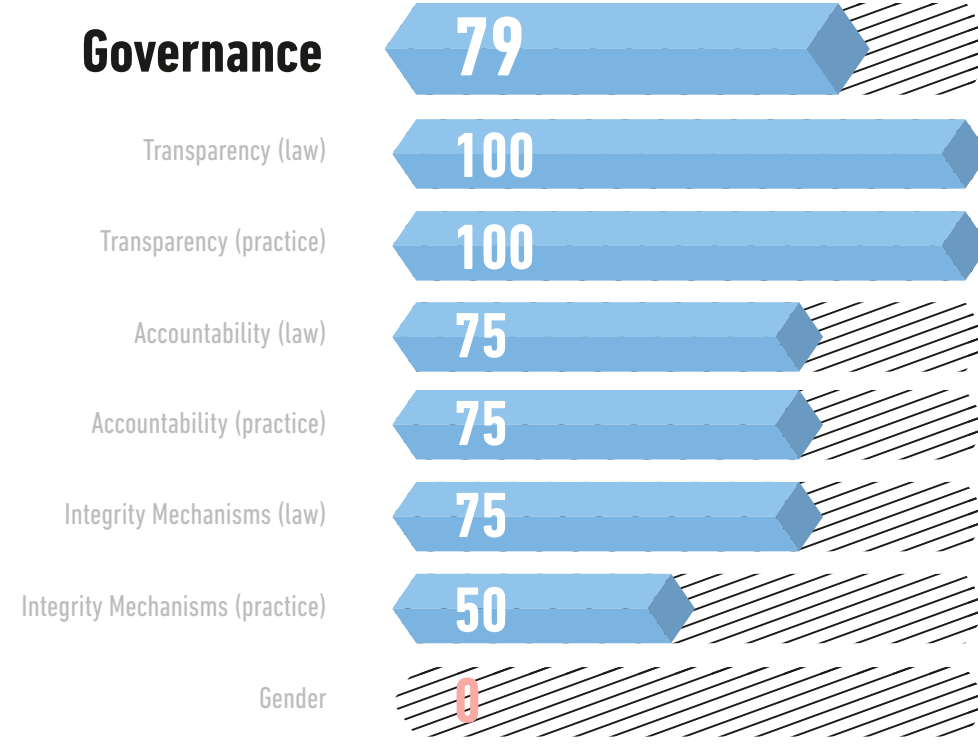
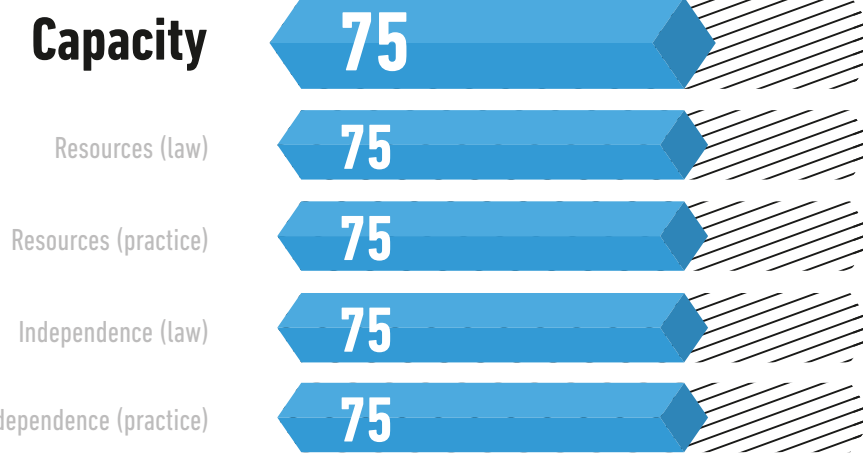
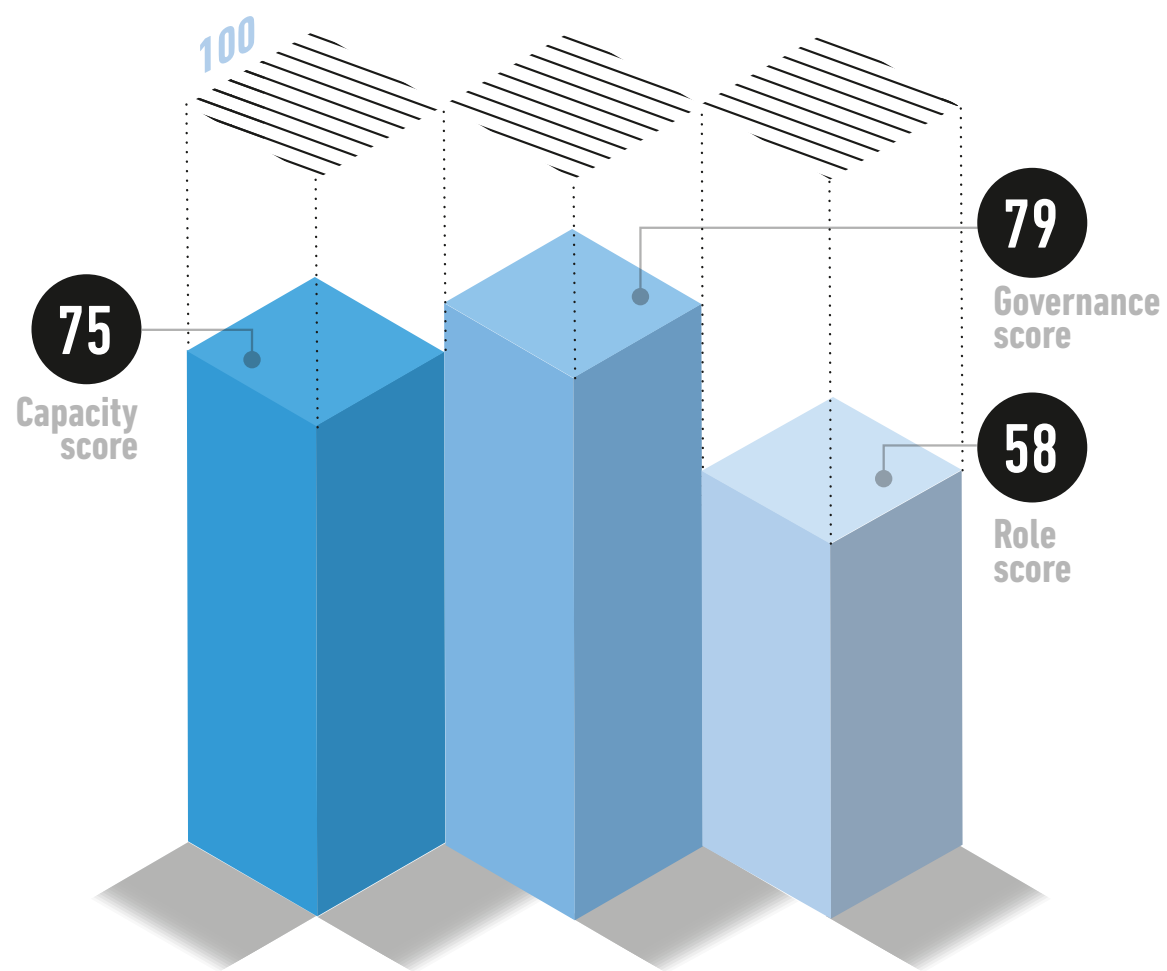
ANTI-CORRUPTION AGENCIES



SUMMARY

The Agency for the Prevention of Corruption is an independent and specialised body for the implementation of state policies to prevent corruption in Kosovo. Since its establishment, the Agency has played an important role in preventing corruption in Kosovo.

71/100 Overall pillar score





The organisational structure of the Agency is determined by the regulation on the internal organisation, which the Director of the Agency approves.¹ According to this regulation, the organisational structure of the Agency consists of the Director's Office, four departments (the Department for Evaluation, Monitoring and Analysis; Department for the Prevention of Conflict of Interest; Department for the Control of Wealth and Gifts; and Department for Administration and General Services), divisions, then the office for professional support and cooperation, and the office for public relations.² The Director of the Agency is elected by the Assembly of Kosovo in a public competition, announced and led by the Parliamentary Committee on Legislation. However, the election only requires a simple majority.

The Assembly of Kosovo approved a new law for the Agency in July 2022, stripping the Agency of its powers regarding criminal investigations in the fight against corruption. The Agency now only has jurisdiction to carry out preventive activities and administrative investigations regarding the declaration of assets and conflict of interest. Additionally, while under the previous law, the Agency was responsible for the drafting of the national strategy against corruption and the drafting of integrity plans, now this responsibility has passed to the government, and the Agency will play a supervisory role and monitor the implementation of these plans.³

The Agency's budget is sufficient to carry out its activities; however, the additional competencies introduced by the new law have created the need for additional budget and an increase of professional staff. In terms of transparency, the Agency has made continuous progress by accepting requests and providing information related to investigations and reports about officials concerning problems with asset declarations. The Agency has a code of ethics for its employees; however, it does not apply to the Director of the Agency. The Agency provides relevant information on its operations, and while no recorded violations of the Code of Ethics have been reported, training on integrity is limited. There is also no specific protocol or clear guidelines for gender sensitivity, and the law lacks provisions defining gender-sensitive mechanisms.

While the Agency is generally active and successful in preventive anti-corruption activities, the new law has reduced its functions related to corruption prevention. The Agency engages in legislative drafting and risk assessments, promoting cooperation with state institutions and civil society. However, it lacks a dedicated research unit and remains part of the inactive National Anti-Corruption Council. Although responsible for awareness campaigns, its efforts are limited and focused on specific aspects, with almost non-existent campaigns in recent times.

It is active and somewhat successful in investigating cases of suspected corruption, focusing on administrative investigations. The Agency cooperates with other law enforcement institutions such as the Kosovo Police, the Prosecutor's Office and the Court on a stable and almost daily basis. According to the new law, the State Prosecutor's Office has to report to the Agency of any results it has achieved concerning cases and criminal reports sent by the Agency.



Capacity

 **INDICATOR 10.1.1
RESOURCES (LAW)**

75/100



There are sufficient legal provisions that provide the Agency with the resources to effectively carry out its tasks. However, the Agency's budget is subject to the budget ceiling determined by the Ministry of Finance, and there is no law which allows the Agency to acquire further funds from asset confiscation.

The Agency can propose its own budget, which it has to submit to the government in the annual draft budget, which the Assembly of Kosovo then approves.⁴ However, the Ministry of Finance can reduce or not approve its budget requests, resulting in limited budgetary independence for the Agency.⁵ The reduction of the Agency's budget can occur by government decision in the year following cases where the Agency does not fully utilise the foreseen budget.⁶

The Agency is not mandated by law to confiscate assets, and therefore its revenues are received exclusively from the state budget. The Agency can impose criminal fines for persons who do not declare assets up to the amount of €500, but those funds go into the state budget and are not allocated for its own needs.⁷ However, the Agency can acquire further funds from international organisations which aim to strengthen the internal infrastructure, including the improvement and digitisation of the Agency's work.⁸

 **INDICATOR 10.1.2
RESOURCES (PRACTICE)**

75/100



The Agency has sufficient resources to fulfil its legal obligations in practice. However, the addition of the Agency's new legal powers to impose sanctions for the non-declaration of assets and to conduct administrative investigations after the adoption of the new law in July 2022 has not translated into additional human and financial resources. Moreover, in practice, the Agency has problems with budget planning and adequate implementation.

For 2022, the budget allocated to the Agency was €545,778,⁹ which represents a small decrease of circa €10,000 compared to the 2021 budget. At the end of the 2021 fiscal year, the government received unused funds in the amount of circa €125,000, returning them to the state budget.¹⁰





Table 10.1 Annual budget of the Agency for the Prevention of Corruption, 2019-2023

Year	Amount in €	% increase/decrease
2023	557,844	2.21
2022	545,778	-2.27
2021	558,470	12.06
2020	498,336	-6.92
2019	535,402	-

Human resources have remained relatively stable. The Agency currently has 43 employees, only three more than in 2015.¹¹ However, after the new legal changes, the Agency needs additional human resources to fully implement its activity in matters of anti-corruption legislation supervision, drafting of integrity plans and protection of signals. There is also a need to recruit professional administrative staff in the technological field.

The Agency has autonomy in the development of staff recruitment procedures, which are carried out according to the Civil Servant Law. The law defines general and specific criteria, depending on the role, and these include work experience and university degrees, as well as proof that the candidate has not been convicted of a criminal offence by a final decision.¹² Candidates do not undergo any initial course or training before they join the staff of the Agency.¹³

During 2021, the Agency organised 20 training sessions for its officials related to public administration management, careers in the civil service, personal data protection, access to public documents and integrity plans.¹⁴ The Agency does not offer many career development opportunities for staff, mainly due to the specific work duties in the institution and the appointment of officials with a permanent mandate.¹⁵ In fact, the Agency is not noted for career progression, staff promotion or advancement in office.¹⁶

INDICATOR 10.1.3 INDEPENDENCE (LAW)

75/100

The legal regulation that guarantees the functional and institutional independence of the Agency is consolidated, but there are shortcomings regarding the selection of the Director, who is elected with a simple majority in the Assembly.

While the Constitution of Kosovo covers independent institutions such as CEC, the Independent Media Commission or the General Auditor of Kosovo, the Agency for Prevention of Corruption is not part of the constitutional framework of independent institutions but has an independent legal status, not being part of the executive.¹⁷



The Agency is led by its Director, who is not allowed to exercise any other function and cannot be paid for other duties from the state budget.¹⁸ The Agency Director has to be elected with a simple majority in the Assembly of Kosovo for a five-year term, without the right to re-election.¹⁹ The criteria for selecting the Director are clear and based on the principle of professionalism.²⁰ In order to guarantee the impartiality and political neutrality of the Director, the Director must not have exercised a function in a political party, and must not have been elected to legislative or executive institutions at the central or local level in the last six years.²¹

By law, all officials of the Agency enjoy complete independence and protection from external pressures while exercising their official duties.²² Violations of these provisions represent a criminal offence.²³

The Director and staff of the Agency cannot be terminated without relevant justifications. The Director can be dismissed by the Assembly of Kosovo only if he or she fails to fulfil the legal mandate. The Director's mandate ends automatically if they are convicted of a criminal offence or elected to any other position.²⁴ The staff of the Agency can be dismissed by the disciplinary commission in case of serious disciplinary violations as a final measure.²⁵

According to the law, no employee, including the Director, has immunity from criminal prosecution while performing their duties. However, if the Director is indicted, the Director is suspended according to the law, pending the case's outcome.²⁶

INDICATOR 10.1.4 INDEPENDENCE (PRACTICE)

75/100

The Agency for the Prevention of Corruption operates largely free of interference from other actors, especially the executive or the ruling party. The Agency has investigated and reported on various senior public officials who have not declared their wealth correctly, or who have been in breach of the conflict-of-interest law. However, the Agency can only conduct administrative investigations and has to rely on other law enforcement agencies.

There are currently several cases where the Agency has undertaken investigative actions and filed criminal charges in the Prosecutor's Office against government officials, including ministers and ambassadors, from the ruling party.²⁷ One of these criminal charges, specifically against Minister Rozeta Hajdari, resulted in an indictment filed by the State Prosecutor's Office.²⁸

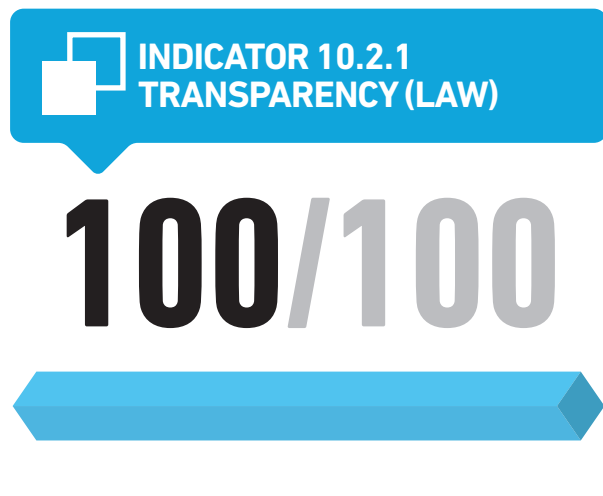
The Agency's relations with other law enforcement bodies are good and based on mutual cooperation, mainly due to the nature of the work it has with bodies such as the Police, Prosecutor's Offices and Courts. However, there has been dissatisfaction in the handling of the Agency's cases by the Prosecutor's Offices, due to the content and quality of the evidence of some criminal reports that the Agency has sent to them.²⁹

The Agency has the power to conduct administrative investigations for cases that are within its jurisdiction.³⁰ Administrative investigations are limited only to the imposition of administrative fines and the filing of criminal charges. Investigations must be completed within 6 months of receiving the information or a maximum of one year. The Agency develops cooperation as needed with other agencies, especially for cases of conflict of interest and false declaration of assets.³¹ The Agency has not reported any cases of political interference in its investigative work.³² None of the Agency Directors have been dismissed, and there are no records of any cases of dismissal of the staff.





Governance



There are sufficient and comprehensive legal provisions that allow the public to obtain information on the operations, activity and decision-making of the Agency for the Prevention of Corruption.

Every act issued by the Agency, including decisions, opinions on conflict of interest, annual work reports and other information must be published on the Agency's website within 15 days of being ready for publication.³³

However, there are specific deadlines for the publication of other documents and the Agency's decision-making. The Agency is under obligation to publish asset declarations by public officials on the online platform no later than 30 days after the deadline for declaration.³⁴ The Agency is also obliged to publish all the fines imposed on the reporting entities no later than 30 days from the day of the imposition.³⁵ The Agency must prepare and publish the general annual report related to whistleblowing for the previous year by March 31 of the following year.³⁶

The Agency has a legal obligation to maintain the confidentiality of information related to the personal data of individuals being investigated, personal data of case reporters, as well as other information that may harm the administrative investigative process.³⁷

With the new law on asset declaration approved in July 2022, not only will the platform for asset declaration be

public, but it is also possible for the declaration to be submitted electronically.³⁸

As for the Agency's website, it is required that all information related to the Agency's work and public activity, including approved policies, annual reports, annual budget, expenditure report and other data must be accessible.³⁹



In practice, the public is able to obtain relevant information on the operations, work and decision-making of the Agency.

The Agency generally publishes its reports, publications, decisions and opinions, including those on conflict-of-interest cases,⁴⁰ within the legal deadlines. This data and information is clear and presented in detail on its website.

The Agency's website is active and easily accessible to the public.⁴¹ The website contains categorised information on opinions, decisions, publications, news and others. The Agency's activities are also published on a new page, created on the Facebook social network,⁴² contributing to the advancement of the transparency of this Agency.

However, "Levizja FOL", a civil society organisation⁴³ working closely with the Agency, noted that the Agency's website could be improved in presenting data even more easily, especially for the declaration of assets, which requires a few clicks.⁴⁴



Sufficient provisions exist to ensure the Agency's reporting and accountability for its work. However, the provisions of the new law on the Agency contain weaknesses with regard to the verification of assets of the senior officials at the Agency – this process will be carried out by the Parliamentary Committee for Legislation.

Legally, the Agency is accountable only to the Assembly of Kosovo. The Agency must submit the annual work report for the previous year by March 31 at the latest.⁴⁵ The Legislation Committee is responsible for supervising the work of the Agency, including reviewing the reports of the Agency before their approval in the plenary session, as well as evaluating the work of the Director.⁴⁶ The parliamentary committee has no legal right to interfere in the administrative investigative procedures of the Agency.⁴⁷ Although the Committee has the right to carry out asset verification for senior officials of the Agency,⁴⁸ there are serious uncertainties regarding the modality of how this verification is done. For example, the Law determines that the Committee carries out this process, but it is not defined in the law how the Committee does this verification or when the Committee examines these statements.⁴⁹

In the annual report, the Agency must submit information about administrative investigations and the number of cases referred to the law enforcement authorities. The report should also include statistical information on dismissals, investigations, indictments and decisions regarding the cases referred by the Agency and comparisons with previous years.⁵⁰ The Law on the Agency stipulates that the annual work reports must be accessible and published on the Agency's website at the time of submission to the Assembly.⁵¹

Whistleblower protection is a statutory responsibility of the Agency.⁵² Whistleblowers cannot be subject to criminal,

civil liability, or disciplinary procedures.⁵³ Whistleblowers also enjoy protection under the Whistleblower Protection Regulation in cases where they report any information that threatens the public interest.⁵⁴ The Agency must maintain the whistleblower's confidentiality.⁵⁵

The Agency is subject to financial control and audit of financial statements by the National Audit Office on an annual basis.⁵⁶ NAO opinions and recommendations that derive from the audit are binding for the Agency.⁵⁷

The Agency's decisions regarding the handling of cases for the non-declaration of assets or conflict of interest, as well as refusal of any notification, may be subject to judicial review.⁵⁸ Although Agency decisions are final in the administrative procedure, they can be contested with a lawsuit in court. These cases are handled by the department for administrative issues in the Basic Court of Pristina.⁵⁹

Currently, there are no special citizen committees that oversee the Agency's work, but there are civil society organisations that monitor the Agency's work.⁶⁰



In practice, the provisions that ensure the reporting and accountability of the Agency are mostly effective, but the Agency does not provide details regarding cases initiated and investigated, and information is limited to statistical data.

In 2020 and 2021 the Agency submitted the annual work reports to the Assembly of Kosovo on time.⁶¹ The Director of the Agency reported at least once a year to the Parliamentary Committee on Legislation, regarding the Agency's work,⁶² as well as the activity of the staff.⁶³ The Assembly approves the Agency's performance reports.⁶⁴





The Agency is also subject to an annual audit of its financial statements by the National Audit Office. For 2021, the audit report evaluated the financial statements and, in all aspects deemed them as right and true. Consequently, no recommendation was given in the External Audit Report by National Audit Office for the Annual Financial Statements.⁶⁵ The senior management personnel of the Agency have declared their wealth every year.⁶⁶

The Agency's annual reports contain statistical data related to the number of investigations, asset declaration cases, conflict of interest reports and decisions or opinions issued. The Agency also provides data on the decision-making of judicial institutions based on the cases raised by the Agency. However, out of a total of 375 preliminary investigation cases reported by the Agency for 2021, no detailed data on specific cases is provided. The Agency also reports⁶⁷ on cooperation with other institutions, financial issues and the budget, as well as staff recruitment.⁶⁸

Although the Agency has appointed a whistleblowing officer, no whistleblowing cases have been reported yet.⁶⁹ There are also no reported cases of court appeals regarding the administrative measures imposed by the Agency.

INDICATOR 10.2.5 INTEGRITY MECHANISMS (LAW)

75/100



There are relatively comprehensive provisions guaranteeing the integrity of the Agency's staff and Director, including the Law on Prevention of Conflict of Interest⁷⁰ and Law on Origin and Declaration of Assets.⁷¹ However, the code of ethics for its employees does not extend to the Director of the Agency.

The Agency has a code of ethics for its employees, which was approved in 2013; however, it does not apply to the Director of the Agency.



The Code is somewhat comprehensive covering the issues of conflict of interest and gift rules.⁷² The Code defines as mandatory the principle of avoiding a conflict of interest, and it states that Agency employees must not allow their private interests to conflict with their public position, must avoid conflicts of interest and never exploit their position for their own interests.⁷³ Regarding gifts, the Code prohibits Agency officials from accepting gifts or other benefits from parties for themselves, family or relatives, which question the independence, impartiality and integrity of the Agency.⁷⁴ Code implementation is supervised by an Ethics Committee, consisting of three members, which is formed by decision of the Director.⁷⁵

However, the Code contains deficiencies regarding asset declaration for senior officials of the Agency, as it does not highlight as a violation the non-declaration of assets by these officials. The Code also does not specifically include any provision that addresses the conduct of Agency officials according to the principle of integrity.⁷⁶ The legal regulation, including the code, does not contain provisions limiting the employment, after the end of their mandate, of the Director or the staff of the Agency. The Code applies to all employees of the Agency and all persons engaged in special services. And the law on the Agency determines that the Director cannot accept any payment from the state budget for any other duty performed.⁷⁷

The only integrity check during new employees' admission is the application of the hiring criterion that the candidates must have not been convicted by a court by a final decision and have not had any disciplinary measures imposed if they have previously worked in the civil service.⁷⁸



INDICATOR 10.2.6 INTEGRITY MECHANISMS (PRACTICE)

50/100



There is uncertainty regarding the integrity in practice of Agency officials.

Until now, there has been no record of case for a violation of the Code of Ethics or other legal provisions.⁷⁹

Until now, the Agency has reported that there have been no sanctions against the Agency's officials from the Ethics Committee.

In 2021, among the 20 training workshops in which Agency officials participated, only one was held on integrity issues.⁸⁰ All the training sessions attended by Agency officials were organised by other local and international institutions.⁸¹

INDICATOR 10.2.7 GENDER

0/100



In the Agency for the Prevention of Corruption, there is no specific protocol or clear gender-sensitive guidelines.

The Law on the Agency for the Prevention of Corruption does not have any legal provisions that define gender-sensitive mechanisms within the Agency. Even the Regulation on the Internal Organisation of the Agency's Work does not provide any provisions on gender-sensitive mechanisms. Although the Code of Ethics and Conduct defines the principle of gender equality and non-discrimination, there are no mechanisms for effective supervision and implementation of these principles.⁸²

There is no regulation or definition regarding front-facing female staff. Regarding the complaint and investigation mechanism, the Agency does not maintain or publish statistical data disaggregated by gender. The Agency does not produce gender-disaggregated data regarding the handling, resolution, and processing of complaints.⁸³ In 2021, the Agency did not organise any training sessions and did not produce awareness materials for staff related to gender sensitivity mechanisms.

Since its establishment, none of the Directors of the Agency have been a woman. However, the last competition for Director of the Agency in 2021 was cancelled once by the Parliamentary Committee on Legislation since no woman had applied.⁸⁴ In the Agency, there are significant number of women who work and have management duties as division or even department heads. The representation of women in the Agency exceeds the level of 50 per cent of the staff who are women compared to men.⁸⁵ However, that does not necessarily contribute directly to gender-sensitive mechanisms.





Role

INDICATOR 10.3.1 PREVENTION

75/100



The Agency for the Prevention of Corruption is generally very active and has been relatively successful in its preventive anti-corruption activities, such as achieving major legislative reform and influencing policy change. However, the Agency lacks an office for research activities.

The Agency is responsible for preventive anti-corruption work, including conflict of interest prevention, declaration of assets supervision, gifts acceptance supervision, whistleblower protection and the provision of professional and technical assistance to other institutions to prevent corruption.

The Agency does not have the authority to propose legal reforms, but it has the right to provide opinions and professional assistance. However, the Agency is tasked with providing opinions and advice to the government and the Assembly regarding legal acts in order to align with international anti-corruption standards, as well as carrying out risk assessments in areas where there are gaps and potential for corruption.⁸⁶ For example, in February 2023, the Agency participated in the drafting of the law on the process of passing the integrity control process in the judicial and prosecutorial system organised by the Ministry of Justice.⁸⁷

The Agency is also tasked with promoting cooperation with state institutions and civil society for public awareness of corruption prevention.⁸⁸ In practice, according to a legal officer interviewed for this report, there were cases of good coordination and interaction between the media and the Agency in reporting cases of non-declaration of assets.⁸⁹ A civil soci-

ety representative from the CSO Lëvizja FOL also positively evaluated the commitment of the Director of the Agency to increasing cooperation and joint commitment in promoting activities for the prevention of corruption.⁹⁰ In fact, the Agency often holds consultative meetings with representatives of CSOs in Kosovo, where it has thanked them for their role and the activities they develop in the prevention of corruption.⁹¹

The Agency does not have a special unit that deals with research and academic research. According to the Agency's organisational chart, there is an office for professional support and cooperation which deals with providing professional and technical-administrative support for the Agency's staff.⁹²

In 2020, with the participation and contribution of the Agency, the government has drawn up a new Anti-Corruption Strategy and Action Plan for 2021-2023.⁹³ The Agency continues to be part of the National Anti-Corruption Council, which is however inactive.⁹⁴

INDICATOR 10.3.2 EDUCATION

25/100



Although the Agency has the responsibility to develop awareness campaigns in the prevention and fight against corruption,⁹⁵ its efforts in this direction are very limited, and in the past were focused on specific aspects such as asset declaration, which have not been sufficiently effective in practice.

In recent years, the Agency's awareness campaigns and public education activities have been almost non-existent. The Agency's website has not presented information on any concrete



campaign in the last five years.⁹⁶ The Agency's website indicates that 12 seminars were organised in ten municipalities to present the Anti-Corruption Strategy and Action Plan, the Law against Corruption, and their legal mandate and the activities carried out.⁹⁷ However, there are no details on the timing of their development or their impact. The last substantial campaign of the Agency is that of 2016, related to the fight against corruption through asset declaration.⁹⁸ The Agency has not declared that it has carried out any assessment of the impact of its educational and professional capacity-building activities.

The Agency has good cooperation with civil society. The Agency conducts consultative meetings related to the drafting of legislation that pertains to the field of internal regulation of the Agency and legislation to combat and prevent corruption.⁹⁹

The Agency has not provided training for the staff of other public or private institutions. The 2022 work plan includes plans to draft a training plan and organise study visits as well as a number of activities which are expected to be financed by its budget and external donors.¹⁰⁰

INDICATOR 10.3.3 INVESTIGATION

75/100



The Agency is generally active and somewhat successful in investigating cases of suspected corruption. However, the new 2022 law has stripped the Agency of its powers regarding criminal investigations in the fight against corruption and limited its competencies to preventive activities and administrative investigations regarding the declaration of assets and conflict of interest.

