

PERISKOP



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Introduction

During Kosovo's last three years as an independent country, successive national or international reports have noted how ubiquitous levels of corruption rates are damaging the country's development and image in the international arena. The year 2010 begun with reports on sensational levels of corruption and organized crime in the highest circles of the country's leadership. The end of year was even more frantic. What began with the report published by Dick Marty, a Reporter of the Council of Europe, resulted in hundreds of articles published by the most prestigious European newspapers that elevate the incrimination of Kosovo's politics. In addition, the first democratic elections degraded to such a degree that western diplomats qualified them as "industrial theft of votes."

The lack of political will in establishing law and order continues to harm Kosovo, thus decreasing its likelihood to become an attractive environment for foreign investors. The greatest concerns remain the public sector performance, the judiciary and rule of law, while the final number of cases of those sentenced for corruption remains low¹. A year ago, the European Commission progress report stunned the public when it noted that €168 million of the consolidated budget had been used up through sole-sourcing procurement.

At the conference "How corruption is driving away foreign investors," held December 2009, the Foreign Policy Club warned that the presence of high corruption rates in the country was greatly damaging the prospects of attracting foreign investors. The report called for urgent measures in fighting corruption. The report also questioned the management of public money by the Ministry of Transport, as well as the process of licensing the second mobile phone operator and the privatization of the public enterprises "Llamkos" and "Feronikel."

Meanwhile, the amount of foreign investments in Kosovo since 2007 has continually decreased. According to the progress report, the net foreign investment in Kosovo has decreased from 19% to 7.1% of the GDP.

Raids at the MTPT

In the spring of 2010, the public opinion in Kosovo was taken aback by the revelation that senior officials of the Ministry of Transport and Post-Telecommunication were under investigation for serious criminal acts. On 29 April, 2010, the EULEX Police raided the MTPT, the private properties of senior officials of this Ministry and several other companies. The offices of the Minister and of the Head of Procurement, as well as the property belonging to the Minister's brother were searched. Further on, the building of the Assembly of Kosovo, where the servers are located, and one office at the Municipal Building in Gjiilan were also raided.

"The two defendants, the Minister and the Head of Procurement are accused of money laundering, organized crime, abuse of office, fraud while on duty and inciting bribery," said EULEX Spokesperson, Blerim Krasniqi².

Gani Zogaj, an official of the Information Technology Department at the MTPT, who was arrested on 29 July as a result of investigations conducted in the meanwhile, joined the group of defendants. The former defendant was charged with obstructing the collection of evidence.

The FPC 2009 report expressed doubt that the enormous increase of capital investments within the MTPT may have been motivated by unlawful profits from its leadership – as increasing the public investment budget by seven times cannot be considered as a normal phenomenon in the context of a general economic stagnation in the country. In spite of numerous requests by civil society, the international presence in Kosovo



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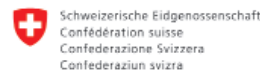
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1 Progress Report 2010 of the European Commission

2 E-mail communication between the FPC and EULEX Information Office, 13 September 2010.

Kosovo Assembly members Driton Tali and Naim Rustemi had raised the issue of €16 million; the Minister of Economy and Finance Ahmet Shala pointed his finger to the TRA

and political opposition forces, neither Minister Limaj nor the Head of Procurement of this Ministry have stepped down. Furthermore, two major economic projects for Kosovo, the concession of the Airport of Prishtina and the contract for the construction of Vërmicë-Merdare highway, were carried through under their management, following the raids.

The licensing of the second mobile phone operator

The Kosovo mobile phone market has been a meeting point for many world renowned telephone companies since 2004. Unfortunately, though, a majority of them faced disappointments prior to entering the selection race for the licensing of the second mobile telephony operator in Kosovo. A twice-repeated tender, the process was associated with many irregularities. It may also be considered as one of the image compromising points for Kosovo and its relations with foreign investors. Despite the interest of world renowned company names, such as Vodaphone, Telenor, Mobilkom Austria – all with hundreds of millions of clientele around the world – the Kosovo Telecommunications Regulatory Authority led a process that resulted in the licensing to an anonymous telephone bidder that had no clients in the mobile industry.

