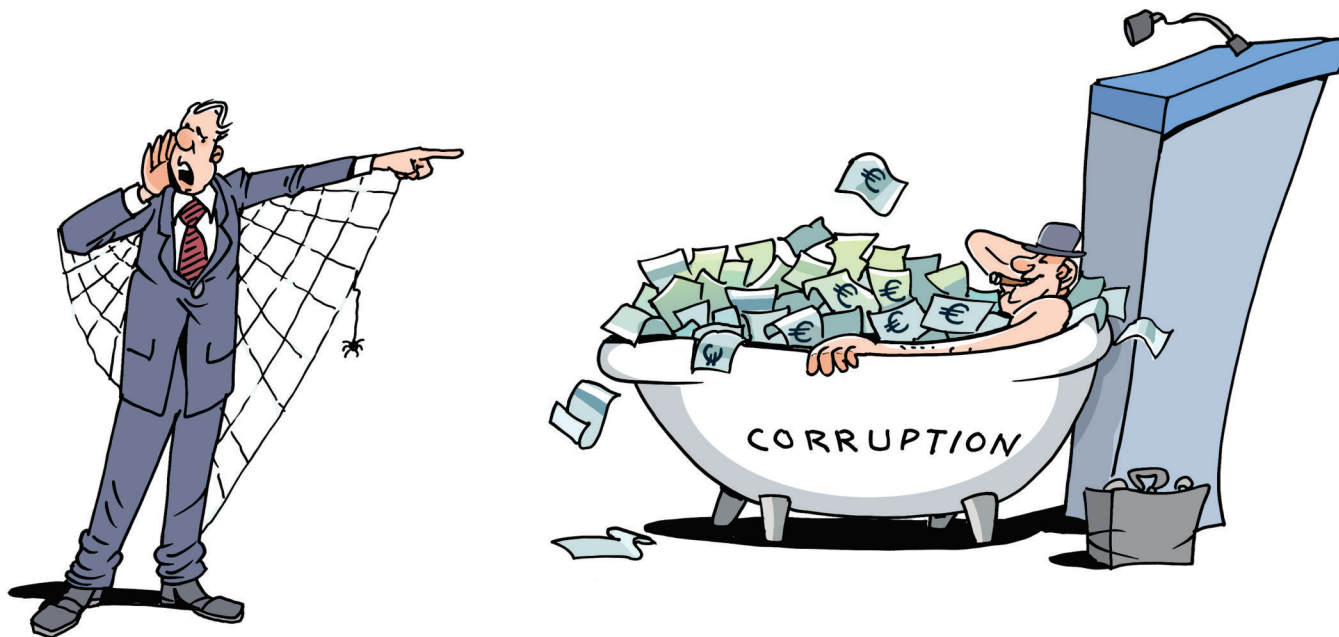


# CULTURE OF IMPUNITY IN KOSOVO





Projekt i Fondacionit të Kosovës për Shoqëri të Hapur  
Projekat Kosovske Fondacije za Otvoreno Društvo  
Project of the Kosovo Foundation of Open Society

Short analyses of public policies:  
“What went wrong?”

# Culture of Impunity in Kosovo

Organization for Democracy, Anti-corruption and Dignity -  
Çohu for Forum 2015.



\* The content of this report presents the views of Organization COHU! and not those of the Kosovo Foundation for Open Society as a donor.

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## Preface

Publication of the “What went wrong”, this March of 2014, corresponds with the now prevalent debate on the creation of an international Tribunal over the war crimes that are supposed to have been committed by the members of the former Kosovo Liberation Army (KLA). For almost fifteen years after the conflict, Kosovo is the last country from former Yugoslavia that is facing international level accusations for war crimes against the heads of the state, including here also against current prime-minister, Hashim Thaçi. Similarly with this situation, former prime-minister, Ramush Haradinaj, was nominated for the position of prime-minister, disregarding the fact that it had been clear that Hague Tribunal would make an accusation against him.

By being appointed and maintaining their positions as heads of the state, and despite of all accusations made by Hague Tribunal and other international organizations, Kosovo’s politicians have achieved to equate charges against them as accusations against the state of Kosovo.

Regardless of the appalling crimes committed during the wars in the former Yugoslavia, but also despite of our insistence that KLA’ war was righteous, we cannot change the fact that Kosovo remains the only country that will continue to face accusations for war crimes against its institutional and party leaders.

Today, these are the same politicians that are heading one of the most delicate negotiation process, that of normalizing the relations between Kosovo and Serbia, a process that continues to require negotiating internal affairs of Kosovo.