The Agency's responsibilities in investigating cases are limited only to administrative investigation,¹⁰¹ while law enforcement institutions such as the Kosovo Police and the

Prosecutor's Office are responsible for investigating and prosecuting cases.¹⁰²

Furthermore, the Agency performs a full audit of the declaration of assets of only one-third of high public officials by random selection – this list is not public.¹⁰³

In practice, the Agency has conducted investigations against various levels of public officials.¹⁰⁴ The Agency has also investigated senior government officials, including cases against the Foreign Minister, Donika Gërvalla,¹⁰⁵ as well as the Minister of Industry and Trade, Rozeta Hajdari. For these cases, the Agency has submitted a criminal report to the Prosecutor's Office for non-reporting or false reporting of assets.¹⁰⁶ Likewise, the Agency has submitted a criminal report to the Prosecutor's Office against the Ambassador of Kosovo in Croatia, Martin Berishaj, due to the non-declaration of assets.¹⁰⁷ Finally, the Agency has accepted a report on Prime Minister Albin Kurti regarding a case of conflict of interest due to a house rented by him, and will begin an investigation.¹⁰⁸

The Agency mainly conducts investigations based on reporting. Approximately 20 per cent of the cases, namely 76 cases, are initiated based on official duties, while another 26 cases were initiated based on anonymous sources.¹⁰⁹ During 2021, the Agency conducted investigations for a total of 375 cases, of which 150 were forwarded to the Prosecutor's Office and the Police, while two cases were forwarded to the relevant administrative bodies with a request for the initiation of disciplinary proceedings. Another 71 cases were closed by the Agency for the Prevention of Corruption. According to the indictments filed by the Prosecutor's Office on the basis of the Agency's criminal reports, the courts have issued 25 convictions and one acquittal in cases of suspected corruption.¹¹⁰

Compared to previous years, the number of criminal court verdicts in cases brought by the Agency is generally the same. In 2020, out of 124 procedural cases in the Prosecutor's Office, the courts pronounced 22 convictions and one acquittal according to the indictments filed.¹¹¹





Interactions

The Agency has close cooperation mainly with the Prosecutor’s Office, the police, and the judiciary. These relations, as much as they are built on legal definitions, are also of a reciprocal nature that have to do with the fight against corruption.

In practice, cooperation with the Prosecutor’s Office is stable in terms of the feedback of information to the Agency for further proceedings and final decisions regarding the cases raised by the Agency. Throughout the year, on a monthly basis, the Agency exchanges information with the Basic Prosecutor’s Office about the number of cases forwarded in order to keep statistics up to date.¹¹²

The Agency also cooperates with the Police to receive information related to the verification of criminal past, i.e. whether a person has been arrested, investigated and prosecuted for any criminal offence. With the judiciary, cooperation relates to information about the handling and completion of cases in court that involve the non-declaration or false declaration of assets, and statistical data are compared regarding the judgments and the content of their decisions.¹¹³

The impact of these interactions is positive as it has proven that all the cases investigated and raised by the Agency in terms of investigation and prosecution for corruption offences¹¹⁴ have been assessed based on the merits and have not been overlooked (see 10.3.3).¹¹⁵

However, there is a need for more commitment and professionalism of the police and Prosecutor’s Office (see chapter 4 for the State Prosecutor’s Office – interaction indicator) in criminal prosecution by conducting efficient investigations and collecting convincing evidence so that their effect in court is the imposition of appropriate sentences for those accused of criminal acts of corruption.¹¹⁶

Pillar Recommendations

- The government and the Assembly must increase the budget of the Agency to match its widened competencies linked to the latest 2022 amendment to the Agency law to recruit new staff and a higher budget is also needed for the Agency to fully implement its plans for activities and campaigns prevention of corruption.
- The Agency should:
 - Become more active in its information engagement in self-awareness campaigns and public education on the importance of reporting cases of conflict of interest, non-declaration of wealth and corruption.
 - Review the 2017 Anti-Corruption Action Plan and harmonise it with its duties and powers according to the current situation.
 - Organise more frequent training activities for its staff related to integrity, whistleblower protection and other issues that are of interest to the Agency.
 - Add human resources to fully implement its activity in matters of anti-corruption legislation supervision, drafting of integrity plans and protection of signals. There is also a need to recruit professional administrative staff in the technological field.
 - Develop, as soon as possible, an electronic platform for the declaration of wealth, to simplify and make more efficient the completion of the declaration of wealth and income, and access to this information.
 - Complete and amend the Code of Ethics for its officials, as it dates from 2013 and needs to be updated in terms of better regulation of the integrity of its officials. The Code should also be changed to cover the Director of the Agency.
 - Keep data and create a database of reports or complaints that are submitted on a gender basis, in such a way as to encourage or measure the level of reports that are gender-sensitive.
 - Draft a relevant regulation within the Agency to regulate gender sensitive issues.



ENDNOTES

- 1 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 4 point 2. (July, 2022).
- 2 Regulation no. 01/2019 on amending and supplementing regulation no. 01/2013 on internal organisation and systematisation of job position in the anti-corruption agency, Article 4. (May 2019).
- 3 Law no. 08/L-017 on the Agency for Prevention of Corruption, (July 2022); FOL Movement (2023), The Capacities of the Agency for the Prevention of Corruption in the Fulfillment of Legal Obligations, <https://levizjafol.org/wp-content/uploads/2023/08/Agency-for-the-Prevention-of-Corruption-ENG-1.pdf>
- 4 Law 08/L-017 on Agency for the Prevention of Corruption, Article 7.
- 5 According to the Law on Public Finance Management, the Government may not fully approve the Agency’s budget requests.
- 6 Law No.08/L-066 on the Budget Appropriations for the Budget of the Republic of Kosovo, Article 16, paragraph 3.
- 7 Law No.08/L-017, on the Agency for Prevention of Corruption, Article 23 paragraph 1 point 1. (July, 2022).
- 8 Law No.08/L-017, on the Agency for Prevention of Corruption, Article 12 paragraph 1 point 6. The Director on behalf of the agency has the right according to the law to conclude cooperation agreements with local institutions and international organisations.
- 9 Law No.08/L-066 on the Budget of Kosovo for 2022, page 45.
- 10 Based on the interview with Lindita Ademi, Legal Officer at the Agency for the Prevention of Corruption (August 2022), the agency had not managed to fully spend the budget initially allocated to it as a result of the development of activities with the financial assistance of international organisations, as well as restrictions due to COVID-19 pandemic. For more, see the Agency for the Prevention of Corruption’s Annual Work Report 2021, page 32.
- 11 Law no.08/L-066 on the Budget of Kosovo for 2022, page 45.
- 12 Law No.03/L-149 on the Civil Service of the Republic of Kosovo, Article 18.
- 13 Interview with Lindita Ademi, Legal Officer at the Agency for the Prevention of Corruption, August 2022.
- 14 Agency for the Prevention of Corruption, “Annual Work Report for 2021”, page 49.
- 15 Interview with Lindita Ademi, Legal Officer at the Agency for the Prevention of Corruption, August 2022.
- 16 Interview with Lindita Ademi, Legal Officer at the Agency for the Prevention of Corruption, August 2022.
- 17 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 4, paragraph 1.
- 18 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 9.
- 19 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 11, paragraph 8.
- 20 The main criteria for the selection of the Director are eight years of professional experience, of which five years must be managerial experience; that in the last six years, she or he has not exercised a function in a political subject, or has not been a candidate, elected or appointed in legislative or executive bodies at the central and local level; and has not been subject to any disciplinary measure, indictment or final decision by the court. See: Law on Agency for the Prevention of Corruption, Article 10.
- 21 Law No.08/L-017 on Agency for the Prevention of Corruption, Article 10, paragraph 1.5.
- 22 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 8.
- 23 Criminal Code of the Republic of Kosovo, Article 401. According to the Penal Code of Kosovo, anyone who obstructs or attacks an official person during the exercise of his official duty is sentenced to imprisonment from 3 months to 5 years.
- 24 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 13.
- 25 Law No.06/L-114 on Public Officials, Articles 60 and 61.
- 26 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 13, paragraph 3.
- 27 National Gazette, July 2022, <https://nacionale.com/politike/lista-e-gjate-e-zyrtareve-te-v-se-ge-u-hetuan-nga-kunder-korrupcioni-8010> [accessed on October 18, 2022]
- 28 Kallxo.com portal, October 2022, <https://kallxo.com/lajm/aktakuzo-ndaj-ministres-rozeta-hajdari-per-mosdeklarim-te-pasurise/> [accessed October 18, 2022]
- 29 Interview by an anonymous source with a member of an international organisation (July 2022).
- 30 According to the Law on Agency for the Prevention of Corruption (Article 5), the Agency has in its scope conflict of interest prevention, the supervision of assets declaration, as well as the acceptance of gifts during official duties, including whistleblowers’ protection.
- 31 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 6.
- 32 Interview with Lindita Ademi, Legal Officer at the Agency for the Prevention of Corruption, (August 2022).
- 33 Article 6 of the Law on Access to Public Documents.
- 34 Law No.04/L-050 on declaration, origin and control of assets and gifts, Article 12, paragraph 1.
- 35 Law No.04/L-050 on declaration, origin and control of assets and gifts, Article 31, paragraphs 1 and 2.
- 36 Law No.06/L-085 on Protection of Whistleblowers, Article 29, Paragraph 3.
- 37 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 28.
- 38 Law on declaration, origin and control of assets and gifts (July 2022).
- 39 Administrative Instruction (MAP) No. 01/2015 for Websites of Public Institutions, Article 9.
- 40 Agency for the Prevention of Corruption, Decisions, <https://akk-ks.org/vendimet/1979/2022/1979> [accessed on July 27, 2022]
- 41 For more, see the website: <https://akk-ks.org/> [accessed on October 27, 2022]





42 Agency for the Prevention of Corruption, Facebook platform, Agency against Corruption / Agencija Protiv Korupcije | Facebook [accessed on August 12, 2022]

43 Levizja FOL is a civil society organisation which focuses its work on public expenditure, fighting various forms of corruption and institutional negligence, as well as promoting accountability. They have done research on the Agency for the Prevention of Corruption or they work closely on the Agency for the Prevention of Corruption, or they are the leading authority on independent oversight bodies

44 Interview with Mexhide Demolli, Executive Director at Lëvizja FOLL organisation, August, 2022.

45 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 15 paragraph 1, (July, 2022).

46 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 16 paragraph 2.

47 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 16 paragraph 2.

48 Interview with Mexhide Demolli, Executive Director at Lëvizja FOLL organisation, August, 2022.

49 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 16 paragraph 2 point 2.4.

50 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 15, paragraph 2, point 2.6

51 Law No. 08/L-017 on Agency for the Prevention of Corruption, Article 15, paragraph 3.

52 Law No.06/L-085 on Protection of Whistleblowers, (December 2018).

53 Law No.06/L-085 on Protection of Whistleblowers, Article 9, Paragraph 2.

54 Regulation on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing (May, 2021).

55 Regulation on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing (May, 2021).

56 Law No.05/L-055 on the Auditor General and the National Audit Office of Kosovo Article 18 paragraph 1 and 3.

57 National Audit Office, "Audit Report for the Annual Financial Statements of the Agency for the Prevention of Corruption", (Pristina: NAO, June, 2022).

58 Law No.05/L-031 on General Administrative Procedure (June, 2016)

59 Interview with Lindita Ademi, Legal Officer at Agency for the Prevention of Corruption, August, 2022.

60 For more, see Telegrafi.com Portal, August, 2021, <https://telegrafi.com/levizja-fol-agjencia-kunder-korrupsionit-ka-deshtuar-ne-zbatimin-e-ligjit-per-deklarimin-e-pasurise/>, [accessed on March 16, 2023]

61 See, Kallxo.Com Portal, August 2022, <https://kallxo.com/lajm/drejtori-i-akademise-se-drejtises-raporton-para-komisionit-per-legjislacion/> [accessed on March 17, 2023]

62 See, Lajmi.net Portal, November 2021, <https://lajmi.net/miratohet-raporti-vjetor-i-agjencise-kunder-korrupsionit-per-vitin-2020/>, [accessed on March 16, 2021]

63 Interview with Lindita Ademi, Legal Officer at the Agency for the Prevention of Corruption, August, 2022.

64 For more, see the Agency's announcement:https://www.akkks.org/lajmi_i_plote/54810?fbclid=IwAR0Gg9psJSNMTwZVGFQ7uD001cHJq2rE3z5v5GH_uRNw605PpuTlHpdMyQ [accessed on October 27, 2022]

65 See, National Audit Office, 'Audit Report on Agency for the Prevention of Corruption annual financial statements for 2021', published on June, 2022, page 3.

66 See, Agency for Prevention of Corruption, 'Declaration of Property', link below: https://akk-ks.org/en/deklarimi_i_pasuris/2016/Agjencia_kund%C3%A8r_Korrupsionit/2016

67 Agency for Prevention of Corruption, 'Annual Report 2021', page 26, [Pristina, March 2022]

68 Law No.08/L-17 on the Agency for Prevention of Corruption, Article 15 paragraph 2, (July, 2022).

69 Interview with Lindita Ademi, Legal Officer at the Agency for the Prevention of Corruption, August, 2022.

70 Law No.06/L-011 on Prevention of Conflict of Interest (April, 2018).

71 Law No.04/L-050 on Declaration, Origin and Control of Assets and Gifts of Senior Public Officials (August, 2022).

72 The code in question does not have provisions regulating post-employment restrictions. There is another law that states that senior public officials in leadership positions are prohibited from returning to the same institution within two years after leaving the position. Article 18 says: "A senior official has no right to be employed or appointed for a period of up to two years after termination of the public function, in a leadership or management position, or be involved in the control or audit of public and private institutions and their subordinate institutions which have a business relationship with the institution where he has exercised a public function Restrictions for senior officials after termination of public function..."

73 Code of Ethics for Employees of the Agency for the Prevention of Corruption, Article 4, paragraph 9.

74 Code of Ethics for Employees of the Agency for the Prevention of Corruption, Article 4, paragraph 13.

75 Code of Ethics for Agency employees, Article 6.

76 See Article 4 of the Code of Ethics, the clarification part about the principle of integrity is missing.

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80 Agency for the Prevention of Corruption, "Annual work report for 2021", page 49.

81 Agency for the Prevention of Corruption, "Annual work report for 2021", page 49.

82 Code of Ethics for Employees of Agency for the Prevention of Corruption, Article 4, paragraph, 2.

83 Interview with Lindita Ademi, Legal Officer at the Agency for the Prevention of Corruption, August 2022.

84 Kallxo.com portal, June 28, 2021, <https://kallxo.com/lajm/nuk-aplikoi-asnje-grua-konkursi-per-direktor-te-antikorrupsionit-do-te-rishpallet/> [accessed on August 17, 2022]

85 Interview with Lindita Ademi, Legal Officer at the Agency for the Prevention of Corruption, August 2022.

86 Law No. 08/L-017 Agency for Prevention of Corruption, Article 5, paragraph, 1.2 point 6.

87 See, Ministry of Justice, February 2023, <https://md.rks-gov.net/page.aspx?id=1.15.2927> [accessed on March 22, 2023]

88 Law No. 08/L-017 Agency for Prevention of Corruption, Article 5, paragraph 1.2, point 4.



89 National Gazette, August 2022, <https://nacionale.com/politike/skandali-financiar-kunder-korrupsioni-dorezon-kallezim-penal-ndaj-martin-berishajt> [accessed on August 17, 2022]

90 Interview with Mexhide Demolli, Executive Director at Lëvizja FOL organisation, August, 2022.

91 See Agency for Prevention of Corruption, January 2022, https://akk-ks.org/en/lajmi_i_plote/54690 [accessed on March 22, 2023]

92 Regulation for the amendment and completion of the regulation for internal organisation and systematisation of workplaces in Agency for the Prevention of Corruption, (May, 2019), Article 12.

93 Office of the Prime Minister, "Anti-Corruption Action Plan 2021-2023", (Pristina: December, 2020).

94 The National Anti-Corruption Council operates within the office of the President of Kosovo <https://president-ks.gov.net/sq/keshili-kombetar-kunder-korrupsionit> [accessed on August 18, 2022]

95 Law No. 08/L-017 Agency for Prevention of Corruption, article 5 paragraph, 1 point 1.10.

96 Agency for the Prevention of Corruption Website, <https://akk-ks.org/agjencia/41/prgjegsit/41> [accessed on August 18, 2022]

97 Agency for the Prevention of Corruption Website, Anti-Corruption Awareness, https://akk-ks.org/vetedijsimi_kunder_korsuprisit/168/vetdijsimi-kund-dr-korsuprisit/168 [accessed on August 22, 2022]

98 Agency for the Prevention of Corruption, https://akk-ks.org/vetedijsimi_kunder_korrupsionit/179/tv-spote/179 [accessed on October 20, 2022]

99 Anti-Corruption Agency, "Annual Work Report for 2021", page 30.

100 Anti-Corruption Agency, "Work Plan for 2022", (Pristina: APPK, February 2022), page 7.

101 Law No. 08/L-017 Agency for Prevention of Corruption, Article 5, paragraph 1.

102 Law No. 08/L-017 Agency for Prevention of Corruption, Article 17, paragraphs 5, 6, and 7.

103 Law No.04/L-050 on Declaration, Origin and Control of Assets and Gifts, Article 18, paragraph 8.

104 The persons involved in these cases belong to different levels such as: MPs, deputy ministers, national coordinators, mayors and vice-presidents of municipalities, judges, political advisers of the government cabinet, general secretary at the central level, ambassadors, advisers of municipal assemblies, vice-chancellors, deans, chief executive officers of independent institutions, chief executive officers of agencies executives within ministries, procurement managers at the central level, chief financial officers in independent institutions and at the local level, board members of central and local public enterprises, owners of certain businesses, etc. For more, see the Agency's 2021 Annual Work Report.

105 Express Newspaper, October 2022, <https://www.gazetaexpress.com/dyshimet-se-fshehu-pasurine-prokuroria-eshte-duke-e-hetuar-ministren-donika-gervalla/> [accessed on October 27, 2022]

106 Express Newspaper, March 2022, <https://www.gazetaexpress.com/agjencia-kunder-korrupsionit-dorezon-kallezim-penal-kunder-ministres-rozeta-hajdari/> [accessed on August 22, 2022]

107 National Gazette, August 2022, <https://nacionale.com/politike/skandali-financiar-kunder-korrupsioni-dorezon-kallezim-penal-ndaj-martin-berishajt> [accessed on August 23, 2022]

108 National Gazette, June 2022, <https://nacionale.com/politike/merr-informaten-nga-nacionalja-anti-korrupsioni-nis-hetimet-per-qerane-e-lire-te-kryemnistrit-kurti-7798> [accessed on August 23, 2022]

109 Agency for the Prevention of Corruption, "Annual Work Report for 2021", page 11.

110 Agency for the Prevention of Corruption, "Annual Work Report for 2021", page 16.

111 Agency for the Prevention of Corruption, "Annual Work Report for 2020", page 14.

112 Agency for the Prevention of Corruption, "Annual Work Report for 2021", page 25.

113 Agency for the Prevention of Corruption, "Annual Work Report for 2021", page 25.

114 See also 'Annual Work Report for 2021' page 16 and 17.

115 Interview with Lindita Ademi, Legal Officer at Agency for the Prevention of Corruption, August 2022.

116 See also the chapter on Police, corruption perception indicator 6.3.1 and interaction.



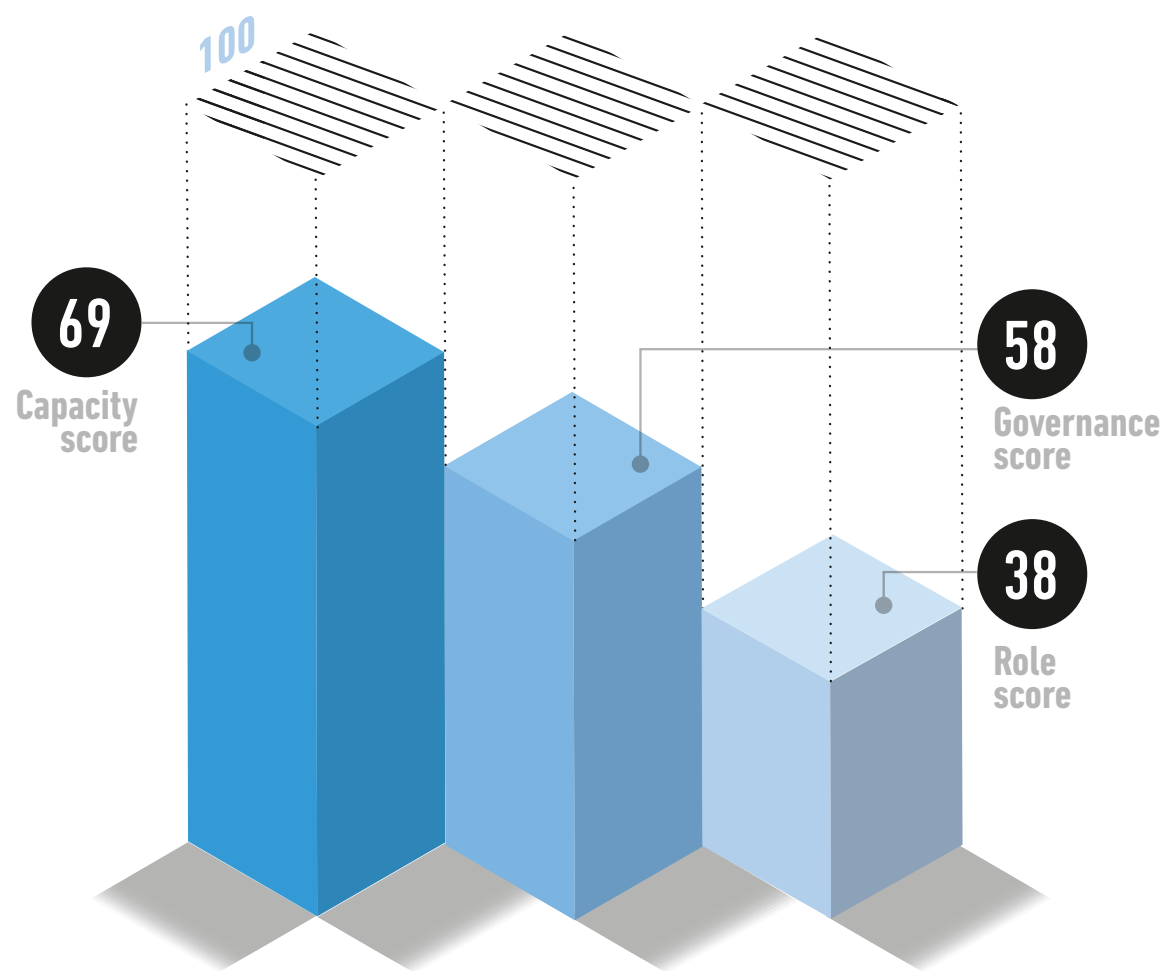
POLITICAL PARTIES



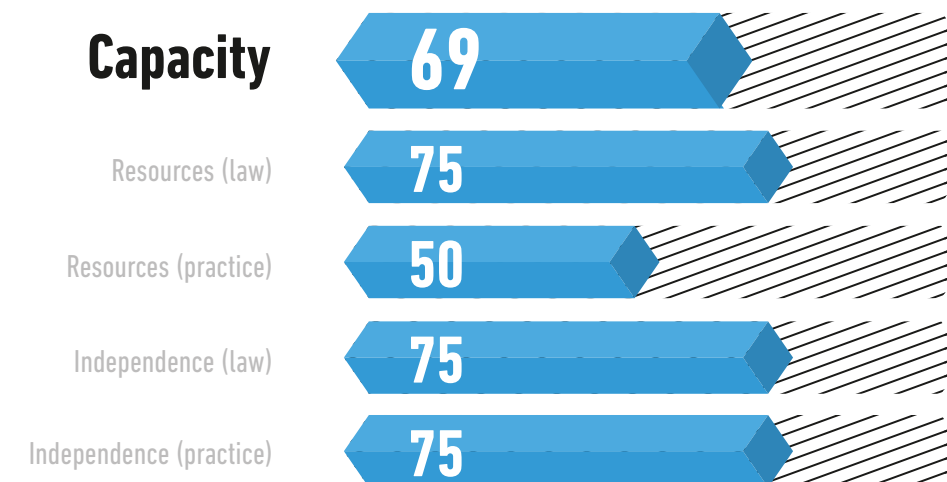
SUMMARY

Currently, 50 political parties are registered in the CEC, 25 representing the Albanian community, while another 25 represent non-majority communities.¹

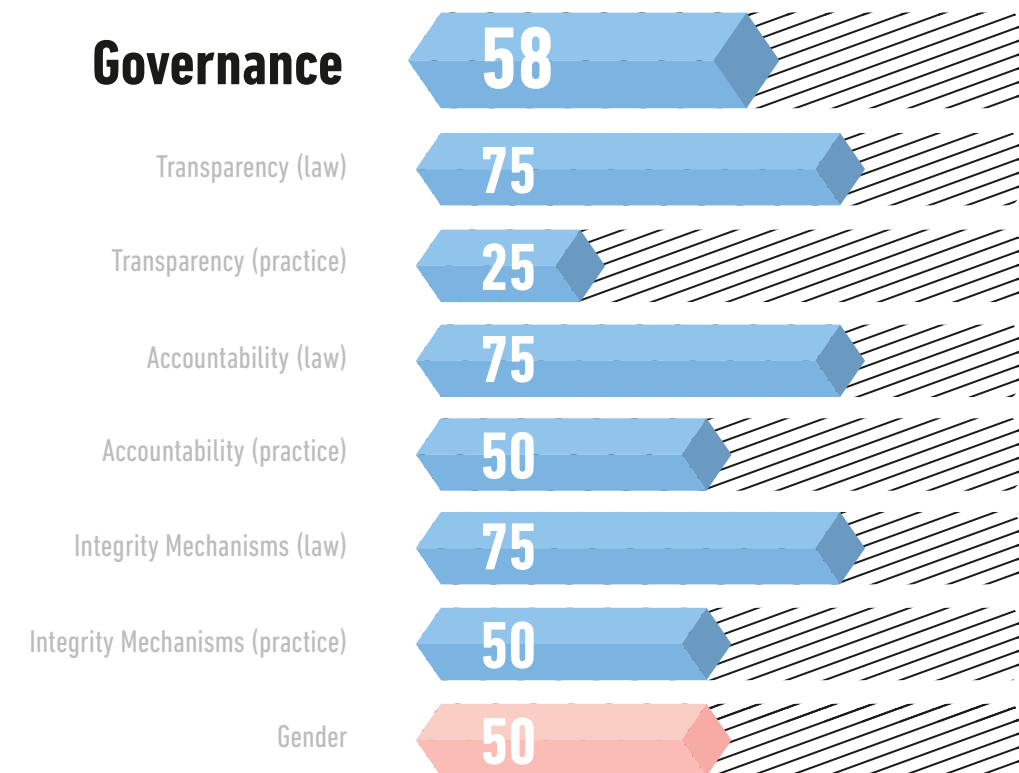
55/100 Overall pillar score



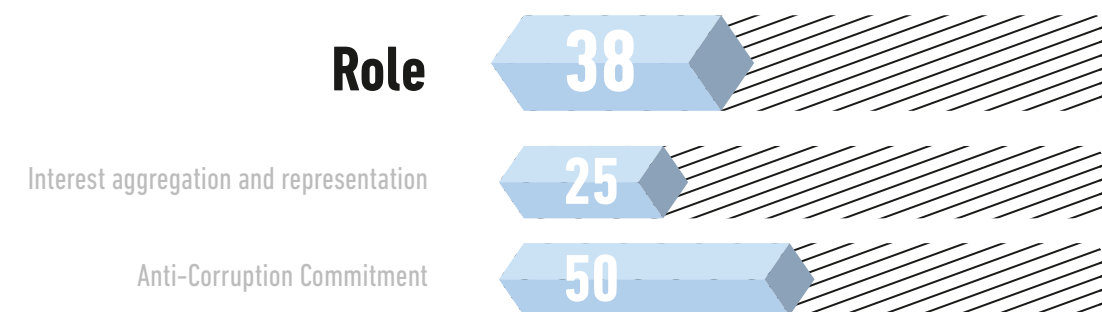
Capacity



Governance



Role





Of them, 14 political entities are represented in the Assembly based on the mandates won in the last parliamentary elections of 2021. The Office for Registration, Certification and Financial Control of Political Entities (“the Office”), which functions within the CEC, is responsible for the registration and certification of political parties, maintaining the party register, setting campaign spending limits and implementing financial reporting provisions.²

This report focuses on assessing the key entities that hold significant political influence within Kosovo’s political landscape, including the Self-Determination Movement (LVV) – as the ruling party – and the Democratic Party of Kosovo (PDK), the Democratic League of Kosovo (LDK) and the Alliance for the Future of Kosovo (AAK), all of which play critical roles as the main opposition parties shaping the political dynamics in Kosovo over the years. Additionally, the assessment includes the Serbian List (SL), the principal party representing the Serbian community in Kosovo’s institutions. Although in practice these political parties lack distinct ideological profiles, LVV is categorised as a centre-left party. On the other hand, the three opposition parties, namely PDK, LDK and AAK, are defined as centre-right parties.

Kosovo’s regulatory framework is conducive to the formation, registration and functioning of political parties. However, the political party system still falls short of strong plural contestation in democratic elections free from external interference, translating the widest plurality of interests in society into nation-wide policies, and adequate transparency and compliance with financial obligations.

Kosovo does not have a unified law on political parties. The functioning of political parties is regulated only by the Regulation for the registration and operation of political parties, which the CEC approves. However, numerous laws regulate political financing in Kosovo, including the Law on Financing of Political Entities, the Law on General Elections, the Law on Local Elections, and the Law on the Budget of Kosovo.