The second tender for the licensing of the second mobile phone operator was repeated in 2006/2007. The repeated tender attracted prestigious companies as “Telenor,” “France Telecom,” “Matav,” “Vodafone” and “Tele 2,” whereas the most persistent bidders in the tender were “Mobilkom Austria,” the consortium “IpkoNet-Telecom Slovenia Mobitel,” “Team Kosovo” and the consortium “Kosmocell.”

From the onset, the bidders were disappointed due to irregularities within the process. As a consequence, Vodafone Company withdrew from the competition altogether.

“One of the Kosovo Telecommunications Regulatory Authority (TRA) violations during the ten-

dering procedures was the failure to publish the selection criteria, which would enable bidders to prepare for the process,” said Avni Zogiani, the Executive Director of the non-governmental organization Çohu. Another violation was selecting the tender winner in the absence of a board member, which was in contradiction with the Law on Tele-Communication that stipulates that the entire board should be present in order for a decision to be brought.

“I have no idea how the tender was won by Kosmocell, while the board was not complete,” said Driton Tali, an independent member of the previous Assembly of the Republic of Kosovo.

The list of law violations during this process is quite lengthy, says the report, and in spite of these tender irregularities, the TRA announced the consortium “Kosmocell” as the winner.

However, more trouble ensued. The winning consortium failed to obtain the money they had promised to use for the investment, amounting to €81 million. Therefore, upon expiry of the payment deadline, the license was granted to the second best bidder – “IpkoNet-Telecom,” which fulfilled the payment as per the rules, as the second highest bidder.

The consortium “Kosmosell” was never withheld the amount of 16.2m Euros, which is the minimal amount of a bank guarantee – since the tendering package clearly defined that bidders need to pay a nonreturnable bank guarantee from the accredited financial institutional in compliance with TRA for an amount of no less than 20 percent of the offering price. The bank guarantee amounting to 20% of the general investment turned out to be invalid, and Kosmocell never paid the amount of €16 million to the Kosovo Consolidated Budget.

Kosovo Assembly members Driton Tali and Naim Rustemi had raised the issue of €16 million; the Minister of Economy and Finance Ahmet Shala pointed his finger to the TRA. Meanwhile, the Chairperson of the TRA board Ekrem Hoxha said that “for the Board, the issue of the guarantee





was unknown until the question had been raised at the Assembly” despite the fact that the previous Legislature of the Assembly had discussed the process during an extraordinary meeting. “Afterwards, we commenced investigations and the guarantee was found in the archive,” Hoxha said.

PERISKOPİ has learned that this issue is currently under investigation by EULEX. “I have provided EULEX with documents so that they can investigate further, and I can say that EULEX is investigating,” said Ekrem Hoxha to the FPC over a phone interview³. “I cannot say anything else, what I have said is that it is only a bank guarantee, it is not a check.” For Avni Zogiani, the tender for

the second mobile phone operator was “the heart of organized crime” revealing how deep crime and corruption in Kosovo go. For Deputy Driton Tali, it was “an egregious violation of the Law on Procurement and other legal procedures.”

Despite the investigations commenced by EULEX and numerous suspicions raised by the media to date, no TRA official involved in this process was found responsible for or dismissed. In fact, some of them have even been promoted. Several months later, the Head of TRA Anton Berishaj was appointed as the Ambassador of the Republic of Kosovo to Slovenia.

³ On 6.07.2010







The next sales

These are only two of the many cases that have been recently brought to the attention of the public by the civil society, media or the deputies of the Assembly of Kosovo. Everything points to widespread crime in decision-making positions. As the interlocutors of FPC point out, more institutional circles are involved in these violations than is apparent at first sight.

Privatizing such companies in order to close the budget deficit gap may seem as a pragmatic solution for the momentary crisis, albeit one that alerts for the absence of the elementary accountability and economic vision of the current leadership

However, the culture of non-punishment installed since 1999 is now producing its first repercussions. Prestigious European media have targeted Kosovo in the past two months and are portraying Kosovo as a crime nest.

In October of last year, the organization Transparency International warned about the high presence of the political corruption in the country. According to the TI, Kosovo is the most corrupted country in the region and holds 110th position along with Benin, Bolivia and Gabon. On the other hand, the World Bank lists Kosovo in position 173 regarding protection of investors.