As for financing political entities, Kosovo was characterised by a lack of transparency and financial accountability, due to financial reports being incomplete and not overseen properly. In this regard, progress has been made with the adoption of amendments to the law on financing political entities in August 2022. However, there are still gaps, especially concerning candidates’ finances and digital campaigns.

In a structural and organisational sense, political parties are similar. Most political parties are essentially “leaderist”. In this viewpoint, for personal and political interests, they continue to exert influence on public institutions and damage their independence. That is why political parties are considered the country’s least-trusted institutions.³



Capacity

 **INDICATOR 11.1.1
RESOURCES (LAW)**

75/100



The legal framework regulating the formation and operations of political parties is generally adequate. In the absence of a specific law for political parties, the current regulation of political parties is based on the Law on General Elections and the electoral rules of the CEC.

A political party has the right of establishment based on the principle of freedom of association.⁴ For registration, parties must submit their application to the Office, along with the party’s charter and programme, list of senior officials, latest financial statement, date of convention meeting, and signatures of at least 500 founding members.⁵ The registration fee is €500.⁶

The Office must review applications within ten days⁷ and recommends registration or rejection of the application to the CEC within 30 days.⁸ A registration request may be refused if the documents do not adhere to the legislation, if the party’s name or symbol may incite hatred and violence, or if they are the same or similar to any other party.⁹ In case of rejection, the parties have the right to appeal to the Elections Complaints and Appeals Panel (ECAP) within 24 hours.¹⁰

A code of conduct defines restrictions related to the election campaign activities of political parties.¹¹ For internal decision-making, the legislation guarantees the right of equal vote to all members in all decisions taken by party assemblies.¹²



Political entities are funded, among others, from the public budget.¹³ For this purpose, the Fund for the Support of Political Entities has been established, within which funds are allocated up to a value of 0.34 per cent of the state budget.¹⁴ The Fund can be used to finance the activities of political entities, branches, women’s and youth organisation units, pre-election and election activities, and the activities of parliamentary groups.¹⁵ The means of this fund are allocated to the political subjects represented in the Assembly based on the number of seats won.¹⁶

To support political parties during election processes, they can be allocated additional funds up to 0.05 per cent of the state budget.¹⁷ Within these funds, 90 per cent are allocated to the parties that won mandates in the Assembly, or municipal assemblies, while 10 per cent are to other parties certified in the elections.¹⁸

 **INDICATOR 11.1.2
RESOURCES (PRACTICE)**

50/100



Political competition in Kosovo takes place mainly between the major parties and the party or parties in power. Small parties, especially non-parliamentary ones, have difficulties in securing financial resources, which are much less than those of large parties.

Parliamentary parties receive €4.2 million every year from the public budget alone.¹⁹ Thus, parliamentary political entities, especially large ones, have a significantly more stable financial condition. Until now, there have been no cases of



allocation of additional funds from the public budget to finance the campaign activities of political parties. This has made the financial sustainability of small and new parties even more difficult, forcing them to seek private donations, which are few and mainly oriented towards large parties (see table 11.1).

According to the annual financial statements of political parties, public funding represents the largest share of their financial resources. Based on the annual reports of the parliamentary parties for 2021 and 2020, private donations, whether in cash or in-kind contributions, amount to much less than public funding, even in election years. Despite the legal framework providing the opportunity (see 11.1.2), no funds have been allocated for political party campaigns so far.

Table 11.1 Financial data of parliamentary political entities, generated by the author based on the annual financial reports of political entities for 2021 and 2020

Political entity	2021		2020	
	Public funding	Private donations	Public funding	Private donations
LVV ²⁰	€ 1,655,326.95	€ 427,251.96	€ 913,500.00	€ 59,626.09
PDK ²¹	€ 647,081.42	€ 166,531.90	€ 756,000.00	€ 26,259.00
LDK ²²	€ 285,457.61	€ 10,152.82	€ 882,000.00	€ 0
AAK ²³	€ 292,719.62	€ 2,250.00	€ 404,954.58	€ 17,200.00
SL ²⁴	€ 424,459.03	€ 0	€ 355,225.66	€ 0

However, the reports do not match the reality on the ground. According to the non-governmental organisations that deal with political financing in Kosovo, it is estimated that political parties do not publish or report the majority of private donations received.²⁵ Part of the lack of disclosure of donations may be due to the legal restrictions which prevent companies from benefitting from public contracts if they have made donations to political parties.²⁶ While this provision helps prevent undue influence through campaign donations, it may also disincentivise donors to make their donations in accordance with the existing regulations.

According to local election observation reports, parties generally enjoy equal treatment in media coverage during elections.²⁷ However, private media find it more challenging to cover parties in local areas due to the lack of capacities.²⁸

INDICATOR 11.1.3 INDEPENDENCE (LAW)

75/100



There are provisions of various laws that address the independence of political parties, but which contain shortcomings and contradictions when it comes to interference with the political parties through their cessation.

The electoral legislation determines that a criminal sanction against a registered political party should lead to their dereg-



istration, based on a court's decision.²⁹ However, the penal legislation does not allow the cessation of work or prohibition of the activity of political parties.³⁰ The criminal law therefore provides stronger legal safeguards against interference than the electoral law.

The legislation foresees the possibility of investigating political parties, mainly in terms of their financing,³¹ with their annual financial reports sent by the CEC to the State Prosecutor, the Agency for the Prevention of Corruption, the Financial Intelligence Unit or the Tax Administration of Kosovo when the suspicion of irregularities falls under their competence. Monitoring is foreseen regarding the internal operation, including the holding of assemblies and other internal changes. The Office within the CEC is allowed to carry out monitoring activities regarding election assemblies – where they must be invited as observers³² – and monitoring of expenditures.³³ In criminal cases, political parties may be subject to covert surveillance measures, including surveillance, photography, wiretapping, disclosure of financial data and others.³⁴ However, they are limited only for the purpose of the investigation in accordance with the public interest and the purposes of the relevant laws.

representing their interests. Moreover, to date, there have been no court decisions against political parties.

Political parties generally receive equal and non-preferential treatment by the authorities. However, there have been arrests and detentions of political party officials due to protests or political actions. During the last two years, there have been several arrests of activists and officials of the Social Democratic Party due to their protesting activities and actions, including throwing paint on governmental buildings.³⁶ Likewise, there have been at least two other cases of arrest of activists of the PDK after the actions carried out by them.³⁷ All those arrested were released within a short period.³⁸

Among the most sensitive criminal processes against activists of political parties was the case of the attack on the Assembly of Kosovo, for which six activists of the LVV were arrested in 2016 under charges of terrorism.³⁹ One of the arrested had died under suspicious circumstances in the detention centre,⁴⁰ which has not yet been fully clarified. As a result, this process was accompanied by numerous clashes between the LVV and the parties in power at that time, with the LVV describing the arrests as persecution of political opponents.⁴¹ The accused activists were initially sentenced to 21 years in prison.⁴² But after the retrial of the case at the end of 2022, all of the accused were found not guilty.⁴³

According to the Freedom House report on Kosovo for 2022, parties sometimes face intimidation that negatively affects their competitive abilities, with particular emphasis on the Serbian List,⁴⁴ which has been repeatedly accused in international reports of pressuring political rivals.⁴⁵ In addition, external influence was manifested through direct backing of the Serbian List by different Serbian institutional figures, coupled with alleged tactics of intimidation and stigmatisation aimed at silencing other Kosovo-based Serbian political parties.⁴⁶

INDICATOR 11.1.4 INDEPENDENCE (PRACTICE)

75/100



Political parties operate largely free from outside interference in their activities. They are generally subject to oversight and investigations only in legally defined cases. However, there are instances of criminal proceedings pursued by the state against individual party activists as well as foreign-sponsored electoral intimidation against candidates in Serbian-majority municipalities.³⁵

In Kosovo, there has not been any case or attempt by state authorities to stop and interfere with the political parties in





Governance

INDICATOR 11.2.1 TRANSPARENCY (LAW)

75/100



The current legal regulation is relatively comprehensive regarding the obligation for political parties to make their financial information publicly available. However, the lack of such legal obligation for individual candidates of political parties' self-financing diminishes financial transparency.

Legal amendments to political financing in Kosovo, approved in August 2022, have somewhat advanced the financial transparency of political parties.

Political parties must submit an annual financial report each year before March 1 of the following year.⁴⁷ Reports should contain information on financial statements, receipts of all expenses, bank balances and a register of donations received.⁴⁸ For donations over €100, parties must provide information on the value, date of donation, full name, address and personal number of the contributor.⁴⁹ The parties must also submit to the Office a financial statement on the election campaign within 45 days after the end of the elections,⁵⁰ which must be published no later than six months after the elections.⁵¹

The provisions oblige the parties to keep the financial reports published for at least one year on their official websites and daily newspapers until July 30 of the following year.⁵² Parliamentary parties must publish their three-month expenses on their websites and update the detailed list of donors every three months, while financial reports must be published for three years.⁵³ These documents must be submitted to the Office.⁵⁴ The Office then creates and publishes a Public Information File containing copies

of the donor registry, campaign finance reports, certified candidate financial release forms and final audit reports.⁵⁵

The CEC must prepare an annual report for the Assembly of Kosovo regarding the distribution and manner of spending the means of the Fund for the support of political parties.⁵⁶

The legislation requires reporting of any expenditures made for campaign purposes.⁵⁷ However, digital campaigns are not clearly normatively regulated. Although the legislation prohibits the direct acceptance of donations for the candidate,⁵⁸ the financial control of expenditures and self-financing are not regulated by the law.

INDICATOR 11.2.2 TRANSPARENCY (PRACTICE)

25/100



Generally, the public faces difficulties obtaining financial information from political entities. The political parties submit their financial reports to the CEC Office according to the legal deadline,⁵⁹ but do not undertake any pro-active step in disclosing financial information, instead relying on CEC procedures which usually take too long (see 7.3.1).

Until 2019, the Assembly of Kosovo had repeatedly failed in the procurement procedures for selecting auditors due to insufficient budget allocation.⁶⁰ As a result, the delays of this process went up to three or four years.⁶¹ However, the CEC would not publish a financial report before the audit process was completed, leaving the public with zero transparency. Only in 2019 did the CEC decide to publish unaudited financial statements.⁶²



The CEC website is the main source where the public can get information about the finances of political parties.⁶³ In addition to financial and campaign reports, for each election process, the CEC publishes a list of political party donations.⁶⁴ Except for the LVV,⁶⁵ other parties,⁶⁶ most of the time, do not pro-actively publish their annual financial reports on their websites.

Digital campaigning has grown in prominence, especially in the 2021 local elections.⁶⁷ However, the parties do not declare their expenses in these campaigns. Since September 2022, the Facebook Ad Library has started providing detailed information on political advertising spending on the social media pages of political parties and their candidates.

INDICATOR 11.2.3 ACCOUNTABILITY (LAW)

75/100



There are consolidated provisions that oblige political parties to maintain and report records of their finances. However, this obligation does not apply to the finances of political party candidates, whose finances and self-finances remain out of the legal scope.

With the legal amendments of August 2022, the Office for Registration, Certification and Financial Control of Political Entities is guaranteed greater functional independence⁶⁸ and additional resources⁶⁹ for monitoring and controlling the finances of political entities. Auditing of financial reports is performed by auditors selected by the Office through open public competition.⁷⁰ The Office is guaranteed decision-making independence in imposing fines.^{71,72}

The law obliges political parties to submit two types of financial reports: the annual financial report and the campaign financial declaration report.⁷³ The annual financial report comprises information on the party's assets, capital and liabilities, profit and loss statement, payment report, receipts of all expenses, bank balances, donor register and party loans.⁷⁴ This report

must be submitted to the CEC no later than March 1 of the following year.⁷⁵ Meanwhile, the parties competing in the elections must submit Campaign Financial Declaration Reports, including all branches and parts of the parties, starting 90 days before the elections and ending on the day of the elections.⁷⁶ The report must be submitted no later than 45 days after the election.⁷⁷ The formats of the annual financial statements are templates defined by the election rules of the CEC.⁷⁸

Candidates of political parties are not obliged to report on their campaign finances. As they are prohibited from directly accepting donations, this issue relates to self-financing.⁷⁹ Candidates are only required to complete a financial disclosure form during elections⁸⁰ consisting of superficial data on the candidate's financial situation before elections, including income, assets, shares in businesses, cash flow, financial obligations and other debts.

The legislation contains serious deficiencies in terms of fines against political parties for violations related to financial reporting. The law provides for a wide range of fines, from €4,000 to €40,000,⁸¹ without specifying which fine is imposed in which cases. This is left at the discretion of the Office, depending on the gravity and type of violation.⁸² Fines may be imposed for violations related to how funds are used, bank statements, donations, non-compliance with reporting and publication deadlines, or failure to provide adequate access for auditing by auditors.⁸³

INDICATOR 11.2.4 ACCOUNTABILITY (PRACTICE)

50/100



Generally, political parties submit their annual financial and campaign reports to the Office at the CEC, but these have gaps and are of low quality as they do not include detailed information on finances, especially expenditures.

Since the new legislation entered into force by the end of 2022, the effects in practice cannot be analysed yet. Prior





to the amendments, compliance by political parties with existing legislation showed some problems. On the one hand, political parties used to submit their annual financial reports and campaign reports on time.⁸⁴ In 2021, as an election year, the Office had imposed only seven fines, all in the amount of €1000, due to political parties' delays in submitting annual financial reports.⁸⁵ None of the fines were imposed on parliamentary parties.

However, the content and accuracy of the financial statements of political entities remained problematic. The European Commission reports for Kosovo underlined that the financial reporting was incomplete, and there was no substantive oversight of the reports.⁸⁶ Until the legal changes of August 2022, the Office did not control the content and accuracy of reports but was focused on checking regularity and formal criteria, for example, whether the political parties submitted the documents (such as banking information), without scrutinising them.

CEC financial reporting forms do not contain digital campaign categories. Thus, it is assumed that many sources of income and expenses of political parties remain undeclared.⁸⁷

The findings of the financial auditors' reports of the political parties highlight problems with the supporting documentation of the expenses incurred by the parties, especially related to transportation expenses,⁸⁸ as well as other un-categorised expenses.⁸⁹ In general, auditors' reports on the finances of political parties emphasise that most political parties do not maintain proper accounting, do not develop adequate tendering procedures, do not fulfil tax obligations or have internal control procedures, and the relevant financial officers do not have accounting knowledge.⁹⁰

However, the violations uncovered and evidenced by the auditors have so far gone unsanctioned by the Office due to the lack of resources, especially human ones.⁹¹

The accuracy of the financial reports of the campaigns is also disputed regarding the expenses during the campaign, which actually exceeded the spending caps set by the CEC. Based on the monitoring of the expenditures of political entities for the 2019 election campaign, the coalition of election monitoring organisations "Democracy in Action" concluded that the LDK did not adhere to the limit for maximum expenditures during the campaign, spending €220,957 more than the limit set by the CEC.⁹²

INDICATOR 11.2.5 INTEGRITY (LAW)

75/100



The major political parties regulate governance and internal decision-making through their statutes. However, competitive leadership elections are not mandated by any of the internal regulations of the political parties. Most parties also have a centralised approach to electing party bodies, where voting is secret.

Political parties are obliged to organise meetings of the party assembly at least once in four years and renew the party's internal structures.⁹³ Parties must also ensure the participation of party members in the election of electoral candidates, while candidates for municipal assemblies must be elected by the relevant branches of the party.⁹⁴

The Self-Determination Movement is the only political party that applies direct democracy according to the one-member, one-vote principle for the election of the party chairman, the heads of organisational units, and the approval of the political programme.⁹⁵ Other major parties (the Democratic Party of Kosovo,⁹⁶ Democratic League of Kosovo⁹⁷ and Alliance for the Future of Kosovo⁹⁸) elect executive bodies and approve the party's political programme through delegated democracy at party assemblies. However, none of the internal regulations of the political parties requires competitive leadership elections. In the case of the Democratic League of Kosovo, candidates for party chairman are required to have their candidacies approved in advance by 50 per cent+1 of the delegates.⁹⁹ Excluding the LVV, the election of the leading structures of the political parties is done by secret voting.^{100,101,102}

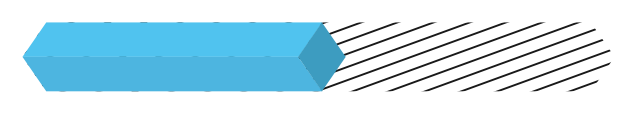
The statutes of the main political parties also regulate the candidacies for President, Prime Minister, members of the parliament and members of municipal assemblies. The



general or leadership councils of the political parties are called to approve the lists of candidates for MPs of the Assembly of Kosovo, as well as other candidacies for institutional executive positions (President or Prime Minister). The proposals of the lists of candidates for MPs are mainly compiled by the branches and approved by the general councils^{103,104} or governing councils.¹⁰⁵ For the local-level elections, the lists are compiled by the relevant levels of the local organisation and require the approval of the party leaders.^{106,107,108,109}

INDICATOR 11.2.6 INTEGRITY (PRACTICE)

50/100



In general, the major political parties only nominally follow the procedural provisions of intra-party governance and democracy. As a result, political parties in Kosovo are considered leadership parties.¹¹⁰

In most cases, intra-party election processes are a formality, and even the contests for party leaders are mainly organised with a single candidate. Excluding LDK,¹¹¹ in the other main parties in the country, the last election contests were held with a single candidate.¹¹² This approach is then reflected in the organisational units of the parties, where the heads of branches or centres, as well as other candidates for public positions, are chosen based on the preferences of the central-level leaders.

Among the main parties, the LVV is considered relatively ahead in terms of internal democratisation through the involvement of its members in the selection of leadership structures through direct elections.¹¹³ However, in the last election process, the race for the leader of this party was held with a single candidate, Albin Kurti, who had previously been the leader of this party for two terms.¹¹⁴ Due to the

clashes related to this race, almost half of the MPs and other activists resigned from LVV and founded a new party.¹¹⁵

The Democratic League of Kosovo is the only party that conducted a competitive election race for the leader of the party in their last internal elections. The race was held among the leading figures of the party, although initially, candidacies were also announced by several other candidates.¹¹⁶ LDK is also the party with the most changes in party leadership, with a total of four chairmen since its formation in 1989, followed by PDK with three chairmen since 1999, LVV with two chairmen since 2005 and AAK with a single chairperson since its establishment in 2000.

When it comes to intra-party decision-making, including the selection of candidates or the approval of the political programme, in practice, decisions are made by narrow decision-making structures, including the chairman and other senior party executives, without involving the other party bodies.¹¹⁷ Approval from the latter is usually a mere formality. Political programmes follow a top-down approach,¹¹⁸ especially at the central level, where platforms are approved in a hurry due to frequent extraordinary elections and short deadlines. When it comes to the local level, in practice, branches and candidates for mayors have considerable autonomy in drafting political programmes, with the central level only being involved in their review and providing expertise.¹¹⁹





INDICATOR 11.2.7 GENDER REPRESENTATION

50/100



There are legal provisions that regulate women's participation in political life, but they are not fully implemented in practice. Likewise, political parties do not implement voluntary affirmative measures to promote the equal participation of women in intra-party decision-making processes.

The Law on General Elections defines two levels of gender quotas. The law establishes legislative quotas¹²⁰ and practically reserved seats for women in the Assembly,¹²¹ which are legally described as seats for the underrepresented gender. Both of these quotas are at the level of 30 per cent. Electoral rules stipulate that political entities cannot be certified if they do not meet the legal criterion for the inclusion of at least 30 per cent of women on the electoral list.¹²²

The law determines that in case of early termination of their mandate, the MPs are replaced with the next candidate of the same gender.¹²³ However, the implementation of this provision has been assessed as unconstitutional by the Constitutional Court¹²⁴ after the complaint of two candidates for MPs that they could not replace the MPs whose mandate ended because the replacement was made by candidates of the same gender, although they had more votes.¹²⁵

On the other hand, in the absence of legal obligations, in practice, the political entities have not taken any initiative to apply internal voluntary quotas, either at the structural or organisational level, not even in the electoral lists. In fact, parties rarely exceed the legal obligation of the minimum criterion of 30 per cent inclusion of women in the lists.

Women lead only four of the 50 political parties currently registered in the CEC.¹²⁶



Role

INDICATOR 11.3.1 INTEREST AGGREGATION AND REPRESENTATION

25/100



Although the party system in Kosovo is relatively effective in aggregating and representing the interests of different constituencies, there are still social groups and interests that political parties do not represent, such as unions and/or business associations. Some political parties continue to be based on clientelistic ties and represent narrow interests, and in some instances, they also show populist features.

Despite the statutory determinations on their ideological profile, in reality, political parties do not stand out for a clear ideological profile.¹²⁷ Programmatic positions are mainly based on coalition agreements, causing parties to become “catch-all” parties, representing the interests of as many social groups as possible.¹²⁸ Thus, it is more favourable for the parties not to declare ideologically and on a programmatic basis.¹²⁹ There are no high levels of ideological cohesion among members of political parties.¹³⁰ Clientelism in Kosovo is manifested in particular through the influence of private businesses on decisions that political parties make by favouring and rewarding private companies which have financed political parties with public contracts or licences for the use of public goods or assets.¹³¹ In addition, there are individualistic clientelist ties, especially with regard to hiring persons who are members or close to political parties in power. Therefore, affiliation with a political programme is not usually the primary reason why individuals join political parties.¹³²

Political parties are the institution with the lowest level of trust from citizens in Kosovo for over a decade now.¹³³ This situation has not changed despite the parties' attempts at structural changes and new trends, especially from civil society actors¹³⁴ who have been appointed to high leadership positions. In this regard, civil society organisations have a level of cooperation with political parties which depends on the relevant topic and the

political parties' own interests, as was the case with the opposition to the draft law on financing political parties by civil society, which as an initiative was supported by opposition parties.¹³⁵

INDICATOR 11.3.2 ANTI-CORRUPTION COMMITMENT

50/100



Political parties pay attention to public accountability and the fight against corruption mainly during election campaigns, but the reforms and subsequent initiatives in practice are fragmented and usually far from achieving their goals.

The fight against corruption and public accountability have been part of the political discourse and rhetoric for over a decade, but it is mainly limited to the pre-election campaigns. In the last 2021 parliamentary elections, justice and rule of law issues, including the fight against corruption, were among the most prominent topics of the campaign activities of the main political parties.¹³⁶ These issues have found considerable space in the political platforms of political entities. According to the reports of non-governmental organisations on the promises of political parties in the field of the rule of law, during 2021, LVV has promised a total of 19 points for fighting corruption, followed by PDK with ten, LDK with five, and the AAK with four points or programmatic promises for the fight against corruption.¹³⁷ However, many of the promises of the political parties have been viewed as against constitutional principles and international practices, while some are unrealisable in practice.¹³⁸

The current government, led by the LVV, has begun to implement the promises and programme points related to the fight against corruption, including the vetting process in the justice system,¹³⁹ the confiscation of unjustifiable assets¹⁴⁰ and the increase of resources for institutions engaged in the fight against corruption. The fight against corruption and increasing accountability are issues that party leaders attach great importance to in their public statements.^{141,142}





Interactions

Political parties in Kosovo have interactions with almost all institutions in Kosovo. Still, the most frequent interactions involve the Assembly and the government, the CEC and civil society.

The parties, through their political representation in the Assembly and in the government, have the opportunity to push forward various initiatives to improve the performance of institutions in the fight against corruption. Within the framework of initiatives to fight corruption, such as the vetting process, there is also a consensus among the political spectrum, which has also been manifested in the work of the relevant parliamentary committee.¹⁴³

Concerning transparency and accountability, especially in the financial sense, political parties have the most active interaction with the CEC, particularly the Office. This interaction stems from the legal obligations for financial reporting,¹⁴⁴ but is also related to the internal functioning of political parties.¹⁴⁵ Meanwhile, in order to increase the capacities and quality of financial reporting of political parties, the Office and CEC also organise training sessions for financial representatives of political parties.¹⁴⁶

As for increasing the internal capacities of political parties, international organisations and local non-governmental organisations play a significant role by providing training and other forms of support aimed at improving the internal integrity of political parties.¹⁴⁷

Pillar Recommendations

- The Assembly of Kosovo should initiate consultations and legislative procedures for codifying all regulations on political parties into a single Political Parties Law. The new law must clearly define the prerogatives, obligations, and other conditions that enable political parties fulfil their functions in society, including at minimum provisions to ensure:
 - Functionality – the registration procedures, legal status and structural organisation;
 - Internal democracy – the selection procedures of the candidates, the adoption of party platforms and other important governing documents and election of central governing positions and bodies;
 - Inclusion of women in senior decision-making and gender budgeting;
 - Financial transparency.
- The Assembly of Kosovo must review the Law on Financing of Political Entities to:
 - Establish the obligation for candidates of political entities to report to the Office on their income and expenses of their campaign activities, including self-financing, under the same conditions as political entities.
 - Subject donations made by candidates to their own campaigns to the same limits and eligibility conditions applicable to other contributors or sources of funds, including donations to their own political organisations.
 - Ensure that lack of compliance with and violations of political financing obligations meet dissuasive sanctions, ranging from administrative and criminal liability proportionally to their gravity regarding financial transparency and accountability.
 - Require a declaration of beneficial ownership from companies that make donations to political parties or candidates (in order to verify links with public contractors and to ensure that donations from legal persons do not originate from foreign entities and individuals).
 - Require the Office within the CEC to provide digital submissions of reports so the information can be used by CSOs and other agencies for scrutiny and verification purposes.
- Political parties should adopt internal policies to enhance women’s participation in decision-making by promoting the “zebra” representation model – with each electoral list of political parties comprising 50 per cent of women. Particular attention should be paid to equal gender budgeting, i.e. preparing the party’s budget by taking into consideration gender perspectives.



ENDNOTES

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- 25 Radio Free Europe, The secret of financing of political parties (November, 2020). Available at: <https://www.evropaelire.org/a/30930142.html> [accessed on February 13, 2023]
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- 28 “European Union Election Observation Mission – Kosovo 2021”, Final Report on 2021 Municipal Elections (Pristina: EUEOM, 2021), Pg. 26.
- 29 Law on General Elections, Article 14, paragraph 1.
- 30 Law on Liability of Legal Persons for Criminal Offences, Article 11, paragraph 2, and Article 31, paragraph 2.
- 31 Law on Financing of Political Entities, Article 18, paragraph 17.
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- 33 Law on Financing of Political Entities, Article 19.
- 34 Criminal Procedure Code of the Republic of Kosovo, Article 87.
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68 The functional independence of the Office will be guaranteed through the method of selection and reporting of the Director. Unlike the present situation, the Director of the Office will not be elected or dismissed from the full (political) composition of the CEC. This competence now belongs to a panel composed of the Chairman of the CEC and the heads of four independent institutions: the Agency for the Prevention of Corruption, the Ombudsperson, the Agency for Information and Privacy, as well as the Office of the Auditor General. For more, see Article 11.2/b of the amended Law on Financing of Political Entities.

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70 Law on Financing of Political Entities, Article 19, paragraphs 1 and 2.

71 Law on Financing of Political Entities, Article 21, paragraphs 1 and 12.

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73 Law on Financing of Political Entities, Articles 15 and 19.

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77 Law on General Elections, Article 40.

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79 Law on Financing of Political Entities, Article 11, paragraph 4.

80 Law on General Elections, Article 43, paragraph 1, point c.



81 Law on Financing of Political Entities, Article 21, paragraph 6.

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88 Independent Auditors’ Report on the Financial Statements of the Self-Determination Movement campaign for the early parliamentary elections of 2019, Pg. 3

89 Independent Auditors’ Report on the Annual Financial Statements of the Alliance for the Future of Kosovo for 2019. Pg. 3

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93 Regulation No. 01/2013 – Registration and Operation of Political Parties, Article 15, paragraphs 1 and 3.

94 Regulation No. 01/2013 – Registration and Operation of Political Parties, Article 16.

95 The Statute of the Self-Determination Movement, Article 28.

96 The Statute of the Democratic Party of Kosovo, Article 36.

97 The Statute of the Democratic League of Kosovo, Article 19.

98 The Statute of the Alliance for the Future of Kosovo, Article 13, paragraphs 6, 8 and 9.

99 The Statute of the Democratic League of Kosovo, Article 25, paragraph 2.

100 The Statute of the Democratic League of Kosovo, Article 21.

101 The Statute of the Democratic Party of Kosovo, Article 38, paragraph 2, and Article 41, paragraph 4.

102 According to the Statute of the Alliance for the Future of Kosovo, Article 41, paragraph 3, votings on personnel issues are secret.

103 According to the Statute of the Self-Determination Movement, Article 87, half of the candidates are proposed by the Centres, one quarter by the chairman and one quarter by the party presidency.

104 The Statute of the Democratic League of Kosovo, Article 24.

105 The Statute of the Democratic Party of Kosovo, Article 39, paragraph 8, and Article 44, paragraph 13.

106 According to the Statute of the Self-Determination Movement, Article 42, the electoral lists for the local level are approved by the Presidency of the Center in coordination with the Organisational Secretary of the party.

107 According to the Statute of the Democratic League of Kosovo, Article 45, paragraph 4, for the list of candidates at the local level, the Head of the branch decides.

108 According to the Statute of the Democratic Party of Kosovo, Article 85, paragraph 2, the lists of candidates for the local elections are prepared by the Head of the Branch, and must receive the consent of the Presidency of the party.

109 According to the Statute of the Alliance for the Future of Kosovo, Article 18, paragraph 12, the lists of candidates at the local level are approved by the Party Presidency, after the proposal of the branch Presidency.

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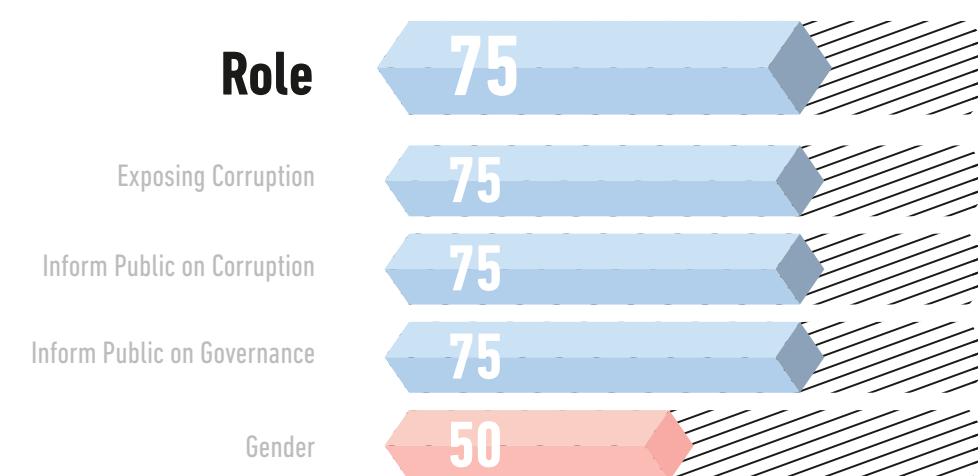
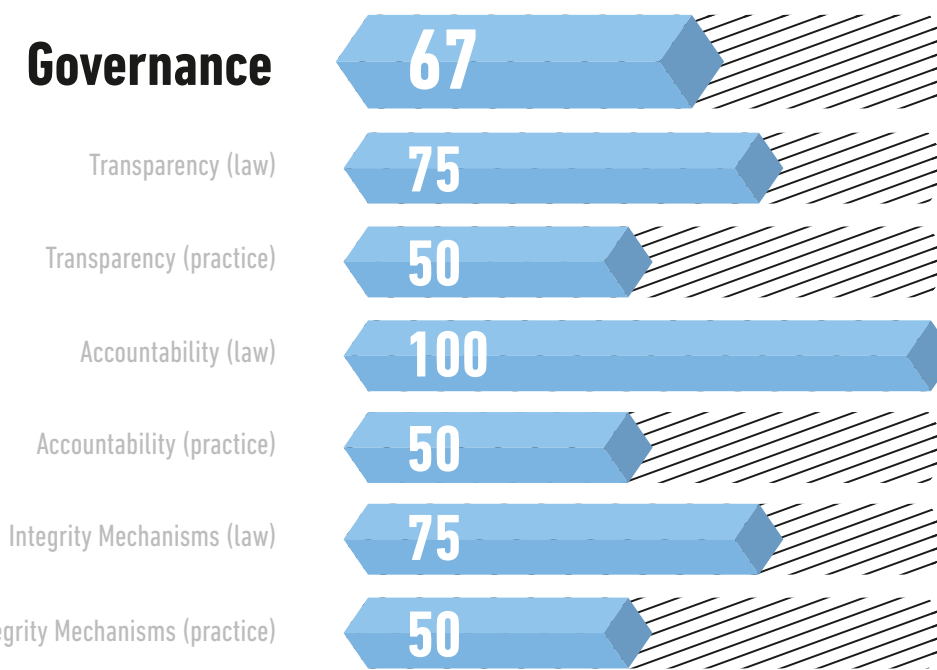
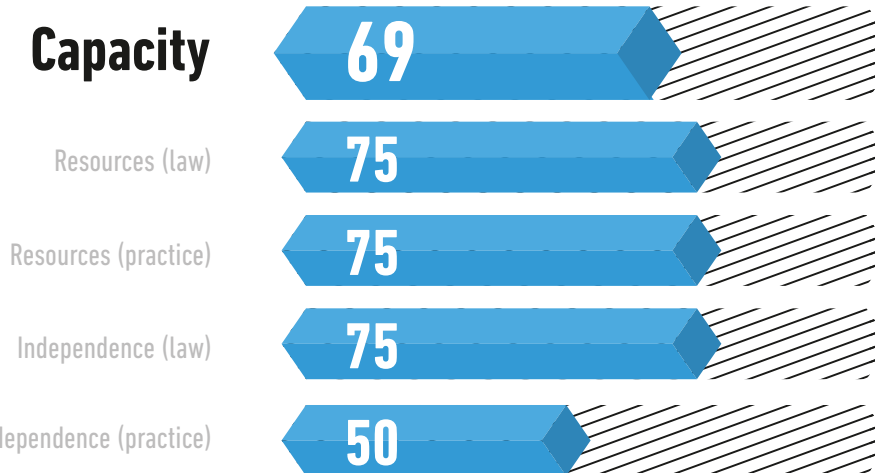
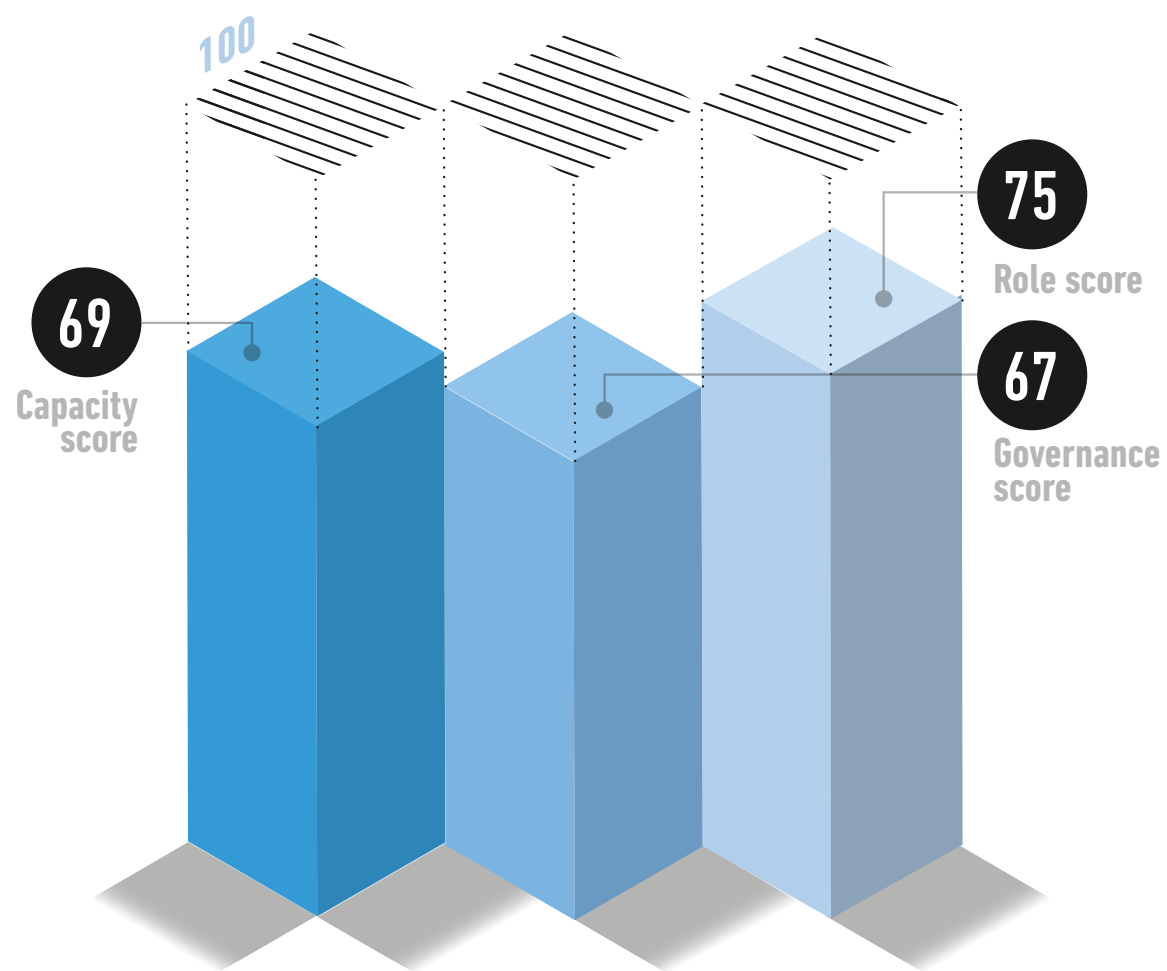
MEDIA



SUMMARY

There are 19 television stations, 89 radio stations, 41 distribution operators, and 94 audio-visual media service providers licenced by the Independent Media Commission (IMC).

70/100 Overall pillar score





The IMC is the main regulatory authority for visual media, over which the state has legal authority. In contrast, the print media is self-regulated and is represented by the Press Council of Kosovo (PCK). The Association of Journalists of Kosovo (AJK) is an organisation that plays an essential role in the protection and promotion of the rights of journalists as well as their non-formal education.

The Constitution guarantees the rights and freedom of journalists. However, in practice, they are part of daily interventions by the state or different individuals. The public broadcaster has a budget allocated by the Assembly, while the other media are largely self-financed or financed by marketing activities.

The legal framework has not undergone any changes in recent years and, as such, remains fragmented in covering the media sector. The Law on Media has not yet been approved, which would enable the resolution of issues related to the functioning of the media in general.

Political pressure in the form of strategic lawsuits against public participation (SLAPP suits) and verbal attacks on the media and attacks on journalists are concerning problems. Published news often creates disputes within the business sector and media sectors in terms of sponsorships. The media continues to be the prominent voice for the exposure and investigation of corruption cases, although the results are far from satisfactory. Media ownership continues to remain an area subject to vague disclosure of information. This is particularly true with regard to online media.

After the COVID-19 pandemic, all newspapers in the country have stopped publication. Online media, such as portals, are not regulated by law, which creates difficulties in terms of control, especially regarding fake news.



Capacity



**INDICATOR 12.1.1
RESOURCES (LAW)**

75/100



The legal framework pertaining to the existence and operations of independent media is generally conducive to a diverse independent media. However, there is a lack of regulation on the operations of online portals regarding fake news and hate speech and threats in online media comment sections.

Broadcasters have to receive a licence by the IMC and print media are self-regulated by the PCK.¹ In 2021, the government initiated meetings of the working group to draft the amendments of the Law on the Independent Media Commission to harmonise it with the EU Directives regarding digital media. However, this process has not continued.² Currently, the IMC issues licences for a period of seven years for radio broadcasters and ten years for audio-visual media services.³

The IMC has to refuse or not renew licences for audio-visual media providers⁴ when broadcasting licences are requested by certain actors, such as political parties, religious communities, groups or organisations managed by individuals holding public office.⁵ However, these refusals must be justified in writing.⁶

Print media do not have any regulations regarding the limitations of their establishment. These media are only supervised by the PCK, which operates based on a Code of Ethics.⁷ The PCK works with a board and secretariat that deals directly with complaints about violations of this board but not with media licensing. Print media are simply part of the organisation.⁸



Legal provisions promote the diversity of media in terms of competition and the media's obligations in terms of providing media services by promoting fair competition.⁹



**INDICATOR 12.1.2
RESOURCES (PRACTICE)**

75/100



Multiple media sources cover all political issues and the social spectrum. However, a shortage in financial resources makes them vulnerable to political and business influence.

Currently, 19 television stations, 89 radio stations, 41 distribution operators, and 94 audio-visual media service providers offer their programmes only through the network of distribution operators.¹⁰ They are licensed by IMC and are located in the territory of the Republic of Kosovo.¹¹ The main TV stations are located in the capital city, while many TV stations operate in the local areas. They operate in Albanian, Serbian and other languages of non-majority communities. Since 2020, Kosovo has no printed media or newspapers resulting from the lack of interest, making Kosovo the only one in the region and Europe without any daily newspapers printed.¹² There are also non-governmental organisations that operate as online newspapers that cover social and political topics in the country, such as Kosovo 2.0¹³ and Kallxo.com.¹⁴

According to the Executive Director of the AJK, the media landscape reflects a broad spectrum of society's interests, considering the large media presence in the country and the coverage that these media have in their programming and editorial schemes.¹⁵ This was also confirmed in the 2023 analysis of Reporters Without Borders noting that Kosovo has "a pluralistic and vivid media market".¹⁶



The biggest problem for the country's media is a lack of finances, as they are mainly funded by advertising activities.¹⁷ Private media newsrooms are also exposed to interference from powerful political or business groups via the media owners (see 12.1.4), causing a threat to the diversity of media.¹⁸ According to the Managing Editor of Kallxo.com, an online platform for reporting corruption, the state has stopped allocating advertisements to the media, and the public broadcaster Radio Television of Kosovo (RTK) has also stopped allocating public funds for civil society organisations in 2020 that have produced independent programmes for RTK.¹⁹ RTK is an exception to the funding issue since it gets public funding through the state budget. All other TV media now are broadcast only through private broadcasting companies that operate as TV platforms in the country.²⁰ Since the private broadcasting companies are therefore dependent on income from advertisement, this increases the salary and benefits of media employees, but also negatively affects the variety of perspectives that private media provides.²¹

According to the Executive Director of the AJK, journalists generally have adequate academic and professional preparation, giving their experience in the campaign they cover.²² The lack of financial self-sustainability leaves the media, including the public broadcaster, vulnerable to political and business interests (see 12.1.4).²³

INDICATOR 12.1.3 INDEPENDENCE (LAW)

75/100



Although not directly by a specific law on media, there are legal safeguards that prevent unwarranted external interference in the media. However, the Civil Law Against Defamation and Insult has had no changes made to it since 2008 to adapt to other legal changes.

The Constitution guarantees freedom of expression and freedom of the media.²⁴ Legal protection that prevents in-



terference in the activity of the media is provided by the Law on the IMC²⁵ and the Law on the Protection of Journalism Resources.²⁶ However, there is a lack of media law in general.

General provisions ensure editorial independence, but they mainly relate to sponsorship.²⁷ The Law on IMC specifies that the sponsored programmes must not affect the responsibility and editorial independence of the media.²⁸ The Code of Ethics for the Written Media also provides that sponsorship should not affect editorial independence, and the content should be clear.²⁹ The Constitution prohibits censorship, and it specifies that no one can prevent the dissemination of information through the media.³⁰

Journalists and other media professionals have the right not to provide their information sources except when compelled by a court in order to prevent a serious threat.³¹

The Law on Access to Public Documents guarantees the media the right to access information.³² Adopting this law in 2019 has provided space for the media for more professional coverage of cases that are of interest to the public.

The existence and licensing of media in the country are conducted to provide a space for private media to have space to promote their format.³³ But the licensing does not coincide with the regulation of the contents of broadcast programmes, since that is regulated by the bylaws on providers of audio and audio-visual services.³⁴ In principle, the government does not control the information the media distributes, but the IMC's annual reports are submitted to and approved by the Assembly of Kosovo.³⁵

The Civil Law Against Defamation and Insult, which dates back to 2008 and has not been changed since then³⁶ has been causing a threat for journalists being targeted with SLAPP suits by businesses and politicians (see 12.1.4).



INDICATOR 12.1.4 INDEPENDENCE (PRACTICE)

50/100



Businesses and politicians occasionally intervene in media activities. These cases of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of media.

The work of media regulators has often been criticised, especially regarding board appointments and their functioning.³⁷ According to Reporters Without Borders, the media regulator, IMC, has been inefficient and recently involved in a corruption affair.³⁸

According to the World Press Freedom Index, Kosovo has made progress in terms of media freedom and can be considered largely free from interference.³⁹ However, the freedom of journalists in the country has been called into question recently because of major cases of attacks and threats against them.⁴⁰ In the latest 2022 report by Human Rights Watch, freedom of expression in the media was described as undermined by the verbal threats used by public officials.⁴¹ The report emphasises that such actions harm the media and create a hostile environment for journalists. Additionally, the 2022 Freedom in the world report has underlined that government and business interests have exerted undue influence on media editorial lines, including at RTK.⁴² Although the board of the public broadcaster RTK, much like IMC, is chosen directly by the Parliament, making it susceptible to political sway, the procedure for appointing its members in the latter part of 2021 was considered transparent by press freedom advocate groups.⁴³ During 2022, the AJK recorded 33 cases of attacks, threats, and intimidation against journalists and the media.⁴⁴

In the past, there was a trend of political influence in the editorial policies of the media.⁴⁵ However, this has decreased since the new government was elected in 2021. Still, such cases have occasionally been reported. For example, in 2020, the chief executive of Klan Kosova resigned from the post due to pressure from actors, politics and owners.⁴⁶ Public service media produce informative and educational news to some degree, but they do not provide fair coverage to all political parties as required by the Law on Public Broadcasting.⁴⁷

Additionally, according to Reports Without Borders 2023 World Press Freedom Index Report, journalists have increasingly been the target of SLAPP suits⁴⁸ initiated by business groups and politicians.⁴⁹

Furthermore, there are examples when journalists have moved from journalism to political positions due to political alignments they had in the past. Nevertheless, there are cases when some of these individuals, after leaving politics, returned to journalism again.⁵⁰

Criminal prosecutions in cases of threats against the media in the country are still in process, and there is no decision on these cases.⁵¹ Examples to this are the cases of death threats to the journalist Vehbi Kajtazi⁵² and the one of beating of the journalist Valon Sylja.⁵³

According to IMC representatives, media licensing is done according to the legislation in force.⁵⁴ However, whether this process is transparent remains a question since this institution was often seen as politicised, such is the case of the election of Luljeta Aliu as a member of this Commission.⁵⁵





Governance

INDICATOR 12.2.1 TRANSPARENCY (LAW)

75/100



In general, the legal provisions and the individual rules and codes of media bodies aim to establish full transparency regarding the relevant media activities. However, there are no regulations on transparency of online media ownership.

Transparency is one of the principles of IMC as a media supervisor. The Law on IMC requires full access to licences, bylaws, case records, meetings and decisions taken by the IMC.⁵⁶ The regulation for the functioning of the IMC also gives the responsibility to the IMC for communication with the media.⁵⁷ Furthermore, the Rules of Procedure of the IMC stipulates the Commission's transparency as one of its most essential parts.⁵⁸ This transparency has to do with the obligations that the IMC has towards communicating with the media, holding open meetings, communicating with the media and making decisions public.⁵⁹ There are no regulations on disclosure of online media ownership.⁶⁰

Broadcasters who register as companies with the Kosovo Business Registration Agency (KBRA) are required to be transparent in providing basic information on the founders of the business.⁶¹ Apart from the public Radio Television of Kosovo,⁶² which operates as a public broadcaster, other media are registered as companies and business entities and are required to report their ownership to the IMC⁶³ in addition to the KBRA.⁶⁴

Audio-visual media, on an annual basis, must submit financial reports concerning the content of the programme

provided by the terms of the licence.⁶⁵ Regarding print media, the Code of Ethics requires the media to be transparent regarding issues of media ownership and management. Print media must provide citizens with clarity about the identity of the owners and the amount of their financial interest in the media.⁶⁶

INDICATOR 12.2.2 TRANSPARENCY (PRACTICE)

50/100



While media outlets usually disclose information relevant to their activities, it is often partial or outdated.

In practice, most media companies fail to report their ownership to IMC and KBRA. This has raised concerns because it may provide room for political and financial pressure and interferences.⁶⁷

According to the 2022 European Commission report on Kosovo, information on media ownership, especially for online media, remains unclear and often fictitious. Most media outlets do not provide information on their finances or real ownership.⁶⁸

In 2023, local media organisations with funding from international organisations have started a project to create a platform with data on media ownership to be published in mid-2024.⁶⁹

Radio Television of Kosovo⁷⁰ publishes information on internal staff, reporting and editing policies on its website. Other media that operate as NGOs publish such information



too.⁷¹ However, other national media outlets only publish the name of authors of their articles.

INDICATOR 12.2.3 ACCOUNTABILITY (LAW)

100/100



There are comprehensive mechanisms that ensure that the media are accountable.

The IMC is an independent constitutional institution⁷² that operates according to the Law on the Independent Media Commission⁷³ and deals with regulating and managing broadcasting frequencies. The IMC licenses private broadcasters, conducts and implements broadcasting policy and regulates their rights, limitations, and internal physical and legal responsibilities for audio and audio-visual media services.⁷⁴ The PCK is a self-regulatory body responsible for regulating print media, comprising editors-in-chief of media enterprises. Its role is to strengthen compliance with the Code of Print Media in Kosovo and to ensure journalism follows the principles of the Code of Ethics.⁷⁵

All licenced media must submit an annual report to the IMC which includes information regarding the programme and operation following the terms of the licence, together with a detailed financial report and other information provided by law.⁷⁶ The right to correct transmitted information, or reply to transmitted information, is exercised in accordance with the Code of Ethics of Broadcasters.⁷⁷ The Code of Ethics stipulates that after submitting an eventual complaint against any broadcasting material, all media are obliged to respond or correct the erroneous information within seven days in the same broadcasting time and space.

INDICATOR 12.2.4 ACCOUNTABILITY (PRACTICE)

50/100



While some media have effective accountability mechanisms in place, there is no effective accountability system covering all media sectors, especially with respect to financing.

The effectiveness of the IMC as the main regulatory body for the media has often been questioned, mainly due to the lack of professionalism and lack of members.⁷⁸ In 2021, the selection of the members of the IMC failed, which generated reactions from political actors, civil society in Kosovo and international organisations of journalists who criticised that the board was not functioning for more than one year and complaints were not dealt with.⁷⁹ However, PCK has been more effective in its work, especially in the fight against fake news and the verification of facts that are mainly related to articles in online media.⁸⁰

In principle, certain media have blogs through which they interact with the public. These blogs have extensive social network coverage and thousands of followers.⁸¹

According to the Managing Editor at Kallxo.com, the media in the country do not have individual ombudspersons.⁸²

According to Deputy Chief Executive of the IMC, interviewed for this report, the media follows its legal obligation to correct wrong information.⁸³





INDICATOR 12.2.5 INTEGRITY MECHANISMS (LAW)

75/100



There are mechanisms in place that ensure the integrity of the media, but there is a lack of internal media codes.

There is the Code for Media Service Providers in Kosovo which entered into force in 2016.⁸⁴ This code originates from the Law on IMC and, as such, covers only visual media.⁸⁵ There is also the Code of Ethics for the print media issued by the Press Council.⁸⁶ Both codes are mandatory to be implemented by all journalists, reporters, editors and owners of visual and written media who are licenced.⁸⁷

The Code of Ethics for Providers of Media Services provides ethical standards to ensure the integrity of media in accountability.⁸⁸ These regulations are related to media bans on inciting hate speech,⁸⁹ impartial media coverage,⁹⁰ human rights,⁹¹ and the right to answer.⁹² The Code of Ethics of the Written Media serves as a regulatory basis for the ethics and professional integrity of journalists.⁹³

However, the media outlets do not have internal codes of ethics, nor do they have internal commissions of individual media bodies. In many cases, the violations of the Code of Ethics for the print media are committed by self-regulatory bodies, by the editors-in-chief and by editors of the member media outlets of this body.⁹⁴

INDICATOR 12.2.6 INTEGRITY MECHANISMS (PRACTICE)

50/100



There is a partial and reactive approach to ensuring the integrity of media employees, such as enforcing existing rules, investigating alleged misconduct, sanctioning misconduct and training staff on integrity issues.

Journalists follow the Code of Ethics to some extent during their reporting. In the last annual reports, the IMC processed three violations of the Code by the media.⁹⁵ The PCK has received dozens of complaints regarding the violation of the Code of Ethics by print media journalists.⁹⁶ Journalists can receive instructions on ethics only from training sessions organised by non-governmental organisations or certain media councils, which often also organise schools for journalistic ethics.⁹⁷

The Association of Journalists of Kosovo is a non-governmental organisation that deals with the protection of the freedoms and rights of journalists, as well as the improvement of journalism in the country.⁹⁸ As such, it constantly organises training and projects related to ethics and professionalism in journalism.⁹⁹ The issue of following procedures when offering gifts is a bit more complex.

According to the Managing Director of Kallxo.com, the lack of media finance and undocumented news sponsorships creates a space for the media to accept gifts.¹⁰⁰ The Executive Director of the AJK notes that journalists are also exposed to gifts and needs for services, mainly due to low salaries.¹⁰¹



Role

INDICATOR 12.3.1 INVESTIGATE AND EXPOSE CASES OF CORRUPTION PRACTICE

75/100



In general, the media is very active and successful in investigating and exposing individual corruption cases. But the problem is the pressure and interference in reporting by external actors.¹⁰²

Investigative journalism has become a crucial aspect of many media outlets in the country. However, in many cases, the work in this field is quite delicate and contains many risks.¹⁰³ Media outlets in the country have created investigative programmes by doing investigative journalism. There are no exact statistics regarding the number of journalists or investigative programmes, but according to the Executive Director at the AJK, they are increasing rapidly.¹⁰⁴

There are specific media that deal directly with investigative journalism daily. Kallxo.com, a reporting platform, part of the non-governmental organisation BIRN, is specialised in investigative journalism and has projects that are mainly related to the fight against corruption. The broadcaster Klan Kosova has recently started an investigative show called KIKS Kosova.¹⁰⁵

As for reporting on high-profile cases of corruption, there are many cases where journalists have been the main source for the discovery of these cases, such as the “Brezovica”¹⁰⁶ cases. The same is true for the “€2 million” case,¹⁰⁷ in which further steps were taken to document the details of this case after research and reports by journalists.

INDICATOR 12.3.2 INFORM PUBLIC ON CORRUPTION AND ITS IMPACT

75/100



In general, the media is very active and successful in informing the public about corruption and its influence. However, support of such programmes by the judicial system remains a problem.

There are specific programmes such as “Kallxo Pernime” and “Betimi për Drejtësi”¹⁰⁸ run by the media to educate the public on corruption.¹⁰⁹

These non-governmental organisations that function as media often hold training for journalists on how to handle reports of corruption cases.¹¹⁰ These programmes have a considerable impact and have often been very successful, as investigations into these cases have begun after reports from the media.¹¹¹ For example, in 2022, the show “Oath for Justice” revealed documents showing that two members of the family of the Prosecutor in the Serious Crimes Department in Prizren were involved in corruption.¹¹²

According to the Managing Editor at Kallxo.com, these programmes are mainly self-financed or supported by projects from international donors but do not have high-level of support from the judicial system.¹¹³ Still, these investigative shows have won awards distributed by the EU Office in Kosovo and other local and international organisations.¹¹⁴ Journalists from Koha Ditore, Kallxo and Preportr-Çohu have won awards for their research related to topics mainly on money laundering and the consequences of corruption.¹¹⁵





INDICATOR 12.3.3 INFORM PUBLIC ON GOVERNANCE ISSUES

75/100



In general, the media is active and successful in keeping the public informed about the regular activities of the government and other governance institutions. However, there is a lack of cooperation and transparency on the part of the government with the media.¹¹⁶

According to the Managing Editor at Kallxo.com, there is comprehensive reporting on important topics, such as coverage of daily political events, social chronicles, and research on political and social topics. But there is a lack of proper reporting on other topics, such as education and health. This happens because of the lack of human resources for the media to report on these topics.¹¹⁷ Media agendas are overloaded with political events and sensational headlines.¹¹⁸

Furthermore, the access to public information by the government continues to pose challenges for the work of journalists.¹¹⁹ A concerning issue remains the threat or intimidation of journalists in relation to their reporting (see 12.1.4), which affects the quality of reporting by the media.¹²⁰ The situation with media reporting activity for the government has changed. There are many cases of newspapers, and recently also television channels, owned by politicians that are used primarily as a platform for political agitation.¹²¹ In the previous two years since the change of government in 2021, the media has been more interactive with the government, with daily report on government meetings, decisions and all the news that come out from the institutions. The International Research and Exchanges Board (IREX) report estimated that although a variety of content is produced in Kosovo, most of the reporting is more about politics than policies, and most of the content falls on individual politicians and their interpretation of the events.¹²²



INDICATOR 12.3.4 GENDER

50/100



The news includes the voices and perspectives of women and men in a generally balanced way. The media routinely cites women's rights groups in news stories about issues directly affecting women. However, a major problem remains the lack of women in managerial positions within the media in the country.

According to the Executive Director at the AJK, the media in Kosovo tend to be gender balanced when it comes to the news and the sources used to report it.¹²³ The news content consists of quotes from both genders. The gender impact of specific social issues is generally included in media reports.¹²⁴ The persistent gender discrimination within the media industry is a cause for concern, alongside the notable underrepresentation of women in leadership roles and their limited participation in panel discussions.¹²⁵ According to research findings, approximately 70 per cent of survey participants hold the view that women are inadequately portrayed in the media, often being overlooked entirely. Moreover, the media itself is frequently perceived as maintaining a predominantly patriarchal perspective.¹²⁶

Many media outlets such as Kallxo work on promoting women's rights and other issues that directly affect women.¹²⁷ There is a lack of progress in media reporting on women in public positions, where they often become the subject of comments from the public that stimulate discrimination against them.¹²⁸



Interactions

The media interacts with most of the country's institutions, as they report on and cover events organised by them. The media interact mainly with the government, the Assembly and civil society.