Given such an image, it is impossible for Kosovo to further develop its state-building project, and within it, it is impossible to achieve economic growth, for which the role of foreign investors is irreplaceable. In the past 10 years, many serious companies have left Kosovo in a state of disappointment; Kosovo has no presence of any company with international prestige. In order to change this trend, Kosovo must focus on creating a friendly business environment, where fight against corruption and the enforcement of the rule of law remain one of the most important pre-conditions.

In the upcoming months, the Government of Kosovo is expected to begin three important economic processes, which may determine the final direction of Kosovo – failure or gradual economic growth. The concession for the energy resources (along with the privatization of KEK), the privatization of the PTK and the privatization of the tourism complex Brezovica are three projects of vital importance for the economy of Kosovo.

However, the end of 2010 has already shown tendencies for misuse of such resources, especially by covering the budget deficit, which resulted from the decision for large infrastructure investments. The beginning of the year has indicated a deepening of this financial gap by the decisions to increase the salaries, decisions that were taken in the throes of election campaign of the outgoing Prime Minister.

These projects could be used to establish strategic partnerships with serious international investors that would contribute to a favorable climate, which in return would encourage other investments as well. Privatizing such companies in order to close the budget deficit gap may seem as a pragmatic solution for the momentary crisis, albeit one that alerts for the absence of the elementary accountability and economic vision of the current leadership.

The reports between Kosovo and the International Monetary Fund

In the past few months, Kosovo's image has been seriously damaged by international media reports that link the country's political leadership to organized crime. Given such an environment, Kosovo must first prove to be a credible and serious partner in its relations with foreign partners.

In this regard, agreements signed with international organizations, and particularly the International Monetary Fund, are of extreme importance.

Kosovo became a member of the IMF in June 2009 – mainly due to the support from the countries that also exercise the greatest power within this important global financial organization. In July 2010, the IMF approved the request of the Government of Kosovo for a Stand-by Arrangement,⁴ which granted Kosovo the amount of \$92, 656 million for a period of 18 months.

The first installment, amounting to \$18,760 million, was paid after the request was approved; the other installments are foreseen to be paid following evaluations on a three-month period. Such evaluations will indicate whether the Government of Kosovo has abided by the conditions under which the IMF assistance was granted. More importantly, the assistance provided by the World Bank and the European Commission are also related to whether Kosovo abides by these conditions. Therefore, it is essential that these conditions are met so that Kosovo can receive about a total of €300 million by the IMF, WB and the European Commission.

In the rationale of the request made to the IMF for the Stand-by Arrangement, the Government of Kosovo has stated that the target of the economic program is expanding the foundation to re-build fiscal stability and preserve financial stability. To achieve this, among others, the authorities aim to “exert restriction of expenses and increase revenues” to face the burden that capital investments will place on the general fiscal deficit.

The increase of salaries at the beginning of January 2011 should not be in accordance with the restriction of expenses to which the Government committed in its contract with the IMF; by this, not only does it endanger the agreement with the IMF and the fund of \$90 million, but also other millions from the World Bank and the European Commission.

The IMF evaluation should have taken place in December, but this did not happen as the country did not have a Government⁵, thus it was postponed for when the new government is appointed. That is why there is still no official evaluation by the IMF on the decision of the Government of Kosovo to increase the salaries, and therefore it is up to the Government to justify this decision in front of the IMF delegation and not to overrule the contract with this institution.

⁴ Complete documentation may be found at: <http://www.imf.org/external/pubs/ft/scr/2010/cr10245.pdf>

⁵ The current government is outgoing, and is not recognized as a partner to negotiate with the IMF.

CORRUPTED GOVERNMENT
OR FOREIGN INVESTMENTS

Red sky at night sailor’s delight;
red sky at morning, sailors take
warning

Kosovo has started its state building efforts on the wrong foot and is therefore endangering its future and that future of its citizens. The message that Kosovo has been sending to potential investors so far is that the new state does not guarantee an environment where business can develop without linking to politics or crime. The Kosovo authorities should take the latter under account and work toward changing such an image of Kosovo. The best way to change the image is by changing the reality on the ground.

The message sent so far by Kosovo has not been encouraging for the Kosovo citizens. Having the world’s largest companies leave, as in the case of the licensing for the second mobile phone operator, sends negatives message to other companies as well - the message being that Kosovo is not a country where one can invest.