This interaction between the media and the government is characterised by the media coverage of meetings, meetings, and conferences for the media by all the media in the country. However, this interaction has faded recently, as organisations representing journalists have raised concerns about a significant lack of access for journalists to many government departments.¹²⁹ Likewise, the transparency of the heads of state and other officials vis-à-vis the media has been lacking in the current government.¹³⁰

The Assembly of Kosovo closely interacts with the media. Journalists can access and cover plenary sessions and committee meetings in the Assembly.¹³¹

The cooperation between the media and civil society can be considered the most successful, especially in advocacy for events of national importance, including the fight against corruption. Civil society activities are covered by the media in general.¹³²

Pillar Recommendations

- The government should:
 - Adopt an organic law on media in order to regulate all media-related issues, such as ownership of the media, their financing, reporting, registration and functioning of online portals, and the protection of journalists from SLAPP suits.
 - Collaborate more actively with the media by providing access to information in a timely manner.
 - Organise more press conferences on critical topics such as the dialogue process and security issues.
- Media outlets should:
 - Create a more diverse financial portfolio (that enables them to operate more independently from the support of businesses).
 - Pursue more active inter-institutional cooperation with justice institutions in the investigation, development and more effective conclusion of cases of attacks on journalists.





ENDNOTES

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- 2 European Commission, Report on Kosovo 2022, October 2022, page 32.
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- 5 Law on the Independent Media Commission, Article 22.
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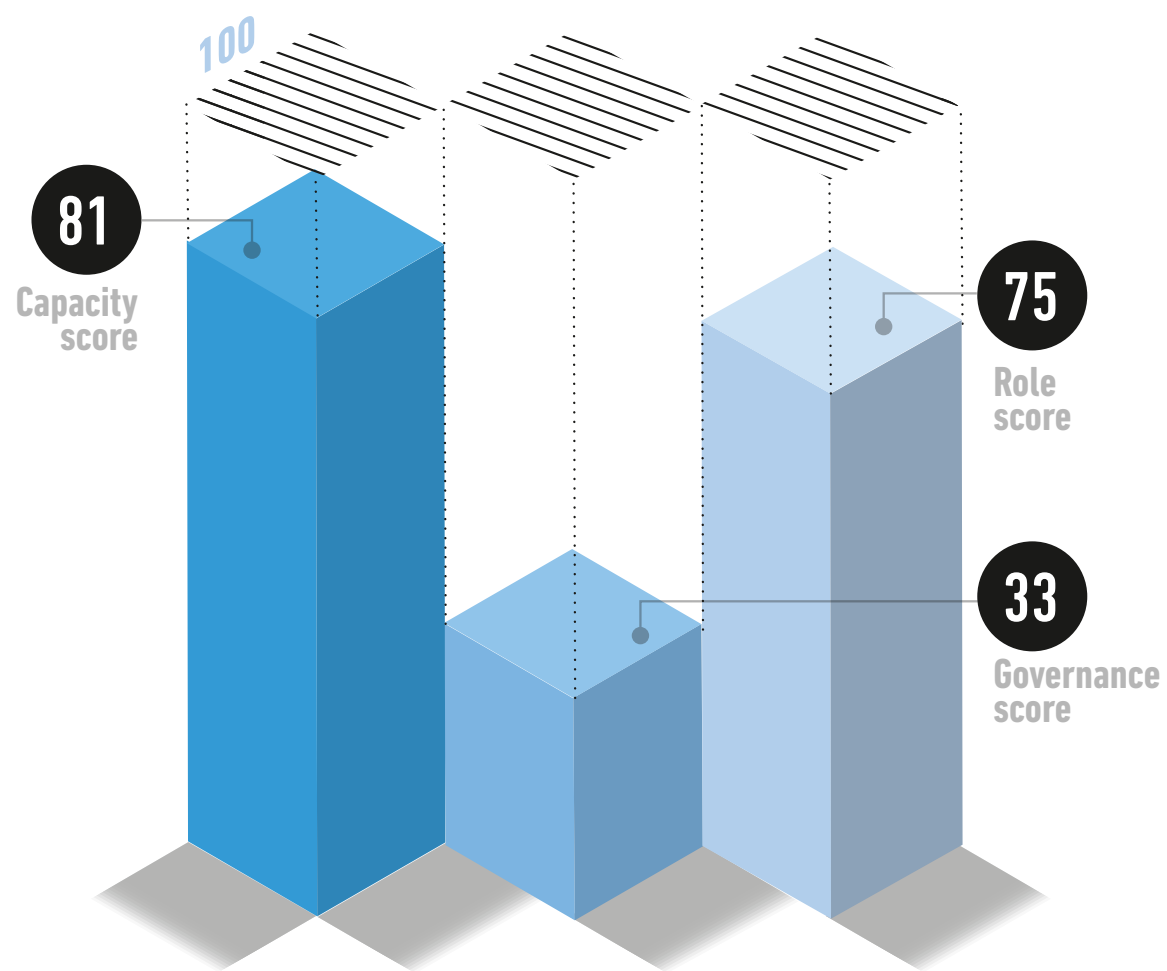
CIVIL SOCIETY

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SUMMARY

Civil society organisations (CSOs) in Kosovo are non-profit organisations that are outside the formal state apparatus.

63/100 Overall pillar score



Capacity

81

Resources (law)

100

Resources (practice)

50

Independence (law)

100

Independence (practice)

75

Governance

33

Transparency (practice)

50

Accountability (practice)

25

Integrity (practice)

25

Role

75

Hold government accountable

75

Policy Reform

75



Civil society organisations (CSOs) in Kosovo are non-profit organisations that are outside the formal state apparatus. The sector includes not only NGOs but also organisations that have traditionally been called interest groups, such as trade unions, professional associations, economic chambers, sports clubs, cultural societies and informal community groups. A total of 11,232 organisations¹ (the majority being member-based) were registered in Kosovo as of the end of 2021, although most of them are inactive.² This represents an increase of nearly 1,000 organisations over the past year, double the growth in the previous year. This high number is also related to the lack of obligation to deregister inactive organizations. For the purposes of this study, CSO refers more to NGOs and local organisations.³

Based on current legislation in Kosovo, NGOs can be registered in three forms: associations, foundations and institutes.⁴ The highest governing body of the association is the assembly of members, which consists of all members.⁵ The highest governing body of a foundation or institute is the board, which consists of at least three (3) members.⁶ Most NGOs are registered as associations (96 per cent), and only a small number have chosen to be registered as foundations (4 per cent).⁷

With the financial and technical support of the international donor community, there has been a drastic increase in the number of NGOs. Currently, there are over 12,000 registered organisations in Kosovo, although most of them are inactive. They are registered in the Department for Registration and Liaison with NGOs in the Ministry of Public Administration.

Civil society in Kosovo plays a central role in holding the government accountable and informing the public of policy failures, especially corruption-related. Civil society generally operates in a friendly environment where the relevant constitution and laws guarantee freedom of expression and association. Executive, legislative and judicial institutions are more open to the public due to the influence exerted on them by civil society through activities and public pressure. However, regarding organisation and internal functioning, CSOs have problems, especially concerning transparency and accountability.

Almost all major civil society organisations are engaged in the fight against corruption. This includes the KLI, KDI, Çohu, FOL, the Group for Legal and Political Studies (GLPS), the GAP Institute, BIRN and others. These organisations have long working experience in the fight against corruption. Many local organisations are active in seeking greater accountability from local authorities, such as “Ec ma Ndryshe” in Prizren, “Syri i Vizionit” in Pejë and “Initiative for Progress” in Ferizaj.



Capacity

 **INDICATOR 13.1.1
RESOURCES (LAW)**

100/100



Overall, the legal framework pertaining to the existence and operations of CSOs is conducive in terms of fundamental protection of freedom of association and simple registration procedures. However, treating CSOs same with businesses by the state poses significant challenges for CSOs involved in economic activities..

Freedom of association is protected by the Constitution⁹ and the 2019 Law on Freedom of Association in NGOs.¹⁰ Additionally, at the end of 2022, the government had approved the administrative instruction defining the registration, operation and deregistration procedures for NGOs.¹¹

All registration or deregistration procedures are straightforward, easy and free of charge.¹² The registration process can be done online.¹³ Unregistered CSOs are not prohibited in Kosovo but are recognised as informal initiatives that can operate without hindrance and exercise the right to freedom of association.¹⁴ The department may refuse registration only for legitimate purposes,¹⁵ adhering to the principles of necessity and proportionality, and must provide an appropriate description of the reasons for refusal and the legal grounds.¹⁶ In general, CSOs can engage in advocacy and criticise the government.¹⁷ Deregistration and prohibition of CSO activity can be done by a court decision in cases where CSO activities violate the constitutional order, human rights and freedoms, or incite hatred. All decisions for non-registration, deregistration, cancellation or administrative inaction can be appealed in the courts within 30 days.¹⁸



Except when generating income and revenues, CSOs are exempted from VAT in all cases of donations and funds that they have for the purpose of public benefit, including international donor funding, without having to apply for a refund.¹⁹ This exemption applies to all CSOs, both small and large. A remaining problem is that the Tax Administration treats CSOs as economic operators, requiring them to use the same annual reporting forms as businesses and treats them equally in terms of laws related to commerce and competition. This causes problems for CSOs in terms of high administrative burdens with limited resources.

 **INDICATOR 13.1.2
RESOURCES (PRACTICE)**

50/100



In general, most CSOs have several funding sources (including international support, and public funding).²⁰ However, smaller local CSOs lack financial sustainability, which affects human and infrastructure resources.

Although state funding has increased from €2.6 million in 2021 to €4.6 million in 2022²¹ and the number of supported organisations has more than doubled,²² this only covers 27 per cent of all registered CSOs.²³ There is a high dependency on foreign donors, which are the primary funding source for 41 per cent of CSOs in Kosovo.²⁴ These CSOs are primarily larger ones that work on democratisation, rule of law, gender and environmental issues and do not receive state funding to avoid potential conflicts of interest, for example, through monitoring an institution from which they receive financial support.²⁵



Most CSOs have project funding from various donors, although there are rare cases when CSOs operate with only one financial source.²⁶ CSOs at the local level are mainly focused on public funds awarded by public institutions because they find it more challenging to reach foreign donors due to lacking the human capacity required to apply for and receive such donations.²⁷

According to the Charities Aid Foundation's World Giving Index 2022, 56 per cent of respondents said they had donated money in the previous month.²⁸ However this is mainly oriented towards humanitarian causes as well as sports events and cultural activities.²⁹

Lack of financial sustainability and low salary prospects beyond what is foreseen in a project budget makes working in most CSOs unattractive for qualified staff. Only large CSOs that are more financially stable have the ability to attract qualified staff. Another factor affecting recruitment is that CSOs typically operate only on short-term project funding.³⁰

According to the World Giving Index 2022, 11 per cent of respondents reported that they had participated in volunteering activities in the previous month.³¹ However, according to CIVIKOS, most volunteers are engaged in youth organisations or organisations that work with a more specific community. Other organisations have greater challenges in gathering members due to the nature of their work, which is more bureaucratic, less practical and less directly related to the community.³²

**INDICATOR 13.1.3
INDEPENDENCE (LAW)**

100/100



There are sufficient legal provisions to protect CSOs from inappropriate external interference in their activities. The Law on Preventing Money Laundry and Fighting the Financing of Terrorism of 2016 continues to be restrictive for registered NGOs, as it includes all NGOs as reporting entities and, as a result, contains a number of provisions that cannot be implemented by the majority of registered NGOs, as well as some undue limitations on cash donations. Among WB+ Turkey Kosovo is the only country who treats NGOs as reporting entities. This reality poses serious obstacles to NGOs' access to essential banking services, such as from account opening and maintenance to accessing broader banking services. Overcoming these issues would also enhance the transparency of NGOs.

Freedom of assembly and association in Kosovo are constitutional rights.³³ There are no legal restrictions on holding public meetings, which would constitute barriers to CSO mobilisation. Therefore, CSOs are entirely free to act on their behalf or on behalf of the citizens and partners they are inclined to represent.

The Law on CSOs provides that every person has the right to establish a non-governmental organisation and no person is discriminated against in any way because of the decision to associate.³⁴ Restrictions and bans are only possible if CSO activities violate the constitutional order, violate freedom or human rights, or incite racial, national, ethnic or religious hatred.³⁵ The state can only interfere in the interest of national security or public safety, to protect order and prevent crime, to preserve public health or to protect the rights and freedoms of others.³⁶



There are no regulations demanding state membership on CSO boards or mandatory state attendance at CSO meetings. The NGO law explicitly states that public institutions shall not interfere with NGOs' rights and freedoms.³⁷ Public institutions are obliged to support and promote the activity of NGOs,³⁸ creating a suitable environment. Likewise, public institutions protect CSOs from interference by third parties.³⁹

Usually, political leaders publicly condemn cases where civil society activists are attacked verbally.⁴²

So far, there have been no cases where the state has arrested civil society activists because of their activities, or physical attacks on CSO activities.

**INDICATOR 13.1.4
INDEPENDENCE (PRACTICE)**

75/100



Generally, CSOs in Kosovo operate freely and are subject only to reasonable oversight linked to clear and legitimate public interests. However, there are rare cases when politicians and other external actors verbally attack CSOs and make false accusations.

Such interventions usually consist of verbal attacks without any significant consequences. The CSOs most exposed to political tensions are those who criticise the government. However, they are more threatened by individuals than by institutions. A typical verbal attack is when either central or local politicians make false statements about a CSO.⁴⁰ For example, in 2020, during the launch event of the platform for public funds, the former deputy Prime Minister, Haki Abazi, accused the civil society sector of a lack of transparency; these claims remained accusational.

In 2021, the professor and former dean of Faculty of Philosophy, Bujar Dugolli, accused the CSO Organisation for Increasing Quality of Education (ORCA) of being financed by dubious funds, remaining vague in his accusation, after the CSO had publicly denounced him for plagiarism.⁴¹





Governance

**INDICATOR 13.2.1
TRANSPARENCY (PRACTICE)**

50/100



Although CSOs are transparent about their activities and work, there is a lack of financial transparency amongst small CSOs. Nevertheless, this lack of transparency derives from the lack of legal obligation for all CSOs to report.

The 2018 Kosovar Civil Society Index study shows that only 27 per cent of surveyed organisations have a website, and 39.6 per cent use social media pages.⁴³ Therefore, there is also a lack of transparency regarding the composition of CSOs and executive boards, except for those with higher funding levels.

Only large and well-established CSOs publish their annual financial reports on their websites or other online platforms. The law does not oblige CSOs to publish financial statements for the general public, and CSOs with public-profit status and with over €100,000 in annual turnover are obliged to carry out an external audit but are still not obliged to make it public to citizens.⁴⁴ Over 1,880 CSOs financially report at the TAK. CSOs are transparent mainly due to donor requirements to account for the spending of received funds⁴⁵ and tax regulations to report detailed expenses. On an annual basis since 2017,⁴⁶ the Office of the Prime Minister publishes a list of organisations that benefit from public funds and the amount received.⁴⁷

The Kosovar Civil Society Foundation (KCSF) is currently developing a proposal for a financial reporting system for all CSOs through a regulation. At the same time, KCSF is building an online platform for financial transparency of all CSOs.⁴⁸

**INDICATOR 13.2.2
ACCOUNTABILITY (PRACTICE)**

25/100



Only a few CSOs are effectively supervised by other bodies, such as the membership or a board. Some CSOs regard the board or assembly of members more as a formality. However, there are also positive examples where these bodies work effectively.⁴⁹

According to interviews conducted for this report, CSOs generally have very little accountability towards their membership or their board. Even though 95 per cent of registered CSOs are member-based associations, only a few holds legally required members' meetings.⁵⁰ Another problem is that most CSOs have an improperly constructed organisational structure⁵¹ whereby, for example, they are registered as associations but do not have an assembly of members as the highest body, although this is a legal obligation. Membership in CSOs generally is rather low. Some CSOs also include their staff in the membership. This means that staff report to the organisation's management as employees, yet the same management report to their staff annually if they are members of the membership assembly.⁵² Usually, CSO board members are public persons who come from various fields. Members of a board or an assembly must not perform work that conflicts with the purpose of the CSO of which they are a member, which is another reason leading to low membership within NGOs.



**INDICATOR 13.2.3
INTEGRITY (PRACTICE)**

25/100



CSOs generally are inactive in ensuring the integrity of their staff and other members or sanctioning misbehaviour. Some very limited self-regulatory initiatives have been taken, such as drafting codes of conduct, but minimal progress has been achieved in practice.

In most cases, CSOs, especially large ones, have the necessary internal documents, such as rules of procedure, financial regulations, codes of conduct and even policies on internal whistleblowing or sexual harassment, but do not systematically implement procedures or monitor implementation. To a large extent, these are drafted to meet foreign donor requirements in order to be eligible for receiving grants.⁵³ Nevertheless, based on the nature of operation, many CSOs do not need to have such regulations in place. According to the Kosovo Civil Society Index, about 38 per cent of the surveyed organisations stated that they do not have financial regulations, labour regulations (24 per cent) or an employee code of conduct (39 per cent).⁵⁴

CIVIKOS, as an umbrella organisation of around 300 CSOs in Kosovo, has created a Code of Ethics, but its implementation is lagging. This delay is due to many factors, mainly a lack of systematic approach, interest among CSOs in self-regulation and inadequate incentives as well as human and financial capacity.⁵⁵ CIVIKOS also failed to create a strict mechanism for monitoring the practical implementation of the Code of Ethics by its members.

**INDICATOR 13.2.4
GENDER**

50/100



Only larger CSOs with financial support from foreign donors take gender considerations into account in their programming and only sometimes collect gender-disaggregated data.

According to the Executive Director at KCSF, this applies mainly to some larger organisations that receive more financial support from foreign donors and have therefore, increased their gender sensitivity. In smaller organisations, the awareness of gender issues is less pronounced.⁵⁶

Gender-disaggregated data concerning the reach and impact of their events and projects is often not collected consistently, although it is usually a condition of reporting for foreign donors in particular.





Role

INDICATOR 13.3.1 HOLD GOVERNMENT ACCOUNTABLE

75/100



While CSOs are active and often effective in holding the government and public institutions accountable, this is primarily led by large organisations with consolidated resources.

Civil society has a developed role as a watchdog. Typical activities in which CSOs participate include public discussions, contributions to specific laws and regulations – both by participating in respective working groups and advocating for various amendments – and oversight of Assembly work and other public institutions. In order to find a common position, CSOs have created networks or joined them, as is the case of the network of local election observation organisations “Democracy in Action”.

In 2018, KCSF, in a joint effort with 300 CSOs, opposed amendments to the NGO Law, which allowed CSO capital to be transferred to private institutions, enabled the state to shut down CSOs based on arbitrary interpretations of CSO activity, made it difficult to establish new CSOs and violated their status for public benefit.⁵⁷ The campaign⁵⁸ was successful, and after the President sent the draft law back for review at the Assembly, it was approved with the suggested amendments by CSOs.

In 2019, over 100 civil society organisations joined the “Rejection March” to oppose the Draft Law on Financing Political Parties, which violated the Constitution and international standards such as the Venice Commission by undermining the independence of the Office that was responsible for carrying out financial supervision, by lowering the fines against polit-

ical parties, increasing the donations limits, allowing higher cash contributions, etc.⁵⁹ Shortly after the protest, the then Prime Minister, Ramush Haradinaj, withdrew the draft law in response to public pressure.⁶⁰

Another instance demonstrating the involvement of civil society organisations in ensuring accountability pertains to the appointment of the Chief State Prosecutor. In this case, CSOs actively monitored the selection process and identified a range of shortcomings that eroded the integrity of the process.⁶¹ Notably, the President of the country considered these assessments and, when deciding to reject the Chief Prosecutor’s appointment, explicitly referenced the observations made by the CSOs.⁶²

CSOs have been active in educating public institutions to become more transparent and accountable. This generally includes establishing good practices, such as participation in the establishment of the Kosovo Assembly’s Forum for Transparency,⁶³ adoption of National Open Government Partnership (OGP) plans, introduction of live Q&A sessions with political representatives and so on.

INDICATOR 13.3.2 POLICY REFORM

75/100



Civil society is generally very active in engaging with the government on anti-corruption policies. However, success is limited.

Civil society has been a driving force in the fight against corruption.⁶⁴ CSOs have contributed to the drafting and amend-



ment of many laws, including political party financing, the laws on elections, asset declaration, asset confiscation, the Criminal Code, the Judicial Council and Prosecutorial Council, the Agency for the Prevention of Corruption and other such laws.

NGOs have primarily made valuable contributions by offering their expertise in the activities of various working groups and by providing specific recommendations related to legislation. As an illustration, in the context of political financing legislation, CSOs have played a pivotal role by organising exchange visits for legislators to European Union countries, which allowed MPs to gain insights into best

practices concerning reporting mechanisms and effective financial oversight for political entities.⁶⁵ Consequently, NGOs have been instrumental in advancing measures that ensure the autonomy of the Financial Control Office within the CEC and enhance the transparency of financial report disclosures.

Today there are many representatives of civil society who are members of essential councils and agencies where they are directly involved in decision-making and where the right to vote is given, although not much tangible effect has been produced.

Interactions

Civil society organisations cooperate closely with almost all institutions in the country. Due to their decision-making powers, the most pronounced cooperation occurs with the executive, legislative, judicial and other institutions involved in the fight against corruption. Most of the interactions between CSOs and these actors take place on an informal basis of cooperation. However, there are also frequent cases of signing memoranda of understanding.

In the context of cooperation with the government, there is a Government Strategy for Cooperation with Civil Society⁶⁶ which aims to improve the operating environment for civil society. The Council for Government Cooperation with Civil Society was established in the context of this strategy.⁶⁷ In relation to the legislature, numerous memoranda of understanding have been signed by CSOs, which mainly aim at increasing the capacity of the Kosovo Assembly to exercise its functions and effectively monitor policies.⁶⁸ CSOs also cooperate formally with financial institutions such as the Tax Administration of Kosovo.⁶⁹

Through cooperation with institutions, civil society has managed to positively influence their work in the fight against corruption and increase their transparency and accountability to the public.

Pillar Recommendations

- The government should amend the law on the prevention of money laundering and combatting terrorist financing, as it currently presents legal restrictions on CSO activity in financial terms, by considering civil society recommendations.⁷⁰
- CIVIKOS should:
 - Ask its member CSOs to be more transparent and publish yearly financial reports.
 - Collaborate with the Balkan Civil Society Development Network to develop measures for increasing the accountability of CSOs based on the Global Standard for CSO Accountability.⁷¹



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ENDNOTES

- 1 According to the electronic NGO database (received on September 29), a total of 12,260 non-governmental organisations are registered, of which 553 are international organisations. The platform is accessible via: <https://ojq.rks-gov.net/KerkoOJQ.aspx>
- 2 The most accurate way to calculate the number of NGOs that have had any activity during a calendar year (active) remains that of analyzing and comparing the existing data possessed by three state authorities: DOJQ, TAK and TRUSTI, the total number of NGOs that have reported to TAK through declaration of the annual form and payment for corporate income tax (CD) is 1,883. Consequently, based on the financial activity of NGOs, the declaration of taxes, the employment of staff and the payment of pension contributions, we can conclude that the number of NGOs that had activity during 2022 cannot be higher than 1,883.
- 3 Two prominent non-governmental organisations (NGOs) that played a crucial role in shaping this pillar are the KCSF and the CIVIKOS platform. KCSF stands out as one of the most sustainable and enduring foundations in Kosovo, boasting a substantial financial reservoir, a significant portion of which is channelled into supporting various other CSOs. On the other hand, CIVIKOS takes its place as one of the largest and most diverse cross-sectorial networks within Kosovo's civil society landscape, comprising a membership of approximately 300 NGOs. Notably, CIVIKOS has emerged as the de facto representative voice for NGOs in their interactions with the government, primarily because a significant proportion of well-established NGOs are affiliated with this platform.
- 4 Law NO. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 19. Accessible via: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=19055>
- 5 Law NO. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 31, Point 1.
- 6 Law NO. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 31, Point 2.
- 7 Kosovar Civil Society Index, from the "Kosovar Civil Society Foundation" (2018), page 18.
- 8 USAID (2022), CSO Sustainability Index 2021– Kosovo, p.3, <https://storage.googleapis.com/cso-si-dashboard.appspot.com/Reports/CSOSI-Kosovo-2021.pdf>
- 9 Constitution of Kosovo, Article 44.
- 10 Law No. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 4.
- 11 Administrative Instruction (GRK) - No.12/2022 on the Registration, Operation and Deregistration of Non-Governmental Organisations. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=19055>
- 12 CSOs must submit a request for registration to the Department for Non-Governmental Organisations within the Ministry of Internal Affairs. The application for registration must contain only the act of incorporation, statute, and identification documents of the founders. See: Law NO. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 22, Paragraph 1 & 4. Registration takes place within 30 days from the submission of the request. See: Law NO. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 25, Paragraph 2.
- 13 Administrative Instruction (GRK) - No.12/2022 on the Registration, Operation and Deregistration of Non-Governmental Organisations, Article 7, paragraph 2..
- 14 Law NO. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 22, Paragraph 2.
- 15 The law stipulates four scenarios that may lead to the refusal of registration request, including: the registration documents are contrary to the requirements of the law; the statute of the NGO promotes inequality on any basis; the organisation seeking registration has the same name or acronym as a previously registered or already established NGO, and same or similar name and symbol with a public institution so as to cause confusion or to be misleading; if the deadlines set forth in the law are not adhered to.
- 16 Law No. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 26, Paragraphs 1 and 2.
- 17 Law on Freedom of Association in Non-Governmental Organisations, Articles 8 and 9.
- 18 Law on Freedom of Association in Non-Governmental Organisations, Article 43; and Law on General Administrative Procedure, Article 127, paragraph 1.
- 19 Public Explanatory Decision No. 04/2016 on Treatment of Donations for Tax Purposes.
- 20 USAID, Bureau for Democracy, Conflict and Humanitarian Assistance (BDCHA) and Center of Excellence on Democracy, Human Rights and Governance (CEDHRG), 24th Edition of CSO Sustainability Index (CSOSI) for Central and Eastern Europe and Eurasia 2020, pg. 118. Accessible via: <https://www.fhi360.org/sites/default/files/media/documents/csosi-europe-eurasia-2020-report.pdf> [accessed on November 4, 2022]
- 21 €15 million from central organisations and €14 million from municipalities. See: <https://kk.rks-gov.net/lipjan/wp-content/uploads/sites/20/2022/05/RAPORTI-PER-FINANCIM-TE-OJQ-VE-PER-VITIN-2021.docx>
- 22 Number of CSOs supported by the central government (2020: 420 & 2021:1,073); Number of CSOs supported by municipalities (2020: 939 & 2021: 2,677). See: <https://kk.rks-gov.net/lipjan/wp-content/uploads/sites/20/2022/05/RAPORTI-PER-FINANCIM-TE-OJQ-VE-PER-VITIN-2021.docx>
- 23 USAID (2022), CSO Sustainability Index 2021– Kosovo, p.4, <https://storage.googleapis.com/cso-si-dashboard.appspot.com/Reports/CSOSI-Kosovo-2021.pdf>
- 24 Monitoring matrix on the creation of a favourable environment for the development of civil society - Report for Kosovo by "Kosovar Civil Society Foundation" (2019), page 22.
- 25 Interview with Taulant Hoxha, Executive Director at KCSF, August 2022
- 26 USAID, BDCHA and Center of Excellence on Democracy, Human Rights and Governance (CEDHRG), 24th Edition of CSO Sustainability Index (CSOSI) for Central and Eastern Europe and Eurasia 2020, fq. 118.
- 27 Interview with Dardan Kryeziu, Programme Manager at CIVIKOS, July 2022.
- 28 Charities Aid Foundation (2022), CAF World Giving Index 2021, p. 22, https://www.cafonline.org/docs/default-source/about-us-research/caf_world_giving_index_2022_210922-final.pdf (last visited on 6 January 2023)
- 29 USAID (2022), CSO Sustainability Index 2021– Kosovo, p.3, <https://storage.googleapis.com/cso-si-dashboard.appspot.com/Reports/CSOSI-Kosovo-2021.pdf>
- 30 USAID (2022), CSO Sustainability Index 2021– Kosovo, p.5, <https://storage.googleapis.com/cso-si-dashboard.appspot.com/Reports/CSOSI-Kosovo-2021.pdf>
- 31 Charities Aid Foundation (2022), CAF World Giving Index 2021, p. 22, https://www.cafonline.org/docs/default-source/about-us-research/caf_world_giving_index_2022_210922-final.pdf (last visited on 6 January 2023)
- 32 Interview with Dardan Kryeziu, Programme Manager at CIVIKOS, July 2022.
- 33 Constitution of Kosovo, Articles 43 and 44.

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- 34 Law No. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 4, point 1 and 4.
- 35 Law No. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 44.
- 36 Law No. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 14, Paragraphs 2 and 3.
- 37 Law No. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 13.6
- 38 Law No. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 13.,2
- 39 Law No. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 13.5
- 40 Interview with Dardan Kryeziu, Programme Manager at CIVIKOS, July 2022.
- 41 <https://www.gazetaexpress.com/dugolli-i-reagon-orca-s-qe-e-akuzoi-per-plagijature-praktikantet-nuk-duhet-te-bijne-pre-e-e-maileve-anonime/>
- 42 For more, see the media articles: <https://telegرافي.com/lv-v-pajtohet-me-shoqerine-civile-per-projektligjin-per-financimin-e-partive-politike-demon-sulmin-fizik-ndaj-aktivisteve-nga-zyrtare-te-pdk-se/>; <https://www.zeriamerikes.com/a/kosovo-journalist/2665049.html>
- 43 Kosovar Civil Society Index, from the "Kosovar Civil Society Foundation" (2018), page 21.
- 44 Law No. 06/L –043 on Freedom of Association in Non-Governmental Organisations, Article 38, Paragraph 8.
- 45 Interview with Dardan Kryeziu, Programme Manager at CIVIKOS, July 2022.
- 46 When the regulation on public funds for CSOs came into force. See: Regulation No. 04/2017 on Criteria, Standards and Procedures on Public Funding of NGOs, Article 26, paragraph 2.
- 47 For more, see the Office of the Prime Minister's Annual Report on Public Financial Support for NGOs in the Republic of Kosovo for 2021. Available at: <http://ojqfi-nancime.rks-gov.net/wp-content/uploads/2022/06/RaportiVjetor2021.pdf>
In addition, there is an online database of public financing of NGOs. Accessible at: <http://ojqfinancime.rks-gov.net/lista-e-hollesishme/>
- 48 Interview with Taulant Hoxha, Executive Director at KCSF, August 2022.
- 49 One of them is Down Syndrome Kosovo, which includes parents or family members of people with Down syndrome in the assembly of members, thus being a good example of interaction between the management of the organisation and assembly of members. This data was obtained in the interview conducted with Dardan Kryeziu, Programme Manager at CIVIKOS, July 2022.
- 50 USAID (2022), CSO Sustainability Index 2021– Kosovo, p.3, <https://storage.googleapis.com/cso-si-dashboard.appspot.com/Reports/CSOSI-Kosovo-2021.pdf>
- 51 Interview with Taulant Hoxha, Executive Director at KCSF, August 2022.
- 52 Interview with Taulant Hoxha, Executive Director at KCSF, August 2022.
- 53 Interview with Taulant Hoxha, Executive Director at KCSF, August 2022.
- 54 Kosovar Civil Society Index, from the "Kosovar Civil Society Foundation" (2018), page 21.
- 55 Interview with Taulant Hoxha, Executive Director at KCSF, August 2022.
- 56 Interview with Taulant Hoxha, Executive Director at KCSF, August 2022
- 57 Ekonomia Online, "300 NGOs oppose the new law on NGOs" (February, 2019). Available at: <https://ekonomiaonline.com/300-organizata-joqeveritare-kundershtojne-ligjin-e-ri-per-ojq/> [accessed on October 15, 2023]
- 58 KCSF, The Parliamentary Commission for Public Administration Pushes Forward the Unconstitutional Provisions of the NGO Law, Accessible via: <https://www.kcsfoundation.org/activity/ngolaw/> [accessed on September 5, 2022]
- 59 The official website of KDI. Accessible via: <https://kdi-kosova.org/aktivitetet/shoqeria-civile-marshon-kunder-projektligjit-per-financimin-e-subjekteve-politike-pengohet-dhunshem-nga-pdk-ja/> [accessed September 5, 2022]
- 60 Telegrafi Portal (2019), The government withdraws the draft law on the financing of political parties, <https://telegرافي.com/qeveria-terheq-projektligjin-per-financimin-e-partive/> [accessed on September 5, 2022]
- 61 Koha.Net, "KLI, GLPS and FOL: KPC's proposal for the appointment of the new Chief State Prosecutor, unacceptable" (April, 2022). Available at: <https://www.koha.net/arberi/319334/ikd-glps-dhe-fol-propozimi-i-kpk-se-per-emerim-te-kryeprokurorit-te-ri-te-shtetit-i-papranueshem/> [accessed on November 9, 2023]
- 62 Radio Free Europe, "President Osmani does not appoint Isufaj to the position of Chief State Prosecutor" (October, 2023). Available at: <https://www.evropaelire.org/a/vjosa-osmani-kryeprokurori-i-shtetit-32640852.html> [accessed on November 9, 2023]
- 63 For more, see the Forum for Parliamentary Transparency section. Accessible at: <https://www.kuvendikosoves.org/eng/for-the-public/forum-for-parliamentary-transparency/>
- 64 Interview with Taulant Hoxha, Executive Director at KCSF, August 2022.
- 65 For more, see the article of KDI related to the visit of MPs to the Czech Republic, during the time when draft law on political financing was being discussed at the assembly. Accessible at: <https://shorturl.at/msR28>
- 66 Office of the Prime Minister of the Republic of Kosovo, Government Strategy for Cooperation with Civil Society 2019-2023. Accessible via: http://www.civikos.net/repository/docs/Strategy_Alb_815880.pdf
- 67 For more, see: <https://kryeministri.rks-gov.net/zyra-e-kryeministrit/keshilli-per-bashkepunim-te-qeverise-me-shoqerine-civile/>
- 68 Among others, the memoranda are as follows: Memorandum of Understanding between Kosova Democratic Institute and Assembly of Kosovo. Accessible via: <https://kdi-kosova.org/timeline/nenshkruhet-memorandum-i-mirekuptimit-mou-me-kuvendin-e-kosoves/>; Memorandum of Cooperation between Institute for Social Policy "Musine Kokalari" and Assembly of Kosovo. Accessible via: <https://kallxo.com/lajm/visar-ymeri-nenshkruan-memorandum-bashkepunimi-me-kuvendin-e-kosoves/>; Memorandum of Cooperation between Group for Legal and Political Studies and Assembly of Kosovo. Accessible via: [https://kuvendikosoves.org/Uploads/Data/Files/28/2021_08_19_Memorandum_of_joint_work_between_the_Assembly_of_the_Republic_of_Kosovo_and_the_Group_for_Legal_and_Political_Studies_\(GLPS\)_UzVCGqFAUp.pdf](https://kuvendikosoves.org/Uploads/Data/Files/28/2021_08_19_Memorandum_of_joint_work_between_the_Assembly_of_the_Republic_of_Kosovo_and_the_Group_for_Legal_and_Political_Studies_(GLPS)_UzVCGqFAUp.pdf)
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- 70 For more, please see the recommendations of CSOs regarding this issue that are part of the report "Impact of Banking Restrictions on NGOs in Kosovo", page 13. Accessible at: <https://dokumen.tips/documents/raport-ndikimi-i-kufizimeve-bankare-tek-ojq-t-n-kosov-2-ligji-nr-06l-043.html?page=13>
- 71 For more, please see the Global Standard for CSO Accountability. Accessible at: https://www.csostandard.org/wp-content/uploads/2019/09/GlobalStandard_Core-Documents_Albanian.pdfv

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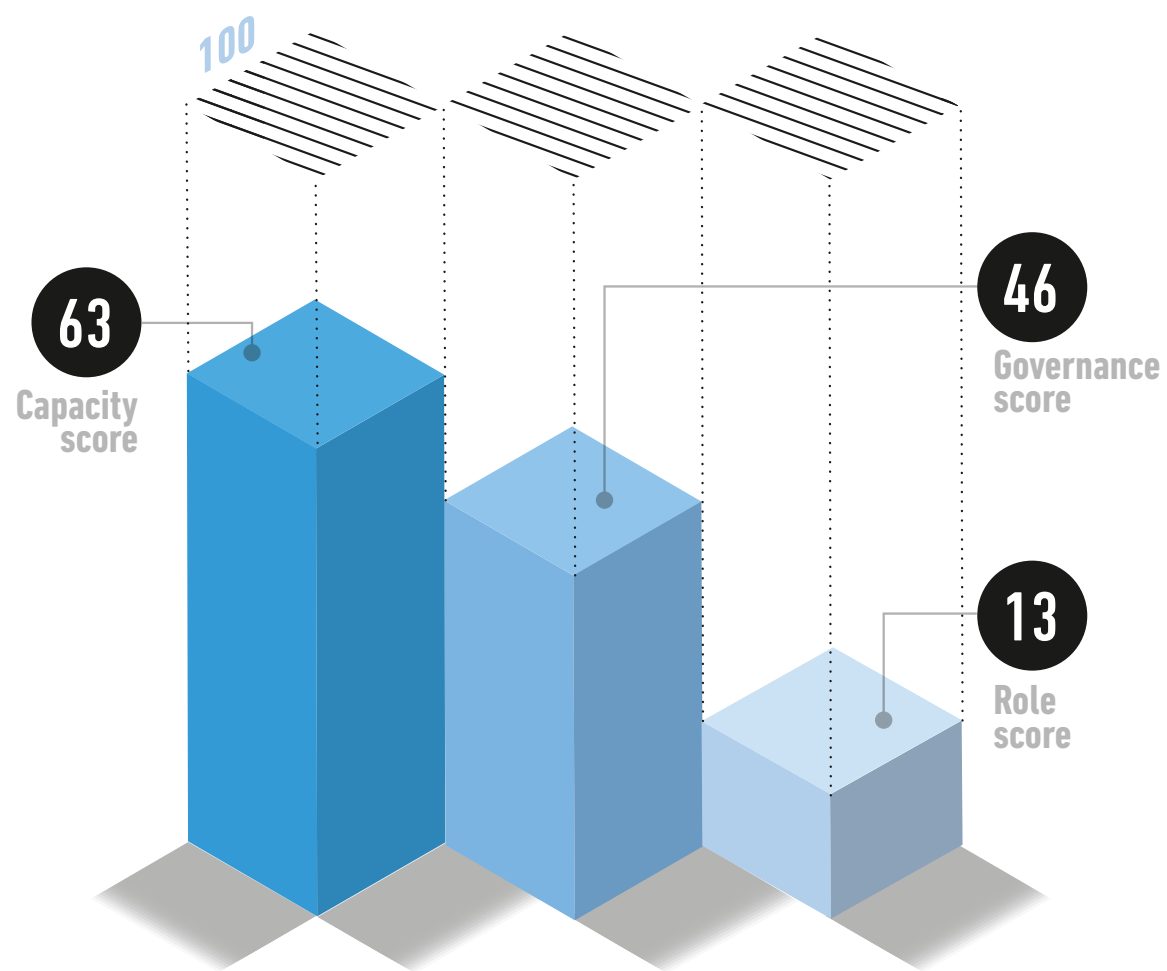
BUSINESS

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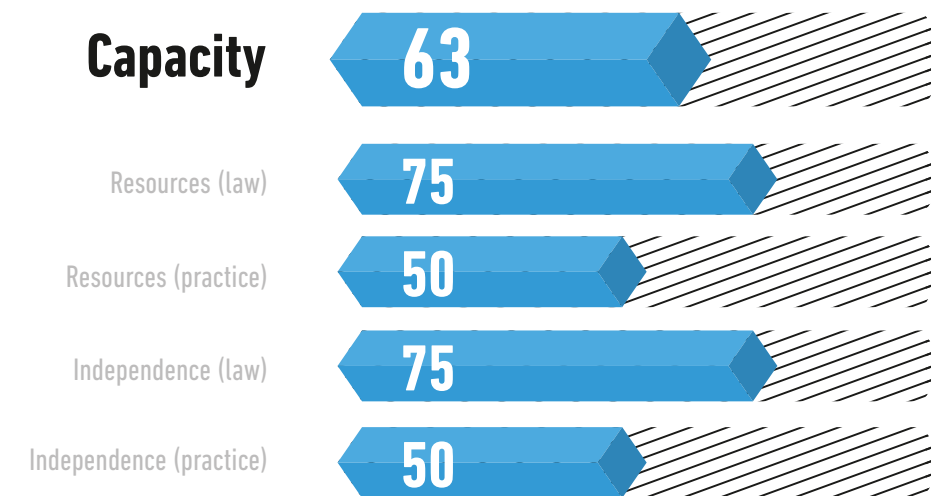
SUMMARY

The business sector is regulated by procedures determined by the Ministry of Trade and Industry (MTI) and by a legal framework defined by the Law on Commercial Companies, amended in June 2018.

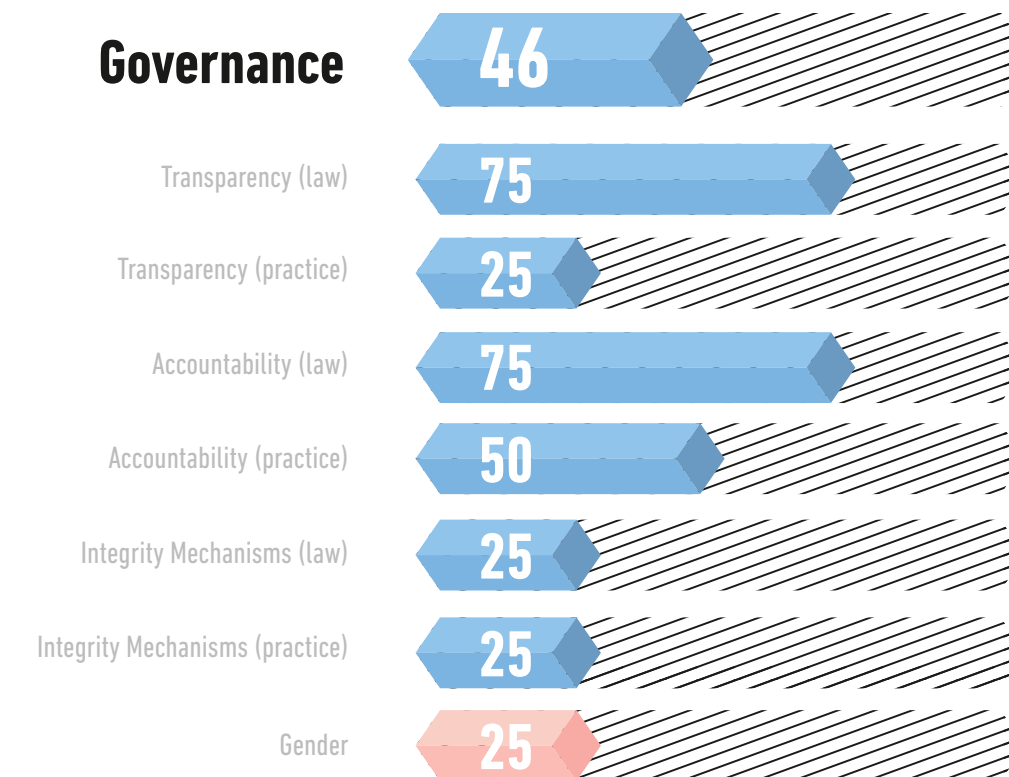
40/100 Overall pillar score



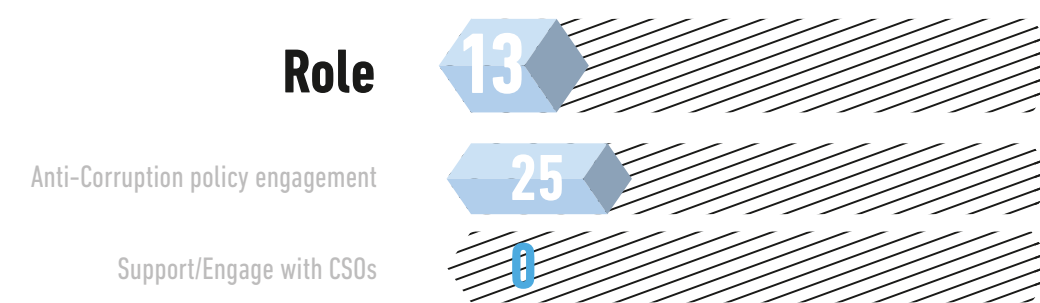
Capacity



Governance



Role





The legislation requires that companies are registered with the Kosovo Business Registration Agency (KBRA). The types of businesses include sole proprietorship, full partnership, limited partnership, limited liability company or joint-stock company.

The procedures for starting up businesses have been greatly simplified, and opening a business only takes 24 to 72 hours. There are 213,739 registered businesses on the central registry where data for all registered companies is stored. Businesses are subject to income tax, value-added tax and corporate income tax. They must also withhold taxes and pension contributions for their employees and any rent they pay. There has been an increase in the number of new businesses registered at the KBRA, but the COVID-19 pandemic has affected many companies that have closed or ceased operating.

The issue of the informal economy and the lack of the rule of law is still worrying. This means that once a business is registered, it is not well protected by the state. Any threats or bribes a business receives are unlikely to be reported to the courts, as they are considered ineffective and politically influenced.

There is a lack of specific data regarding business ownership and legal regulation, and there is also a lack of a special body for controlling and supervising the stock market.



Capacity

 **INDICATOR 14.1.1
RESOURCES (LAW)**

75/100



The laws pertaining to the start and operation of individual businesses are clear, straightforward and easy to apply, and include only reasonable requirements for applicants. However, some of the legislation is outdated, and is not harmonised with international standards.

The Law on Internal Trade is the only law that regulates internal trade; however, it has not been amended since 2007 and is not harmonised with EU Directives and the Central European Free Trade Agreement (CEFTA) Provisions.¹ The Law on Business Organisations, adopted in 2018, governs business registration, operational activities and reporting, and is the only law regulating all business sectors in the country.² The Law for Bankruptcy regulates the bankruptcy procedures and closure of businesses, which are categorised based on the types of commercial entities.³

The Law on the Protection of Competition determines the rules and measures for the protection of free and effective competition on the market.⁴ Regardless of its existence, this law is never applied at all in case of violations reported in public procurement or public-private partnerships (PPP) and concessions or strategic investments.

Moreover, there are also the Law of Foreign Investments⁵ and the Law of Strategic Investments,⁶ which help the realisation of investments and strategic investments in the Republic of Kosovo. These laws support the principles derived from the Stabilisation and Association Agreement.



The Law on Trademark was approved by the Assembly of Kosovo in 2022, and defines the conditions and procedures for the registration of trademarks, such as the acquisition of the right, the distinguishing marks, the characteristics that accompany the trademark until obtaining the licence and obtaining the right for registration.⁷ A Law on the Protection of Trade Secrets aims to regulate protection against unlawful acquisition, use and disclosure of trade secrets. However, this law does not address or create the possibility of a body within the MTI which deals with commercial secrets, which continues to be in disagreement with the law on administrative conflict, which provides that every dispute must be addressed at the level of first instance within the institution to which it belongs.

The Law on the Commercial Court laid the foundation for establishing the Commercial Court in 2022 as a new mechanism for resolving economic disputes.⁸

There are five detailed steps for informing citizens about opening procedures for a business.^{9,10} The right of ownership is protected by Law on Copyright and Related Rights.¹¹ Some provisions sanction the violation of the rules on protecting intellectual property.^{12,13}

The Law on Relations and Obligations regulates the form of implementation of contracts, including the basic principles and general rules for all obligations. The law has sufficient provisions that guarantee the implementation of contracts, such as provisions on objects, obligations, forms, deadlines and validity of contracts.¹⁴ The Law on Public-Private Partnerships also provides flexibility in the structuring of investments of this type and the form of contract implementation.¹⁵



**INDICATOR 14.1.2
RESOURCES (PRACTICE)**

50/100



In general, starting, operating, and closing a business involves a moderate investment in terms of time and money. However, there are problems regarding the bankruptcy process, the implementation of complaints mechanisms and the protection of property rights.

The reform in business registration practices started in 2020 and is continuing. The procedures to register a business are generally straightforward and only take an average of one to three days, depending on the type of business.¹⁶ Such a procedure can also be done online through the official KBRA website and as a process it is free of charge.¹⁷ According to the Executive Director of the Riinvest Institute, the biggest problem is the application of the legislation on bankruptcy or the closure of businesses. The operational process of bankruptcy and closure of businesses takes longer; therefore, many businesses do not make use of these processes.¹⁸

In 2018, the Ministry of Finance established the complaints board to help businesses avoid excessive bureaucracy in the procedures for developing complaints, mainly to the Customs and Tax Administration of Kosovo.¹⁹ At the same time, at a higher level, the establishment of the Commercial Court was a positive step towards timely resolving of economic disputes. The Commercial Court started operating in the second half of 2022. During this period, 7,972 cases were transferred to this Court by the appeal court, and 2,073 admitted cases were completed.²⁰

The effective protection of property rights is lacking in practice, with the main criticisms falling on the non-functioning of the complaint's mechanism and the non-implementation

of the legislation on the Law on Copyright.²¹ There is at least one case of initiation of legal proceedings for copyright protection. In this case, known as the "Stupcat" case, Emrush Thaçi is suspected of having benefited in the amount of €100,000 by violating the copyright of three comic actors known as "Stupcat". Thaçi was suspected of having committed the criminal offence of copyright infringement. This case from 2012 to 2022 did not receive any final decision from the court.²²

New businesses in particular remain largely unsupported by the state. Since May 2023, the government has started a new programme called "Super Puna", an intermediary between the employer and the job seeker, which subsidises new employees with €264 for 6 months.²³ However, the success and quality of this support cannot yet be evaluated.

**INDICATOR 14.1.3
INDEPENDENCE (LAW)**

75/100



Comprehensive legal safeguards to prevent unwarranted external interference in the activities of private businesses exist. However, there is no special regulation regarding the compensation of businesses in cases of interference.

KBRA as an agency is responsible for registering commercial companies.²⁴ In each municipality, the officials who deal with the registration of private businesses are identified and their names are made public on the agency's official website.²⁵

As for the complaint mechanism, the complaint procedures are defined by the Law on Commercial Companies.²⁶ In case of any appeal, the General Director of the Kosovo Business Registration Agency decides on the complaint within 15 days of receipt.²⁷ Conversely, in cases of unwarranted ex-



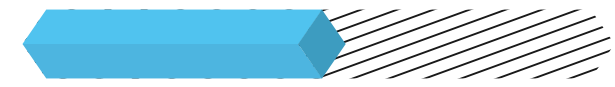
ternal interference, all legal entities, including businesses, are guaranteed protection by civil, criminal and administrative mechanisms; these mechanisms are prescribed in several different laws.

If the complaint is not examined, it is submitted to the Commission of the MTI, which is responsible for administering requests.²⁸ If the Commission approves the complaint, it will request the head of the Kosovo Business Registration Agency to undertake the measures appropriate to correct these problems.²⁹

The law determines the rights to compensation for commercial companies, which specifies all types of compensation related to the types of commercial companies.³⁰ However, there are no special regulations governing the seeking of compensation by businesses in case of interference.

**INDICATOR 14.1.4
INDEPENDENCE (PRACTICE)**

50/100



The state institutions occasionally interfere with the activities of the business sector. However, support for businesses from the state has started to increase.

There have been cases of state officials abusing their official duties by requesting and accepting money from businesses. The most recent case is that of a Ministry of Culture, Youth and Sports official who was arrested on suspicion of seeking and accepting money in exchange for subsidies for businesses worth thousands of euros.³¹ In research carried out by the Riinvest Institute, 91 per cent of surveyed businesses declared that corruption in business was caused by the requirements and conditions imposed by public officials.³²

The state has begun to support businesses (for example in the form of financial aid packages) to operate in the country, but there are still difficulties in creating cooperation to advance the rule of law and the fight against corruption in the business sector.³³

The private sector is lacking support from the government in terms of financial packages to stimulate the economy and high taxes such as a high tax burden on imports.³⁴

The government supports larger businesses more compared to smaller ones. This was evident in the distribution of financial packages to businesses for recovery after the COVID-19 pandemic.³⁵

According to the Executive Director of the Riinvest Institute, it is easy for a business to complain or file a lawsuit against the behaviour of public administration officials. Although this is defined by the Law on Business Organisations,³⁶ in practice, the process of resolving complaints or filing lawsuits in the courts is prolonged and has been criticised over the years.³⁷





Governance

INDICATOR 14.2.1 TRANSPARENCY (LAW)

75/100



There are comprehensive disclosure rules for business activities, particularly for financial records. The problem remains the lack of bank inspections and the legal gap regarding beneficial ownership transparency.

The new law on accounting, financial reporting and auditing entered into force in 2018. This law provides that all commercial companies must be subject to financial auditing and reporting.³⁸ Auditing and reporting standards are specified and detailed for each type of business, providing a stricter implementation mechanism for these standards.³⁹ Auditing of businesses is carried out based on categorising types of commercial companies. Every commercial company must audit the business's financial statements on an annual fiscal basis by a contracted external auditor.⁴⁰ Commercial companies in Kosovo appoint an auditor or an auditing firm for initial engagement for at least one year. Such commitments can be renewed.⁴¹ The audited financial statements have to be submitted and published to the Kosovo Council for Financial Reporting, and a copy is submitted to the relevant MTI no later than April 30 of the following year.⁴² The law requires that reporting be conducted according to the International Financial Reporting Standards.⁴³

However, there are no provisions regarding annual banking inspections.

Legislation: Kosovo has implemented legal measures to regulate beneficial ownership transparency. The Law on Preventing Money Laundering and Terrorism Financing is

one of the primary legislative instruments addressing this issue. It obliges entities to maintain accurate and up-to-date records of their beneficial owners.

Kosovo has not established a central beneficial ownership registry. The concept as such does not exist in any law. Only in the law for the Central Bank when specifying the criteria of the beneficial owner for creditors.⁴⁴ At this point, there have been initiatives by international organisations to create a knowledge space for the definition of beneficial owners and legal commitments.⁴⁵

INDICATOR 14.2.2 TRANSPARENCY (PRACTICE)

25/100



While businesses partially disclose information relevant to their activities, that information is often outdated. As such, the level of transparency is limited to the information in the KBRA register.

Data related to the companies registered in the country are accessible on the official website of KBRA, which includes the names of managers and other contact data.⁴⁶ However, this data is not updated regularly and is often inaccurate. Financial audits and reporting are implemented by financial aid companies that are licensed by the Ministry of Finance to conduct audits and financial reporting of other companies.⁴⁷

Data related to the audit of financial statements can only be found on the Kosovar Council for Financial Reporting website, which operates within the framework of MTI. This Council is also a third party for verifying financial data from businesses. However, there has been a significant gap in



this disclosure, with less than 1 per cent of total registered companies submitting their reports to the Council in 2022 (see 14.2.4).⁴⁸

Corporations, apart from the financial data declared annually, do not present much other data regarding their sustainability.⁴⁹

Businesses have few initiatives that disclose the fight against corruption due to the lack of awareness on the part of businesses regarding the fight against corruption.⁵⁰

Generally, the data on business ownership structures is accessible to the public. Identifying the real owners of the businesses, especially in businesses such as limited liability companies and corporations, remains a problem.⁵¹ There is no data regarding beneficial ownership. The only data are for the heads of the companies found in the KBRA and Customs and Tax Administration of Kosovo registers.

INDICATOR 14.2.3 ACCOUNTABILITY (LAW)

75/100



Legal provisions for appropriate oversight of corporate governance are established, including rules on how companies should be governed, formation of companies, roles of the board, management and owners, insolvency and dissolution. However, the problem remains that Kosovo does not have any regulation of the stock market.

The Law on Commercial Companies specifies the form and operation of corporations and joint-stock companies. This regulation in the last version approved has recently been harmonised with the EU directives and has further addressed the problems related to operation.⁵² The Corporate Governance Code defines the standards of operation

of corporations.⁵³ The Law on Commercial Companies describes all the powers of the board of directors vis-à-vis shareholders, including the approval of strategic plans, the calling of assemblies and the engagement of auditors.⁵⁴ Based on the Law on the Protection of Whistleblowers, all businesses with more than 50 employees are obliged to have a whistleblowing officer who accepts internal whistleblowing.⁵⁵

The only financial regulator that oversees the business sector under the Ministry of Finance and Transfers is the Kosovo Council for Financial Reporting. This Council approves and verifies all financial statements of commercial companies.⁵⁶ The staff of this Council is composed of ten members, with a total annual budget of €135,550, of which €113,260 goes towards salaries.⁵⁷

There is no separate body that supervises the stock market. The Central Bank of Kosovo is the only institution in Kosovo that issues securities as financial instruments and supervises the financial market in the country.⁵⁸ However, after the establishment of the Sovereign Fund of Kosovo, it is expected that a stock exchange will be created to open the stock market.⁵⁹

INDICATOR 14.2.4 ACCOUNTABILITY (PRACTICE)

50/100



In general, investors and boards are only partially effective in providing oversight of corporate management decisions. Breaches of oversight rules by corporate management are not uncommon.

In practice, effective corporate governance is considered problematic. According to the Executive Director of the Ri-invest Institute, the leading bodies such as oversight boards





of the companies are stable in terms of their appointment and in performance of their functions. However, there is a discrepancy in the relations between managers, directors and shareholders, especially in the proportional division of tasks and space as well as accountability in these tasks. Often there is there is also a lack of accountability in the division of managerial tasks at the high level.⁶⁰ 319 companies submitted financial reports to the Kosovar Council for Financial Reporting during 2022, almost similar to the same period in previous years. This amounts to less than 1 per cent of total registered companies.⁶¹

There is no additional mechanism encouraging companies to disclose anti-corruption information. Businesses point out that they are engaged in providing information on the fight against corruption, but the results are still missing.⁶² There are over 100,000 companies registered in Kosovo alone. During 2022, a total of 11,024⁶³ companies were newly registered. The number of companies that submitted financial reports to the Council is 34 times smaller than the number of newly registered businesses.

INDICATOR 14.2.5 INTEGRITY MECHANISMS (LAW)



While a number of regulations exist, they do not cover all aspects related to the integrity of business actors, and some provisions contain loopholes. Ethics codes and anti-corruption codes are missing at the sector level.

In principle, the legislation in Kosovo does not oblige businesses to have codes of conduct for the sector. In research published by Riinvest, 62 per cent of surveyed businesses stated that they have a Code of Ethics to which workers must adhere. Meanwhile, 27 per cent of businesses have indicated that they have a regulation that prohibits business workers from giving bribes.⁶⁴

There is no mandatory sector-wide anti-corruption code.

A number of businesses have signed a voluntary Anti-Corruption Code, where they pledge to fight corruption under a new initiative led by the economic councils.⁶⁵ This Code was signed by six business associations and businesses. It defines norms and activities and drives the motivation of economic entities to acquire and implement best international standards for fighting and preventing corruption.⁶⁶

Legislation in Kosovo does not provide for bidders of public contracts to have ethics programmes; there is only a "Declaration Under Oath" that bidders must sign to declare non-involvement in corruption.⁶⁷ Such an initiative is expected to be included in the new draft law on public procurement.

There is effective legislation that fully sanctions bribery, including in the private sector. The Criminal Code of Kosovo defines criminal liability for natural and legal persons, including businesses and corporations.⁶⁸ In principle, corporations have a governance code which, as a document, has established the main concepts and practices of corporate governance derived from the Law on Commercial Companies.⁶⁹ Furthermore, corporations also have unique individual codes, especially financial institutions,⁷⁰ which are accessible on their websites.