The failure to observe the first contract with the IMF would cost Kosovo very dearly - not only because it would lose the funds but also because the entire world would receive the message that Kosovo does not observe contracts, even those signed with its friends.

DOING BUSINESS

119 DOING BUSINESS
2011 RANK

118 DOING BUSINESS
2010 RANK

-1 CHANGE
IN RANK

REGION	Eastern Europe & Central Asia
INCOME CATEGORY	Lower middle income
POPULATION	1,805,000
GNI PER CAPITA (US\$)	3,240.00

TOPIC RANKINGS	DB2010	DB2011	CHANGE IN RANK
Starting a Business	163	158	-5
Dealing with Construction Permits	173	177	4
Registering Property	65	64	-1
Getting Credit	32	30	-2
Protecting Investors	173	172	-1
Paying Taxes	41	51	10
Trading Across Borders	130	131	1
Enforcing Contracts	155	155	
Closing a Business	31	28	-3

Ease of Doing Business in

KOSOVO

This page shows summary Doing Business 2011 data for Kosovo. The first table lists the overall “Ease of Doing Business” rank (out of 183 economies) and the rankings by each topic. The rest of the tables summarize the key indicators for each topic and benchmark against regional and high-income economy (OECD) averages.

STARTING A BUSINESS

163 DB 2011 RANK

156 DB 2010 RANK

-5 CHANGE IN RANK

INDICATOR	KOSOVO	EASTERN EUROPE & CENTRAL ASIA	OECD
PROCEDURES (NUMBER)	10	6.3	5.6
TIME (DAYS)	58	16.3	13.8
COST (% OF INCOME PER CAPITA)	28.7	8.5	5.3
PAID-IN MIN. CAPITAL (% OF INCOME PER CAPITA)	112.4	12.3	15.3

NO	PROCEDURE	TIME TO COMPLETE	ASSOCIATED COSTS
1	Open a bank account and deposit the minimum chartered capital	1 day	EUR 5
2	Request and obtain the Business Certificate and the 'Business Information' document at the Kosovo Business Registration Agency (KBRA)	10 days	no charge
3	Pay business registration fee at a bank	1 day	EUR 23.5
4	Make a company seal	1 day	EUR 20-50
5	Request and obtain a Municipality license	30 days	no charge
*6	Request and obtain inspection from the Municipality Technical Committee	5 days (included in previous procedure)	EUR 525 for license and EUR 50 for inspection
7	Request and obtain the fiscal number from the Tax Administration at the Ministry of Economy and Finance	7 days	no charge
*8	Obtain inspection of the business premise from the Tax Administration	1 day, simultaneous with procedure 7	no charge
9	Register the company for Value Added Tax (VAT) with the Tax Administration at the Ministry of Economy and Finance	7 days	no charge
10	Register employees for the pension scheme with the Tax Administration at the Ministry of Economy and Finance	1 day	no charge

*TAKES PLACE SIMULTANEOUSLY WITH ANOTHER PROCEDURE.

Summary of Western international press over Dick Marty's Report, December 2010, January-February 2011

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CORRUPTED GOVERNMENT OR FOREIGN INVESTMENTS

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The Foreign Policy Club is a non-governmental organization which brings together intellectuals, politicians and prominent civil society activists that show affinity in foreign policy. The Club aims to contribute through intellectual debates and recommendations with regard to generating Kosovo's foreign policy in the function of peace in Kosovo, the region and the world. The Club generates debate, examines developments and gives recommendations for Kosovo's foreign policy; focuses in examining global trends that affect Kosovo's daily political-economics, and also researches Kosovo's opportunities for integrating in the world. The Club strives to draw attention to world debates and the necessary steps for Kosovo's politics in relation to such developments.

Through its activities and intensive debate, the Club produces recommendations and programs regarding regional, European and global integration processes, particularly in the process of EU and NATO integration, which fall upon the institutions of Kosovo. The organization's special focus is to develop a debate regarding immediate actions that Kosovo Institutions need to undertake in the diplomatic sphere, such as Kosovo's recognition from UN members states and Kosovo's acceptance in international organizations, as the UN, EC, OSCE, World Bank, IMF, Organization of Islamic Conferences, Olympic Committee etc.

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