Large corporations usually have a compliance officer. This kind of obligation comes from the regulations of the Central Bank of Kosovo.⁷¹

INDICATOR 14.2.6 INTEGRITY MECHANISMS (PRACTICE)



In general, there is an absence of business actions that aim to ensure the integrity of the sector, with the result that misbehaviour goes mostly unsanctioned.

The internal codes of businesses, including codes of conduct, are very rarely applied in practice. According to the



Executive Director of the Riinvest Institute, businesses continue to have a problem in creating a spirit of good performance in terms of integrity on the part of the employees of these businesses.⁷² Businesses have raised concerns about the lack of progress on corruption and integrity issues in the private sector.⁷³

Bribery is one of the most widespread forms of corruption within businesses. In the research published by the American Chamber of Commerce, 62 per cent of respondents believe that this form is damaging the spirit of doing business in the country. At the same time, this is also causing a lack of strategic investment from abroad.⁷⁴

The Procurement Review Body has a blacklist⁷⁵ of companies that have not previously fulfilled their contractual obligations to the state when the contracts were awarded. However, despite being on this list, some companies continue to receive contracts from the state.⁷⁶ For example, in 2022, the Procurement Review Body had blacklisted 16 companies, including the company that won the tender for the supply of the Kosovo Police for falsifying documents.⁷⁷ Likewise, the economic chambers have created blacklists for companies that have not fulfilled their contractual obligations and are involved in corruption cases.⁷⁸

Whistleblowing policies are not implemented effectively, and many companies do not even have information about the obligation to have a whistleblowing officer. As a result, there have been few whistleblowing cases in practice.⁷⁹ Companies do not have specific mechanisms to deal with bribery cases; mainly, the cases are resolved within the management and often end without being addressed in the courts.⁸⁰ There are no integrity pacts among companies, and there is also a lack of training for private sector employees on integrity issues.⁸¹

The legislation in Kosovo seems to be effectively applied in cases of foreign bribery, where the most prominent case is the so-called "Stenta 3" case, where several foreign citizens have been accused of bribery. This case does not have a conclusion yet although the indictment was filed back in 2021 against several doctors and hospital directors for bribery, "unconscionable medical treatment", "illegal exercise of medical and pharmaceutical activity" and "avoidance from tax". Among these people are Macedonian and Turkish citizens.⁸²

INDICATOR 14.2.7 GENDER REPRESENTATION



The government publishes only limited gender data. The data that is published shows a significant imbalance between the presence of women and men in the management positions of corporate boards in the business sector.


In general, there is support for women in the field of business, specifically in the creation of small businesses.⁸³ However, the participation of women in the business sector is still low.⁸⁴ Although women represent half of Kosovo's population, their engagement in economic activity remains low compared to men.⁸⁵ With women representing only 11.42 per cent of entrepreneurs, Kosovo faces one of the lowest rates of women entrepreneurs worldwide.⁸⁶ The representation of women in business associations or chambers of commerce is also low.⁸⁷ However, there is a women's chamber for the economy called the Economic Chamber of Women of Kosovo which functions as a non-governmental organisation.⁸⁸

It is estimated that the boards of corporations and other enterprises are mainly led by men.⁸⁹ Data published by the government show an imbalance in the degree of representation by women. According to data from the KBRA, in the last three months of 2022, out of 2,641 registered businesses, 19 per cent were led by women who are in partnerships or shareholders.⁹⁰





Role

 **INDICATOR 14.3.1
ANTI-CORRUPTION POLICY
ENGAGEMENT**

25/100



The issue of anti-corruption is almost absent from the business sector's agenda of engagement with the government, despite being one of the sectors most affected by corruption.⁹¹ Businesses also have little engagement in the fight against corruption.

The American Chamber of Commerce in Kosovo has conducted several types of research regarding corruption among businesses.⁹² There are several initiatives, mainly from the American Chamber of Commerce and the Chamber of Commerce of Kosovo, to support the fight against corruption, but they are mainly carried out in specific periods, such as during the anti-corruption week, rather than continuously throughout the year.⁹³ According to the President of the Alliance of Kosovar Businesses, issues related to the fight against corruption and the planning of possible strategies are, to some extent, included in the agendas of meetings of large business associations and chambers of commerce in meetings with the government.⁹⁴

Five local companies are members of the UN Global Compact.⁹⁵ Although they have been members for several years, four of these companies have been excluded from the initiative due to failure to communicate progress.⁹⁶

 **INDICATOR 14.3.2 SUPPORT
FOR/ENGAGEMENT WITH
CIVIL SOCIETY**

0/100



In general, the business sector does not engage with or provide support to civil society in its task of combatting corruption

According to the Director Executive Director at Riinvest Institute, businesses are reluctant to support the activities of CSOs against corruption financially.⁹⁷

As far as can be ascertained, the business sector does not cooperate or engage in any specific programme with civil society and does not offer support for the fight against corruption. Also, this sector has not developed any projects in this direction, and these have been implemented only by civil society.



Interactions

Businesses interact primarily with the government, the Agency for the Prevention of Corruption and political parties, largely in a reactive capacity or in response to legal obligations. For example, businesses work closely with the MTI to register business operations.⁹⁸ They also act as the main bidders for public contracts in the country, which public institutions announce.⁹⁹ On the other hand, businesses are the main financiers of political parties, especially in electoral campaigns (see 11.3.1).¹⁰⁰ During the last elections, 68 businesses were identified that potentially finance political parties.¹⁰¹ This creates the potential undue influence of business interests in politics.

There is a marked lack of cooperation between businesses and other pillars in fighting corruption, like the public prosecutor and judiciary. There is also a remarkable lack of collaboration between businesses and civil society.

Pillar Recommendations

- Businesses should create internal codes of integrity and ensure their implementation.
- Business associations should provide financial support to CSOs in the fight against corruption and host events to discuss anti-corruption challenges in their sector and how to address them
- The government should create regulations for publishing data related to the beneficial ownership of companies, especially in the e-procurement database and tendering files.
- The Agency for Anti-Corruption needs to control and provide statistics on whether businesses with over 50 employees follow the whistleblower law and have a whistleblower officer. The Labour Inspectorate must create a mechanism for whistleblowing applicable to smaller businesses.



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ENDNOTES

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- 2 Law on Business Organisations, Article 1.
- 3 Law on Bankruptcy, Article 1.
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- 5 Law on Foreign Investments, Article 1.
- 6 Law on Strategic Investments, Article 1.
- 7 Law on Trademarks, Article 1. This Law is partially in accordance with Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 on the approximation of the laws of the Member States relating to trademarks and Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the Enforcement of Intellectual Property Rights.
- 8 Law on Commercial Court, Article 1. The Commercial Court of Kosovo adjudicates all commercial disputes and administrative conflicts, as defined by law, which acts as a court of first instance and a court of second instance.
- 9 Business Registration Agency, New Business Registration <https://arbkrks.gov.net/Page.aspx?id=1,33> <https://arbkrks.gov.net/page.aspx?id=2,33> [accessed on February 10, 2023] To start registration, an applicant must complete the application form. After the application form is completed, the applicant (or the person authorised for registration) submits the application form in person, at any KBRA service centre, together with other necessary documents. The admissions officer verifies that the application and accompanying documents are complete and acceptable to Kosovo Business Registration Agency (KBRA). When a completed application form is accepted, it must be signed by the applicant or authorised representative. The tax upon registration of the initial business is not paid.
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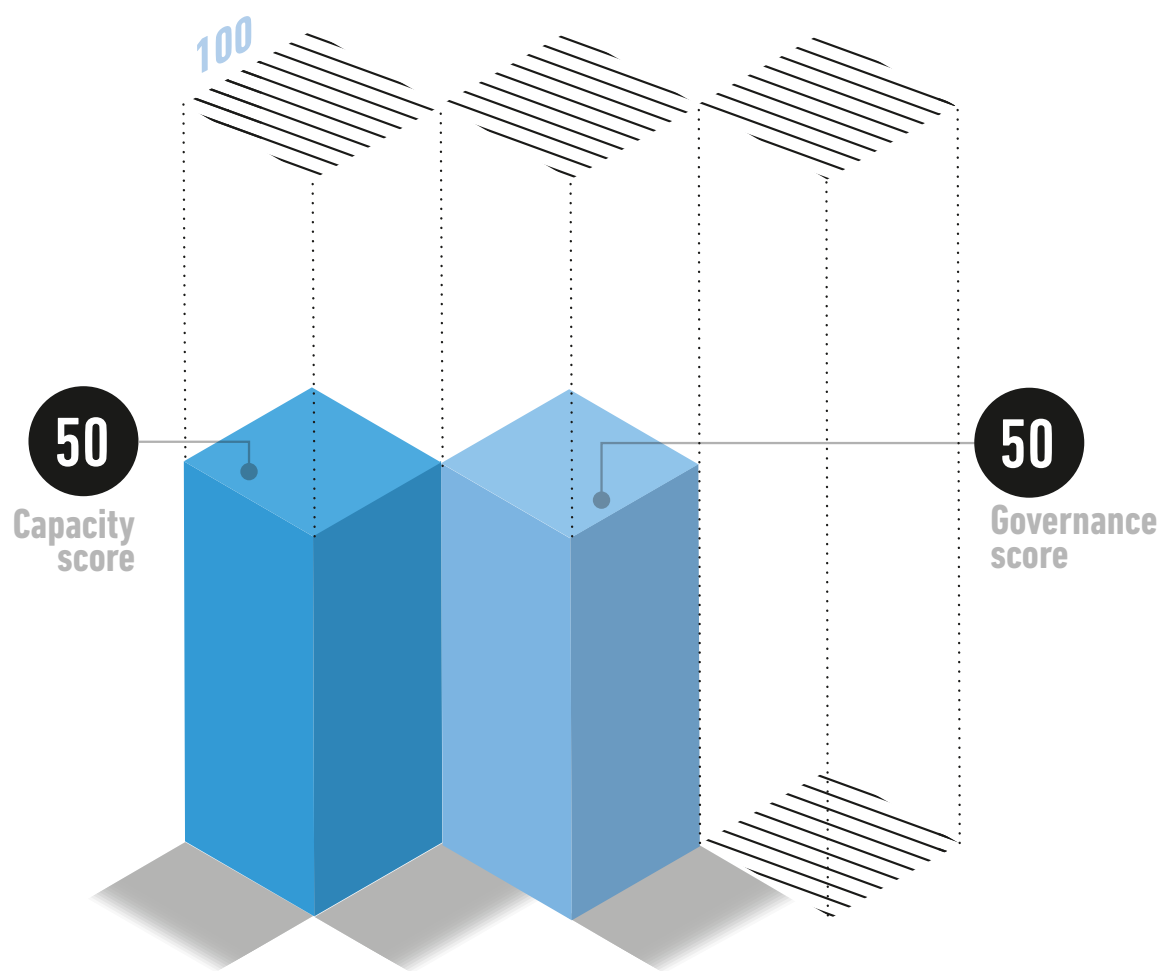
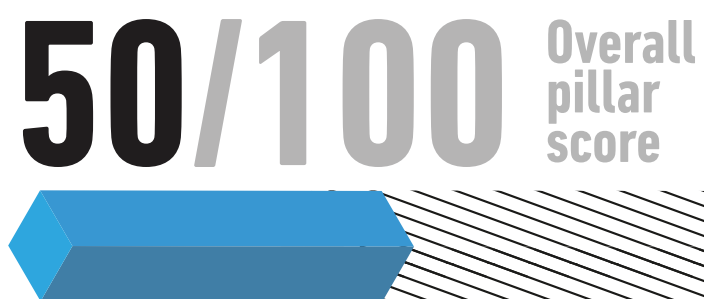
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STATE-OWNED ENTERPRISES

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SUMMARY

Public enterprises (PE) in the Republic of Kosovo are divided into central and local public enterprises. These enterprises operate based on the Law on Public Enterprises and the Law on Business Organisations.¹



Capacity

50

Independence (law)

75

Independence (practice)

25

Governance

50

Transparency (law)

75

Transparency (practice)

25

Accountability (law)

75

Accountability (practice)

25

Integrity Mechanisms (law)

75

Integrity Mechanisms (practice)

25



The government of Kosovo or the municipalities have full ownership of the majority, or a significant minority, of shares in central or local public enterprises.

A total of 72 public enterprises operate in Kosovo, of which 52 are local public enterprises, 11 national public enterprises and nine regional enterprises.² The Law on Public Enterprises also lists all central public enterprises, regional public enterprises and local public enterprises.³

The central public enterprises include 1) the Kosovo Energy Corporation; 2) Kosovo Post; 3) Kosovo Telecom; 4) TRAIKOS; 5) Ibër-Lepenci; 6) the Waste Management Company; 7) Infrakos; 8) Airport (air control); 9) Trepça sh.a; 10) the System, Transmission and Market Operator (KOSTT); and 11) Radio Television of Kosovo (RTK).⁴

The Law on Public Enterprises has comprehensive provisions for the operation of public enterprises, but it does not guarantee the independence and independent functioning of these enterprises from political interference. The appointment and dismissal of board members are done according to political party preferences, which affects the performance of these companies. This is because the law determines that most of the members of the board of directors will be appointed by the government.⁵

There is a coordinating unit – the PE Monitoring and Policy Unit⁶ – but it does not effectively supervise the work and performance of public enterprises. This is because there are not enough staff to monitor public enterprises properly. Currently, there is no proper monitoring of public enterprises.⁷ The unit has not published performance reports related to public enterprises since 2021.⁸ There has been no published update on the activities of this institution since 2014.⁹ Also, there are no reports on how the corporate governance code is implemented, nor is there evidence of any joint integrity memorandum or plan.¹⁰

The appointment and dismissal of board members are done according to political party preferences, which affects the performance of these companies. This is because the law determines that the majority of the members of the board of directors will be appointed by the government.

Public enterprises are audited in two ways: by a general audit, conducted by the National Audit Office, and by an internal audit. However, internal auditors are not very effective. Their reports are often incomplete and lack detailed information.



Capacity

 **INDICATOR 15.1.1 INDEPENDENCE (LAW)**

75/100



There are several laws and provisions that provide the legal framework for the ownership and governance of public enterprises in Kosovo.¹¹ However, the legislation has small loopholes in terms of not excluding party members from becoming board members (which represents a problem in practice).¹²

According to legislation in Kosovo, all public enterprises are organised as joint-stock companies based on the Law on Business Organisations. These joint-stock companies are owned by the government of Kosovo, which exercises the right of a shareholder through elected boards.¹³

The obligations and responsibilities of the PE in terms of public service are clearly mandated by laws and regulations. The PE is obliged to develop a business plan for the following year, which includes its obligations towards consumers and the public.¹⁴ The PE should regularly test customer satisfaction with the services provided.¹⁵

Public enterprises are not exempted from any general laws or regulations that apply to private sector companies.¹⁶ Every PE, including their officers and directors, without any exception, is subject to the laws, regulations and bylaws that govern privately owned commercial companies.¹⁷

The Law on Public Enterprises does not directly enable the government to intervene in the daily management of a PE, except in cases where it supervises the activity of the board of directors of a PE. The law also provides that

in cases where a PE fails to achieve its performance goals for two consecutive financial years, the government officials responsible for exercising the respective rights of the shareholder are obliged to consider the dismissal and replacement of the board of directors or the majority of its members.¹⁸

The law also provides that the duty to supervise shall not be exercised in a manner that interferes or is intended to interfere with the activity or independence of the board of directors or the audit committee of a public enterprise.¹⁹

According to the Law on Public Enterprises, the government has the power to appoint and dismiss the board members of central public enterprises, while the assemblies of municipalities are able to appoint and dismiss those of local public enterprises. The law specifies 20 criteria to be appointed as a member of the board of directors in an PE.²⁰ However, the law does not have specific and clear criteria that can determine the conditions for the dismissal of a member of the board of directors or the members of the board as a whole. The law only states that whenever there is reliable information that the board of directors or an individual director of the PE has acted contrary to their fiduciary duties, the shareholder(s), i.e. the government when it comes to central public enterprises, will conduct an investigation in detail and without delay. If the government finds that the violation has actually occurred, it will immediately dismiss and replace the responsible director or directors of the board of the public company.²¹

The law requires that board members are not or have not been elected officials, political appointees or decision-makers in any political party in the last 36 months before the date of their application; however, it does not also exclude individuals who are members of any political party,²² which may seriously infringe on the independence of the PE in question due to legal loopholes for professional and merit-based appointment procedures. The law does not clearly prohibit party appointments in these boards, but only determines that a person cannot be elected as a director of a board if they have held a leadership position in a political party during the last 36 months.²³ It would be ideal that the person has not been a member of a political party in at least the last 5 years.





**INDICATOR 15.1.2
INDEPENDENCE (PRACTICE)**

25/100



There is a recognisable trend of extensive interference by the government in the appointment process of public enterprises, as evidenced by recent appointments of board members and other executives with close ties to the ruling party. The political preferences of the boards are also reflected in staff employment in other functions.²⁴

According to the OECD Guidelines on Corporate Governance of State-Owned Enterprises, “persons linked directly with the executive powers – i.e. heads of state, heads of government and ministers – should not serve on boards as this would cast serious doubts on the independence of their judgment.”²⁵

The OECD SOE Guidelines recommends that the recruitment process should be based on eligibility rules and appropriate vetting mechanisms (i.e. nomination committees) prior to the ultimate decision of ministers. Where SOEs have minority non-state investors, their adequate board representation should also be ensured.²⁶ The board nomination decision should be facilitated by a consistent policy framework that enables boards to play a role in identifying potential members with appropriate expertise and knowledge. The policy framework entails setting clear minimum qualification criteria for board nominations; vetting mechanisms for ministerial board nominations; establishing nomination committees or taking a tailored nomination approach; and ensuring shareholders’ right to elect board members.²⁷

However, the composition of boards of public enterprises is influenced by political parties and their interests. In fact, the selection of board members and directors of these enterprises often seems to be not primarily based on objective criteria derived from their experience or expertise, but according to political affiliations.²⁸ A concrete case is the 2022 appointment of Bujar Bilalli, former Self-Determination

Movement candidate for the municipal assembly in Mitrovica, to the board of directors of the Trepça company. In the same year, Fadil Bejta, a donor to the Self-Determination Movement, became the chairman of the board of the Post of Kosovo and Feim Fetoshi became the head of the Board of Directors of the Regional Water Company “Hidroregjioni Jugor” in Prizren.²⁹ An appointment of a member of the Self-Determination Movement party was also made in local public enterprises, specifically in the “Ujesjellesi Hidroregjioni Jugor” company in the city of Prizren.³⁰

Another case is the appointment of Burbuqe Hana as CEO of Telecom by the board of directors in 2022. The former CEO Bedri Istrefi claimed that the decision was “purely political”. This is further supported by the fact that another candidate, Kreshnik Domi, received the most points in the monitoring data published by the Embassy of the United Kingdom. It should be noted that this monitoring process is supported by the British Embassy to provide technical assistance to the government and Assembly of Kosovo in the recruitment processes for the senior positions in the civil service and independent institutions, to strengthen transparency, meritocracy and good governance.³¹ However, the press office of the British Embassy also mentioned that they had no objections to the process because it was well-organised and the final decision is taken by the institution. The CEC also did not identify Hana as a member of any political party. Still, there are questions around this appointment as media reports have shown Hana’s connection to the Self-Determination Movement by participating in their protest.³²

Another case from 2023 is the appointment of a former activist of the Self-Determination Movement, Genc Hunduzi, as a board member of Kosovo’s state-owned railway network operator INFRAKOS.³³

Both appointments and dismissals in PEs are controlled by the political parties in power. According to an analytical report published by the Kosova Democratic Institute, the entire procedure of selecting board members begins and ends with the government. Thus, most of the responsibility for the selection of boards belongs to the Recommendation Committee. This situation creates space for abuse of the selection procedure, and for political interference in the Recommendation Committee in favour of the governing parties.³⁴

As a result of political appointments to boards and to executive director roles, public enterprises may be restrained from acting with objective and independent judgment.

It has not been reported that any PE has unjustly gained access to private assets or resources.



Governance

**INDICATOR 15.2.1
TRANSPARENCY (LAW)**

75/100



There are rules and provisions that foresee the publication of certain information on the activity and composition of public enterprises and reporting on financial data. However, the legislation does not oblige public enterprises to have anti-corruption programmes and publish them.

The law on public enterprises requires that the PE, namely the PE Monitoring and Policy Unit, must make public a set of information about all PEs on their website. This includes financial statements, performance evaluations, work plans, decisions and bylaws, salaries of directors and officers, number and categorisation of employees, material data on each transaction with related parties, procurement contracts, public service obligations, financial interests declared by directors and officers, and a list of the top ten suppliers.³⁵

Additionally, according to the Law on Public Enterprises, the PE Monitoring and Policy Unit is required to publish all information, reports, financial statements and assessments required by law for all PE boards and members.³⁶ The Unit must also submit a supervisory report to the relevant ministry, proposing the procedure for the supervision of the PE and all decisions or actions taken by the government, the minister or a Municipal Commission of Shareholders related to the PE or its board.³⁷

The legislation on public enterprises does not specifically oblige them to implement international standards of financial transparency, such as the International Financial

Reporting Standards and the International Accounting Standards Board. The law only states that the annual financial statements of any public enterprise are subject to an external audit provided by law in accordance with accepted international auditing standards.³⁸ Also, there is no legal provision requiring the PE to report on their anti-corruption programme, or even to have such a programme. The law in question only obliges the PE to publish all conflicts of interest declared by directors and officials of public enterprises.³⁹

**INDICATOR 15.2.2
TRANSPARENCY (PRACTICE)**

25/100



Public enterprises in Kosovo have serious transparency deficiencies in general. Most enterprises do not have officials responsible for communication with external parties, including communication with the media, and there are also no officials appointed to enable external parties access to public data. Additionally, many documents that should be public on their official website are missing.⁴⁰

All data on the beneficial ownership of PE shares are registered with the Kosovo Business Registration Agency.⁴¹

However, there is a marked lack of transparency in the PE Monitoring and Policy Unit. According to the GAP Institute, the Unit has not published a performance report for public enterprises for several years now on the grounds that they have not been approved by the Assembly.⁴²

Public enterprises have their own websites, but not all of them publish data on public service obligations and other financial compensation or information about their management structure.⁴³ In some of these enterprises, the names of board mem-





bers and executive directors are published, but there is no report that explains the governance and ownership relations of the PE with other state entities.⁴⁴ However, there are also some public enterprises that do publish this information on their website, such as the Post and Telecom company of Kosovo.⁴⁵

Some public enterprises do not publish the annual performance reports of boards. There is also a lack of publication of data regarding procurement procedures and financial audit reports. For example, the Kosovo Energy Corporation published its last annual audited financial statement report on 2020 in 2021.⁴⁶

In addition, there is no website in Kosovo that publishes in a general way all the information on the activities of central and local public enterprises, which could enable the public to know more about these enterprises.

Furthermore, no financial and operational information on a country-by-country basis is published about any public enterprise if it is also operating outside of Kosovo.

INDICATOR 15.2.3 ACCOUNTABILITY (LAW)

75/100



There are provisions that ensure and guarantee the supervision of public enterprises, however, the PE Monitoring and Policy Unit does not directly report to the Assembly of Kosovo, but to the government.

The Law on Public Enterprises regulates how PEs should be governed and to whom they are accountable. Every PE legally reports to the Ministry of Economy and to the PE Monitoring and Policy Unit, which the government of Kosovo has established as a centralised body.⁴⁷ The shareholders of PEs also have the right to exercise continuous supervision of the work of the board of directors and audit commissions. In fact, according to the Law on PE, within 30 days of the end of each calendar quarter, PE officials must prepare and submit to the



board of directors a three-month report on the actions and activity of the enterprise.⁴⁸ In addition to the three-month report, the law requires that within 45 days after the end of each calendar year, PE officials must prepare and submit to the Board of Directors of the PE an annual report which describes the actions taken, the financial results achieved and the overall efficiency in achieving the objectives set in the business plan.⁴⁹

The PE Monitoring and Policy Unit, which was established by the Ministry of Economy, presents analytical reports to the minister and proposes procedures for PE supervision.⁵⁰ It collects information and provides assistance to the Budget Department on any PE and related issues.⁵¹ However, the PE Monitoring and Policy Unit does not answer directly to the Assembly of Kosovo, but to the government, and the latter then reports on an annual basis to the Assembly regarding the way this mechanism exercises its duties and responsibilities.⁵² The law also does not stipulate that the Unit in question must have reports or relations with central audit institutions such as the National Audit Office. As well as being subject to supervision by the PE Monitoring and Policy Unit, every PE is also subject to independent external audit by a competent, independent and qualified institution.⁵³

The law stipulates that the annual financial statements of every PE are subject to an external audit provided by law in accordance with accepted international auditing standards.⁵⁴

INDICATOR 15.2.4 ACCOUNTABILITY (PRACTICE)

25/100



In practice, there is not much effective supervision of public enterprises. The cause of the problem is that the boards, which are the first instance of supervision, are politically appointed by the governments that are in power. It has become a practice in Kosovo for new governments to immediately act and dismiss the boards of public companies that were appointed by previous governments.⁵⁵

Boards generally carry out an annual assessment of their performance and that of the public enterprise, even drafting



an annual report⁵⁶ to present the achievements and challenges experienced in their work and by the company.⁵⁷ On the other hand, whenever boards hold meetings to review the annual reports or the performance of a PE, the shareholders who are delegated by the government of Kosovo also participate.

In addition, each PE is subject to an annual audit by the National Audit Office,⁵⁸ but they are lagging behind in internal audits because the latter lack professional expertise and detailed information (see 9.1.1).⁵⁹ According to Visar Prebreza from BIRN, which covers the field of economic development in Kosovo with special emphasis on the developments regarding public enterprises in Kosovo, both internal reports and external audits contracted by public companies⁶⁰ with an independent company lack necessary details and have a limited effect. Thus, PEs continue to operate with financial losses, have poor governance performance and lack effective accountability.⁶¹

In a word, such appointments create space for boards not to exercise their functions in accordance with the company's objectives, but to act based on the consent and interests of the political parties responsible for their appointments (see 15.1.2).⁶²

There is no published or draft policy or strategy for communication and consultation with all shareholders. However, minority shareholders have space and can participate in the basic decisions of the board either through the election of the Chief Executive Officer or other operational decisions.⁶³

Competitors could also access compensation mechanisms if they consider that their rights have been violated using the means of appeal in the judicial system of Kosovo.⁶⁴

INDICATOR 15.2.5 INTEGRITY MECHANISMS (LAW)

75/100



Legal provisions exist to ensure and guarantee the integrity of public enterprises and their members, with the exception of legislation concerning lobbying activities, which is lacking.

Public enterprises are subject to rules and bylaws which contain provisions on issues of integrity, monitoring and control of conflict of interest, as well as issues of fair assessment of the performance of PE members.

Every PE is required to have a code of ethics and corporate governance, and this includes the highest standards of corporate conduct.⁶⁵ The code contains concrete provisions against corruption, conflict of interest and non-acceptance of gifts and bribes.⁶⁶ All public enterprises are prohibited from financially supporting political parties.⁶⁷

The procurement law and public procurement rules apply to all to SOEs and private sector enterprises when working with government entities.⁶⁸ There are also laws such as the Criminal Code⁶⁹ and the Law on Liability of Legal Persons for Criminal Offences which have provisions that sanction the giving of bribes as a criminal offence and make personal and corporate liability punishable.⁷⁰

There are no legal provisions that regulate lobbying as a whole in the Republic of Kosovo. However, there are legal provisions that limit PE members, directors and officials from lobbying during PE activities. The law restricts them from participating in any action or trying to influence any meeting, discussion, negotiation or decision on matters related to their personal interest.⁷¹ However, there are no legal provisions that allow or prohibit PEs as corporations from carrying out lobbying activities.

To prevent corruption in public enterprises, chairpersons and board members and general directors of public enterprises





are obliged to declare their assets, wealth, income and any gifts received to the Agency for the Prevention of Corruption.⁷²

Whenever a case of corruption is discovered, there are independent mechanisms such as the police, the State Prosecutor's Office, and the Agency for the Prevention of Corruption where such an event can be reported. All persons who report illegal or irregular practices are protected under the Whistleblower Protection Act. This law has comprehensive provisions to protect persons who report illegal activities.⁷³

INDICATOR 15.2.6 INTEGRITY MECHANISMS (PRACTICE)

25/100



In general, there is a partial and reactive approach to ensuring the integrity of public enterprises. The Code of Ethics and Governance of Public Enterprises is not sufficiently monitored by the PE Monitoring and Policy Unit. Since 2018, this Unit has not reported any data on the implementation of the Code.⁷⁴ Furthermore, no PE is reported to have signed an integrity pact.

Public enterprises are far from the situation recommended by the OECD, i.e. that the state should play a positive role in improving corporate governance and PE performance.⁷⁵

Cases where board members encountered a conflict of interest are usually reported by the media. In 2021, the media reported on a potential conflict of interest relating to a member of the board of the public housing enterprise in Pristina.⁷⁶ The person appointed as a member of the board was reported to have previously been an official of this company engaged as a consultant.⁷⁷ This case was also reported to the Agency for the Prevention of Corruption, which is mandated to investigate and assess whether such a conflict of interest existed, however there are no reports on a decision by the Agency. According to the Law on Public Enterprises, it is stated that a person is not independent and cannot be appointed as a board member if during the last 5 years they have held an official position within that company.⁷⁸



No case has been reported involving someone from a PE, or working on its behalf, offering bribes inside or outside the country for the realisation of any benefits.

According to the 2022 annual report published by the Agency for the Prevention of Corruption, 432 officials of public enterprises are obliged to declare their assets, and so far there has been no case of any of them not making such a declaration.⁷⁹

If there is any potential case where an official is suspected of accepting a bribe, they can be reported to the PE-appointed whistleblowing officer, or to state bodies, such as the Police and the Prosecutor's Office. However, up until now, no such case has been reported.

In 2018, the Procurement Review Body (PRB) cancelled a procurement activity for the Ministry of European Integration because it did not select a public company over a private one.⁸⁰ In this case, the public company, Telecom of Kosovo claimed that the Ministry of European Integration had violated the law on public procurement in awarding the tender for mobile phone services to a private company for €77,000. However, there is no publicly available information on whether this was really the case.⁸¹

However, there are no reported cases that PEs have offered donations to political entities or have engaged in any lobbying activities in public decision-making bodies.

According to an economic journalist from BIRN working on several stories around procurement and mismanagement in public enterprises, public enterprises are obliged to appoint whistleblowing officials, but in practice, these officials are mainly connected to the executive directors of these enterprises.⁸² According to the journalist, many cases that might have been reported to PE whistleblowing officers are closed, or not reported at all, due to the influence of the executive director.⁸³ Therefore, this mechanism is not considered safe or reliable for whistleblowers within PEs.⁸⁴

Some PEs do not have a code of ethics and corporate governance. Upon reviewing the websites of 18 public enterprises in Kosovo, it turns out that ten⁸⁵ of them have published their codes of ethics for corporate governance, while eight have not published them on their websites.⁸⁶

Finally, there are no reports of a PE signing any pact for integrity, which according to Transparency International represents "a tool for preventing corruption in public contracting". This tool requires the government contracting authority and the company to agree to refrain from bribery, collusion and other corrupt practices.⁸⁷



Interactions

Interactions with the executive are mainly within the framework of legal obligations regarding the appointment and dismissal of PE boards. Interaction with the media and civil society is related to the monitoring and tracking of PE activities.

Likewise, interaction with the media and civil society is related to providing information about recruitment process in public enterprises and cooperation to monitor the activities and work of public enterprises. Interaction with the media and civil society is mainly positive in reporting corruption cases. The media and civil society have often reported cases where PE officials have been identified in a potential conflict of interest or other legal violations. However, this relationship needs to be improved and strengthened further, especially on the part of the PE. Currently, public enterprises have no public relations officers to facilitate the media's access to information and better communication.

Pillar Recommendations

- The government and the Assembly should strengthen the Policy and Monitoring Unit supervisory mechanisms for public enterprises by increasing their budget and number of staff to ensure quality governance of these enterprises.
- The government should stop party appointments on the boards of public enterprises in Kosovo, respecting the criteria defined in the law on public enterprises, which require that professionals be appointed to these positions based on their merits.
- The government should propose an amendment of the law on public enterprises to clearly specify the criteria for the dismissal of board members of public enterprises.
- The PE Monitoring and Policy Unit should publish annual reports on the applicability of the corporate governance code by public enterprises.
- Public enterprises should appoint media and public relations officers to handle requests from the media and civil society in a timely manner and show their commitment towards developing transparency.
- Public enterprises should update their electronic websites by making public and accessible all their strategic documents, legal framework, statutes, and corporate governance code, as well as publishing data on audit reports and annual work reports.





ENDNOTES

- 1 Law No. 03/L-087 On Publicly Owned Enterprises, Article 1 and 4. This law is Amending and Supplementing the Law No. 03/L-087 On Publicly Owned Enterprises Amended and Supplemented By the Law No.04/L-111 on May 2015.
- 2 See, Koha.Net Portal, December 2022, <https://www.koha.net/veshtrime/358131/a-ka-nevoje-kosova-per-ndermarrje-te-reja-publike/> [accessed on July 27, 2023]
- 3 Regional companies are public companies that offer public services in several municipalities, while local companies are companies that are managed by a municipality and provide services only within the territory of the respective municipality.
- 4 The Law No. 03/L-087 On Publicly Owned Enterprises, pages 24.
- 5 See the Law No. 03/L-087 On Publicly Owned Enterprises, Article 15 paragraph 1, which says that: All directors except one shall be elected by the government; and each such elected director shall have a term of 3 years. The other director shall be the state-owned enterprise's CEO, who shall be selected by the state-owned enterprise's board of directors in accordance with Section 21 of the present law. In electing directors to the board of directors of a central state-owned enterprise, the government may only elect persons who have been recommended to the government by the concerned Recommendation Committee established by paragraph 2 of this Article.
- 6 The Publicly Owned Enterprise Policy and Monitoring Unit is a mechanism that operates within the framework of the Ministry of Economy, which has the following duties and responsibilities: support the Minister of Economy and government in the exercise of their responsibilities related to publicly owned enterprises; prepare and submit analyses and recommendations related to central publicly owned enterprises to the minister; prepare and submit to the minister proposals for supervision of central publicly owned enterprises, and to monitor their compliance with the Law on Publicly Owned Enterprises and other applicable legislation; gather respective data on publicly owned enterprises and provide support, as needed, to the Division of Budget and Finance in relation to all aspects of the Kosovo Budget related to publicly owned enterprises; take part in board meetings of publicly owned enterprises, as an observer representing the shareholder; and perform other tasks and responsibilities stipulated in the Law on Publicly Owned Enterprises, Law on Amendments and Supplements of the Law on Publicly Owned Enterprises and other respective applicable legislation.
- 7 Interview with Visar Prebreza, Managing Editor at BIRN, January 19, 2023.
- 8 See the Link on the Publicly Owned Enterprise Policy and Monitoring Unit, <https://me.rks-gov.net/njpmnp/raportet-e-performances-per-np/> [accessed on August 2, 2023]
- 9 See also: Notice from the link on the Publicly Owned Enterprise Policy and Monitoring Unit: <https://me.rks-gov.net/njpmnp/njoftime/> [accessed on August 2, 2023]
- 10 See the website of the PE Monitoring and Policy Unit: <https://me.rks-gov.net/njpmnp/njoftime/> [accessed on October 2, 2023]
- 11 Law No.03/L-087 on Public Enterprises, June 2008, supplemented and amended in 2012 and 2015.
- 12 Law No.06/L-016 on Business Organisations, May 2018.
- 13 See, the Law on Public Enterprises, June 2008, supplemented and amended in 2012 and 2015, Article 3, paragraph 2.
In addition to the central public enterprises, there are also local public enterprises in Kosovo which are administered by the municipalities through municipal commissions as shareholders.
- 14 Law No 03/L-087 on Public Enterprises, June 2008, supplemented and amended in 2012 and 2015, Article 30, paragraph 1.e.
- 15 Law No.03/L-087 on Public Enterprises, June 2008, supplemented and amended in 2012 and 2015, Article 29.
- 16 According to Article 1 of the Law on Public Enterprises, it is emphasised that, except when expressly stated otherwise in this Law, the provisions of other laws of Kosovo (including, but not limited to, the Law on Business Organisations) which regulate joint-stock companies as well as directors, management, shareholders, as well as the rights and obligations of each of the above, will be applied in their entirety to PEs, directors, management and shareholders.
- 17 Law No.03/L-087 on Public Enterprises, Article 13 paragraph 1.
- 18 See the Law No.03/L-087 on Public Enterprises, Article 7.
- 19 Law No.03/L-087 on Public Enterprises, Article 7, paragraph 6.
- 20 The Law No.03/L-087 on Publicly Owned Enterprises, Article 17.
- 21 The Law No.03/L-087 on Publicly Owned Enterprises, Article 19.
- 22 Law on Public Enterprises, Article 17 paragraph 2.k.
- 23 Law on Public Enterprises, Article 17 paragraph 1 point k, just includes the prohibition for persons who hold a leadership or decision-making position in a political party, but it does not prohibit the appointment of all persons who hold party posts.
- 24 Telegrafi portal, May 2018, <https://telegrafi.com/politizimi-bordevi-con-ndermarrjet-dreit-falimentimit/> [accessed on February 3, 2022]
- 25 OECD Guidelines on Corporate Governance of State-Owned Enterprises, p. 71, <https://www.oecd-ilibrary.org/docserver/9789264244160-en.pdf?expires=1695636155&id=id&accname=guest&checksum=766B6EF15A6E62B4C6E054C4EC15ACBB>
- 26 See OECD Guidelines on Corporate Governance of State-Owned Enterprises, page 71.
- 27 Law No.03/L-087 on Public Enterprises, June 2008, supplemented and amended in 2012 and 2015, Article 15, 16, 17.
- 28 Kallxo.Com portal, March 2018, <https://kallxo.com/gjate/hurumtim/bordi-i-politizuar-i-telekomit/> [accessed on January 23, 2023]
- 29 See, Sinjali.com Portal, February 2022, <https://sinjali.com/ish-kandidati-i-vv-se-per-kuvend-te-mitrovices-emerohet-anetar-ne-bordin-e-trepces/>, [accessed on August 7, 2023]
- 30 See, Dukagjini.Com Portal, August 2022, <https://www.dukagjini.com/anetari-i-vv-se-emerohet-ne-bordin-e-ndermarrjes-publike/> [accessed on August 8, 2023]
- 31 For more, see the "Memorandum of Understanding" signed between The Government of Kosovo and The Government of the United Kingdom and Northern Ireland, represented by the British Embassy. The purpose of this memorandum of understanding is to support joint efforts in ensuring that strong,

- independent and professional heads of institutions and public bodies are appointed through a fair and transparent recruitment process. This project aims to assist the Kosovo institutions in recruiting an agreed list of senior positions. Published in <https://www.kosovoselection.org/overview> [accessed on October 3, 2023]
- 32 Gazeta Express, <https://www.gazetaexpress.com/kryesherja-e-re-e-telekomit-burboqe-hana-zyrtare-qe-zbaton-urdhret-e-vvse/> [accessed on September 25, 2023]
- 33 For more, see the Gazeta10.com Portal, March 2023, <https://gazeta10.com/kurti-emeron-aktivistin-e-vv-se-si-anetar-bordi-ne-infrakos/> [accessed on August 3, 2023]
- 34 Kosova Democratic Institute, analysis: 'Political Boards', (KDI: Pristina, June 2021), page 13. [accessed on September 25, 2023]
- 35 Law No.03/L-087 on Public Enterprises, Article 37 paragraph 4.
- 36 Law No.03/L-087 on Public Enterprises, Article 37 paragraph 3.
- 37 Law No.03/L-087 on Public Enterprises, Article 37, paragraph 4 point 1 to i.
- 38 Law No.03/L-087 on Public Enterprises, June 2008, supplemented and amended in 2012 and 2015, Article 33, paragraph 1.
- 39 Law No.03/L-087 on Public Enterprises, Article 37 paragraph 4, point J.
- 40 GAP Institute, thematic report: 'Financial management and transparency in Public Enterprises' (GAP: Pristina, December 2022), page 24.
- 41 There is a website of the Central Agency for Businesses where there is also a list of registered businesses. See the link: <https://arb.rks-gov.net/page.aspx?id=2>
- 42 GAP Institute, thematic report: 'Financial management and transparency in public enterprises', page 24.
- 43 Post and Telecom of Kosovo (PTK) published the annual financial audit report on their website only in 2019. After this year there is no publication of this report or any other document that talks about PTK's obligations and financial compensation.
- 44 The Kosovo Energy Corporation, on its website, has published the names of the board and director of this company, but there is no report explaining these relationships. The annual report of the last financial audit was published in 2021 and talks about the performance of the Corporation in 2020.
- 45 On the website of Telecom of Kosovo, there is no data or information showing the identities of the management team. See more at the link: <https://kosovotelecom.com/publikime/> [accessed on January 23, 2023]
- 46 See the website of the Kosovo Energy Corporation, "Financial Report" <http://kek-energy.com/kek/raportet-audituar-financiare/> [accessed on January 23, 2023]
- 47 Law No. 03/L-087 on Public Enterprises, Article 37 paragraph 1.
- 48 See Law No. 03/L-087 on Public Enterprises, Article 31.
- 49 Law No.03/L-087 on Public Enterprises, Article 31, paragraphs 1 to 5.
- 50 Law No.03/L-087 on Public Enterprises, Article 37 paragraph 2, point b.
- 51 Law No.03/L-087 on Public Enterprises, Article 37 paragraph 2, point c.
- 52 Law No.03/L-087 on Public Enterprises, Article 37.
- 53 Law No.03/L-087 on Public Enterprises, Article 33 paragraph 1.
- 54 Law No.03/L-087 on Public Enterprises, June 2008, supplemented and amended in 2012 and 2015, Article 33, paragraph 1. For this matter, the Law on Public Enterprises in Article 41 paragraph 1 and 2 only determines that the PE must act in full compliance with all conditions for financial reporting and accounting principles for joint-stock companies defined in the Law on Business Organisations. According to the Law, the PE must also act in full compliance with the administrative instructions issued by the Treasury for the preparation of financial reports which are required by the Law on Public Financial Management and Accountability.
- 55 Interview with Visar Prebreza, 'Managing Editor at BIRN organisation January 19, 2023.
- 56 See: Kosovo Post, Annual Work Report for 2021', (KP, Pristina: March 2022), page 11.
- 57 See: Kosovo Energy Corporation, 'Annual report 2021', (KEK: Pristina: April 2022), page 7.
- 58 See: National Audit Office, Audit Report: "Financial and operational performance of PE Trepça Sh. a", (NAO: Pristina, December 2022), page 10-11.
- 59 Interview with Visar Prebreza, 'Managing Editor at BIRN organisation' January 19, 2023.
- 60 See article written by Visar Prebreza in September 2019, <https://kallxo.com/gjate/analize/divorci-i-qeverise-nga-asfalti/> [accessed on August 8, 2023] Visar Prebreza in 2020 from the Association of Journalists of Kosovo (AJK) in cooperation with the OSCE Mission in Kosovo and the Entity of the United Nations Organisation for Gender Equality and Empowerment of Women was awarded the Journalism Award for Economy "Ibrahim Rexhepi". For more, see the link <https://ekonomiaonline.com/agk-ja-ndan-kater-cmime-shperblehen-gazetaret-qe-raportuan-gjate-pandemise/>.
- 61 Interview with Visar Prebreza, Managing Editor at BIRN organisation, January 19, 2023.
- 62 Kosova Democratic Institute, 'Political Boards', (KDI: Pristina, June 2021), page 13.
- 63 Interview with Visar Prebreza, Managing Editor at BIRN organisation, January 19, 2023.
- 64 On August 1, 2022, the Commercial Court was operationalised, which has the jurisdiction to handle all cases of conflicts between public and private companies in commercial matters. As well as disputes between public authorities and public enterprises, there are judicial mechanisms such as regular courts which accept and examine cases of this nature.
- 65 Law No.03/L-87 on Public Enterprises, June 2008, supplemented and amended in 2012 and 2015, Article 35.
- 66 Code of Ethics and Corporate Governance for Public Enterprises, (April 2010), page 21.
- 67 Law No.03/L-174 on Financing Political Parties, Article 11 paragraph 2.
- 68 See the Law no. 04/L-042 for Public Procurement in Kosovo, Article 2 paragraph 2.
- 69 The Criminal Code 06/L-074 of the Republic of Kosovo, Article 422, considers bribery a criminal offence punishable by imprisonment from 6 months to 8 years.
- 70 Article 5 of Law No.04/L-030 on Liability of Legal Persons for Criminal Offences stipulates that the legal person is responsible for the criminal offence of the responsible person who, acting on behalf of the legal person within the framework of its authorisation, has committed a criminal offence in order for that legal person to benefit or has caused damage. The responsibility of the legal person exists even when the action of that legal person is contrary to the business policy or orders of the legal person.





71 Law on Public Enterprises, Article 36.

72 Law No. 08/L-108 On Declaration, Origin and Control of Assets and Gifts, Article 4 paragraph 1 point 15, (July 2022).

73 Law No.06/L-85 on Protection of Whistleblowers, Articles 5 and 7.

74 The website of the Public Enterprise Monitoring and Policy Unit, 'Publications' <https://me.rks-gov.net/npmnp/?page=1.3&date=2020-00-00> [accessed on January 27, 2023] In the part of publications, only one report on the evaluation of the performance of the board of directors of PEs is observed and there are no other data.

75 OECD, 'Guidelines for corporate governance of state-owned enterprises, page 10.

76 Kallxo.Com portal, November 2021, <https://kallxo.com/gjate/onetari-i-bordit-te-ndermarrjes-publike-banesore-ne-konflikt-te-mundshem-te-interesit/> [accessed on January 27, 2023]

77 Ibid, Kallxo.Com Portal, November 2021, <https://kallxo.com/gjate/onetari-i-bordit-te-ndermarrjes-publike-banesore-ne-konflikt-te-mundshem-te-interesit/> [accessed on October 3, 2023]

78 Law No. 03/L-087 on Public Enterprises, Article 17 paragraph 2.

79 See the Agency for Prevention of Corruption, 'Annual Report for 2022', (Pristina: APC, March 2023) page 27.

80 Online Economy Portal, August 2018, <https://ekonomionline.com/oshp-favorizon-ndermarrjet-publike-ne-procurim-praktike-e-cila-esthe-ne-kunder-shtim-msa-ne/> [accessed February 3, 2023] In this case, Telecom of Kosovo submitted a complaint to the PRB, claiming that the Ministry of European Integration had violated the Law on public procurement in awarding the tender for mobile phone services in the amount of €77,000.

81 Koha.Net Portal, August 2018 <https://www.koha.net/arberi/108463/oshp-favorizon-ndermarrjet-publike-ne-prokurim-praktike-e-cila-esthe-ne-kunder-shtim-me-msa-ne/> [accessed October 3, 2023]

82 Interview with Visar Prebreza, Managing Editor at BIRN organisation, January 19, 2023.

83 Interview with Visar Prebreza, Managing Editor at BIRN organisation, January 19, 2023.

84 See the Kosovo Law Institute, 'Analysis of the implementation of the law for whistleblowers by public institutions', (Pristina:KLI, April 2020), page 45.

85 See the SOEs which have published a code of ethics and corporate governance: Kosovo Energy Corporation, <http://kek-energy.com/kek/legjislacioni/>; Iber-Lepenc K.R.U., <https://iber-lepenc.org/publikimet/>; KOSTT https://www.kostt.com/Content/ViewFiles/CorporateLegislation/PO_KO_001_Kodi_i_etikes_DHE_Qeverisjes_Korporative_per_NPQ_KOSTT.pdf; Posta: <https://postakosoves.com/publikime/legjislacioni/statusi-dhe-rregulloret/>; Drini i Bardhe: <https://hidrodrini.com/wp-content/uploads/2021/04/KODI-I-ETIKES-SHQIP-2014.pdf>; Trepça, sh.a <https://trepcasha.com/index.php?page=regulations>; KRU Pristina <https://trepcasha.com/index.php?page=regulations>; Hidro Drini-Peja: <https://hidrodrini.com/kodi-i-etikes-shqip-2014/>.

86 See the SOEs which have not published a code of ethics and corporate governance: Kosovo Telecom: <https://kosovotelecom.com/publikime/>; TrainKos: <https://www.trainkos.com/publikimet/rreg-aktet-tjera-te-brendshme/>; Kompania per Menaxhimin e Deponive: <https://www.kmdk-ks.org/?page=1.14&offset=20>; InfraKos: <https://infrakos.com/publikimet/rregulloret/>; Air Navigation Services Agency: <https://www.ashna-ks.org/publikimet/financa/>; K.R.U. Gjakova: <https://www.kru-gjakova.com/rregulloret/>; Hidromorava-Gjilan, <https://kru-hidromorava.com/rregulloret/>; Radoniqi-Peje <https://kruradoniqi-dukagjini.com/rregulloret/> [accessed on August 8, 2023]

87 See Transparency International, <https://www.transparency.org/en/tool-integrity-pacts3> [accessed on 3 February 2023]



CONCLUSION/POLICY RECOMMENDATIONS

Drawing from the primary findings of the NIS assessment for specific pillars and a thorough examination of overarching concerns and cross-cutting issues, KDI presents the following recommendations. This list is not exhaustive and is tailored to the respective institution or pillar to which each recommendation is directed. These recommendations aim to offer targeted guidance and improvements based on the identified challenges and considerations within each specific context.

New/amended legislation needed:

- Adopt legal changes that mandate the government to allocate the budget for the Assembly in accordance with its requests, based on a set minimum percentage of the budget.
- Amend the legal framework for reporting of independent agencies to the Assembly by determining sanctions for the heads or boards of independent institutions in case of disapproval of their annual reports by the Assembly. The amendment must determine the deadlines for the submission of annual reports by each institution.
- Adopt a law on lobbying that obliges MPs to document and disclose interactions regarding legislative processes.
- Amend the Law on the KPC regarding the composition and appointment to make it truly pluralistic following the recommendations of the Venice Commission: election by simple majority should be replaced by a proportional system of election and the appointment of some lay members by external independent institutions or civil society.
- Amend the Law on Disciplinary Responsibility of Councils and Prosecutors to include the possibility of dismissal of prosecutors for low performance.
- Amend the legislation in order to foresee post-employment restrictions for senior police officers of the Kosovo Police.
- Revise electoral and political financing laws to require candidates of political entities to report their financing and expenses.
- Amend the Law on the Ombudsperson so that candidates must not have been part of political parties, the executive or in other political positions for a period of at least five years before the application to be elected as Ombudsperson, in order to ensure an even higher level of independence.
- Make the necessary legal adaptations, in cooperation with the government, to create the mechanisms, including the administrative body, roles and procedures, which would deal with sanctions and punitive measures for the systemic issues identified by the National Audit Office and unaddressed recommendations.
- Make the necessary legal adaptations, in cooperation with the government, to create the mechanisms, including the administrative body, roles and procedures, where the audited parties can appeal the findings reported by the National Audit Office.
- Amend the Law on the Office of the Auditor General to limit the discretion of the President to nominate more than one commission for selection of the candidate for the Auditor General.
- Codify all regulations on political parties into a single Political Parties Law. The new law must clearly define the prerogatives, obligations and other conditions that enable political parties to fulfil their functions in society.
- Adopt an organic law on media in order to regulate all media-related issues, such as ownership of the media, financing, reporting, registration and functioning of online portals, and the protection of journalists from SLAPP lawsuits.
- Amend the law on the prevention of money laundering and combatting terrorist financing, as it currently presents legal restrictions on CSO activity in financial terms.



- Create new regulations regarding the publishing of data related to the “beneficial ownership” of companies, especially in the e-procurement database and tendering files.

To the Assembly:

- Increase significantly the number of public consultations and hearings by introducing mandatory mechanisms to have public hearings for each draft law that is reviewed by the Assembly.
- Ensure greater transparency by publishing the votes of MPs both in plenary meetings and in committees on its website and other online platforms.
- Fully approve, along with the government, the budget requests of the KPC so they can increase the recruitment for prosecutors and professional staff to fulfil their role of corruption prosecution.
- Complete the necessary electoral reform process, including substantive and political aspects of the electoral system, including raising the standards for the legal eligibility of candidates; limiting the preferential voting to three candidates; introducing the “zebra” model of equal representation; and changing the composition of the CEC by increasing the number of judges.

To the government:

- Adopt a Code of Ethics and Conduct for the members of the government cabinet by defining the rules on the principles of work and behaviour of cabinet members, as well as the rules on discipline and sanctioning of these members in cases where they commit improper and illegal behaviour during or outside working hours.
- Amend its Rules of Procedure in order to increase transparency, namely Article 23. The minutes of the government meeting should not be considered confidential as they currently are. The government must harmonise this regulation with the law on the government, the law on the protection of classified information and the law on access to public documents. The specific criteria of what constitutes a confidential document for government work must be clearly defined through regulation.
- Avoid interference in the work of the independent constitutional institutions, specifically in the judicial and prosecutorial system, through legal initiatives to reduce the salaries of judges and prosecutors. The government should also stop its practice of not fully approving the budget requests of the KJC and the KPC, but respect the legislation on the management of public finances that requires that the budget requests of independent judicial institutions be respected and approved when they are submitted within the legal deadline.
- Implement in the Ministry of Internal Affairs a transparency mechanism for the recruitment and appointment of senior police leaders, ensuring that these processes are professional and not politically influenced. This mechanism should make it mandatory to publish all internal documents that may be of interest to the public, including scoring sheets of candidates and recruitment evaluation summaries and rationale.
- Increase the budget of the Agency to match its widened competencies linked to the latest 2022 amendment to the Agency law and allow it to recruit new staff. A higher budget is also needed for the Agency to fully implement its plans for activities and campaigns prevention of corruption.
- Collaborate more actively with the media by providing access to information in a timely manner. The government should also organise more press conferences on critical topics such as the dialogue process and security issues.
- Strengthen the Policy and Monitoring Unit supervisory mechanisms for public enterprises by increasing their budget and number of staff to ensure quality governance of these enterprises.
- Stop party appointments on the boards of public enterprises in Kosovo, respecting the criteria defined in the law on public enterprises, which require that professionals be appointed to these positions based on their merits.
- PE Monitoring and Policy Unit: Publish annual reports on the applicability of the corporate governance code by public enterprises.



To the justice system institutions:

- Kosovo Judicial Council: Recruit more qualified supporting staff, associates and legal officers so that cases can be handled more quickly and efficiently.
- Kosovo Judicial Council: Amend the regulation for evaluating the performance of judges and provide for the imposition of disciplinary measures such as those determined in the law on disciplinary responsibility for judges and prosecutors (written public warning, demotion and devolution or temporary reduction of pay) against judges who do not write reasoned, or who write insufficiently reasoned, judicial decisions.
- Kosovo Judicial Council: Create a database where data on the efficiency of the judiciary in handling corruption and money laundering court cases are recorded, updated and published according to separate criminal offences and the type of sentence imposed.
- Kosovo Prosecutorial Council and the Academy of Justice: Organise additional specialised training on corruption and economic crimes. This should include a list of mandatory training regarding the investigation process and the drafting of better-quality indictments for the criminal offences of official corruption and money laundering. Special training is also needed for prosecutors on the development of skills in the investigation and collection of evidence in cases of confiscation of illegally acquired assets.

To oversight and independent institutions:

- CEC: Develop and conduct capacity-building programmes with the support of the OSCE and other international or domestic organisations to strengthen the capacities of Central Election Commission Secretariat and Office staff, particularly in legal writing, financial skills and public presentation.
- CEC: Extend transparency and accountability provisions of the CEC to the local levels of election management bodies.
- Ombudsperson: Adopt a new Code of Ethics, which clearly defines the subjects to which it applies; determines the types of information that must be confidential; prohibits commitments and contributions to political entities; defines whistleblowing policies; and specifies the supervision of implementation and the imposition of disciplinary measures. The amendments should also oblige the Ombudsperson to develop specific training for employees related to integrity issues.
- Ombudsperson: Focus, in cooperation with the Assembly of Kosovo, on finding ways to increase the level of implementation of the Ombudsperson’s recommendations by public institutions. The conditionality of the allocation of funds for public institutions in relation to the implementation of the recommendations of the Ombudsperson should be taken into consideration.
- National Audit Office: Assess systemic issues at the local and national level with the aim of identifying the root cause of the problem and contributing to the improvement of public processes and practices in the management of public finances.
- Agency for the Prevention of Corruption: Become more active in its information engagement in self-awareness campaigns and public education on the importance of reporting cases of conflict of interest, non-declaration of wealth and corruption.
- Agency for the Prevention of Corruption: Review the 2017 anti-corruption action plan and harmonise it with its duties and powers according to the current situation.
- Agency for the Prevention of Corruption: Add more human resources to fully implement its activity in matters of anti-corruption legislation supervision, drafting of integrity plans and protection of signals. There is also a need to recruit professional administrative staff in the technological field.
- Agency for the Prevention of Corruption: Control and provide statistics on whether businesses with over 50 employees follow the whistleblower law and have a whistleblower officer. The Labour inspectorate must create a mechanism for whistleblowing applicable to smaller businesses.





To the Public Sector and Law Enforcement Agencies:

- Public sector: Engage more with other state agencies, CSOs and businesses that are directly related to the fight against corruption. This should be in the form of memoranda of understanding that foresee trainings on integrity issues, whistleblowing, etc.
- Kosovo Police: Organise additional specialised training on integrity and conduct ongoing integrity tests for police officers.

To political parties:

- Adopt internal policies to enhance women’s participation in decision-making by promoting the “zebra” representation model – with each electoral list of political parties comprising 50 per cent of women. Particular attention should be paid to equal gender budgeting, i.e. preparing party’s budget by taking into consideration a gender perspective.

To businesses:

- Create internal codes of integrity and ensure their implementation
- Business associations: Provide financial support to CSOs in the fight against corruption and host events to discuss anti-corruption challenges in their sector and how to address them.

To watchdog entities:

- Media: Create a more diverse financial portfolio that enables media outlets to operate more independently from the support of businesses.
- Media: Pursue more active inter-institutional cooperation with justice institutions in the investigation, development and more effective conclusion of cases of attacks on journalists.
- CSOs: Increase transparency and publish annual financial reports.
- CIVIKOS: Collaborate with the Balkan Civil Society Development Network to develop measures for increasing the accountability of CSOs based on the Global Standard for CSO Accountability.

To State Owned Enterprises:

- Advance in improving the efficiency of their work, developing electronic service systems, and developing applications for accepting and providing online payment and invoice services.
- Update their electronic websites by making public and accessible all their strategic documents, legal framework, statutes, and corporate governance code, as well as publishing data on audit reports and annual work reports.
- Appoint media and public relations officers to handle requests from the media and civil society in a timely manner and show their commitment for developing transparency.



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