## Abbreviations

<b>AAK</b>	Alliance for Future of Kosova
<b>ACA</b>	Anti-corruption Agency
<b>AKR</b>	Alliance for New Kosova
<b>BKS</b>	Kosovo Insurance Bureau
<b>EULEX</b>	EU Mission on the Rule of Law
<b>KEC</b>	Kosovo Energetic Corporation
<b>KCIJ</b>	Kosovo Center for Investigative Journalism
<b>KIA</b>	Kosovo Intelligence Agency
<b>KEDS</b>	Kosovo Energy Distribution and Supply Company
<b>LDK</b>	Democratic League of Kosova
<b>LASH</b>	The League of Albanian Teachers
<b>OAG</b>	Office of Auditor General
<b>OIOS</b>	UN Office of Internal Oversight Services
<b>OLAF</b>	European Anti-fraud Office
<b>PDK</b>	Kosovo Democratic Party
<b>PTK</b>	Post and Telecommunication of Kosovo
<b>RTK</b>	Kosovo Public Television
<b>QPK</b>	Interim Government of Kosovo
<b>ShIK</b>	Kosovo Intelligence Service
<b>SRSB</b>	Special Representative of Secretary General
<b>TRA</b>	Telecommunication Regulatory Authority
<b>UNMIK</b>	United Nations Mission in Kosovo

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## Introduction

### The Prevalence of the ‘Stability Paradigm’

This part of “What Went Wrong” considers the culture of impunity as we grew to understand in Kosovo specifics. The material presented here does not constitute a conventional study paper on culture of impunity in Kosovo, but rather, it represents an account on the milestones of cases of political impunity in the country.

If we have to define what we mean by the term “culture of impunity”, simply put, that would be an illegal and/or unethical act of public institution and/or personnel that goes without being punished or sanctioned, be it by judiciary or politics. However, the main aim of this paper is to explore the persistence of culture of impunity, with a main focus on political impunity. The paper will take an account of the cases that fall on other domains such as; social and public property transformation or public tendering, but which have a rather indirect connection with the political impunity that has prevailed.

Therefore, we shall define the subject of this paper as an observation on cases when an act of a public office, a piece of legislation, a behavior of a public office incumbent has produced effects that defied the rule of law, degraded ethical concerns, or helped impunity to prevail. The paper will focus on post-conflict era, but will take into consideration cases since the first political parties were established in post-communist transformation, namely the period of parallel institutions run by Kosovo Democratic League (LDK), during the 90s.

The overarching conclusion of this retrospective is that, the relationship between politics and corruption on the high ranks of government has been the Achilles’ heel for the rule of law in Kosovo.





## ‘Cheap money proves expensive’

### Funds

The culture of impunity in Kosovo politics is far reaching historically and omnipresent institutionally. It stretches almost since the first political organizations of post-communist era were conceived. That came through parallel activities of politics on fund-raising with the purpose of resisting Serb intrusion of autonomy during 90s. Two significant funds were collected on altruist basis by two main political wings. The so-called: “Fondi 3%” and “Vendlindja Thërret”, are respectively of LDK’s and Kosovo Democratic Party (PDK), funds, though the latter was summoned to finance the armed resistance of Kosovo Liberation Army (KLA). The third significant political fund was that for the defense of Ramush Haradinaj in the Hague Tribunal. The collection and use of these funds were conducted completely on partisan manners without any transparency to the public. The only fund that offered some sort of transparency was that of former Hague accused, Fatmir Limaj, who in 2007 gave financial documentation to the coalition of NGOs, called “Civil Society for a Clean Parliament”. However, a professional audit of the fund has never been conducted providing to the public a reliable financial report.

These funds were collected without any known regulation or norms, on highly murky procedures and circumstances, leaving up to the individuals that established them to manage and make the decisions on their own. No accountability has ever been applied and they were

spent based on decision of close circles of people. No comprehensive report has been done by them or anyone from outside, and no public or professional authority monitored or investigated these funds, despite reports that tens of millions of Euros were circulated through them. Having in consideration the lack of transparency over these funds, one can only suppose that this money plunged three significant parties, namely LDK, PDK and AAK, into murky relations with institutions and among themselves. Especially, when consequent governments run by all three above mentioned parties, have never initiated any procedure to put these funds into legal tracks. Within this context, a magnate, namely Behxhet Pacolli and his party, who became rich also on murky circumstances in Russia, entered the political scene. Thus far, several scandals have been unveiled involving directly the first deputy prime-minister, Pacolli<sup>1</sup>.

Since none of the public or professional authorities has ever dealt with these funds, and having in mind the fact that all above mentioned parties have been the main power-holders since the end of the conflict in 1999, may be the basis on which, one can explain the political impunity in Kosovo. The indifference of the police and judicial toward these funds is inexplicable, unless

<sup>1</sup> Gazeta JnK; “Behxhet Pacolli i Rikthehet Hotel Grandit”; Visar Duriqi, June 2013. <http://gazetajnk.com/?cid=1,987,5760> “Banka e Pacollit Favorizoi Paligjshëm Bizneset e Tij”; Tinka Kurti; Mars 2014. <http://www.gazetajnk.com/?cid=1,987,7693> Kosova Sot; “Pacolli, skandal pas skandali”; June 2013. <http://www.kosovapress.com/archive/?cid=1,85,166882>

one analyses the overall situation within the contexts of state capture.

However, due to the lack of information and researches on the topic, we ought to find other factors that reveal culture of impunity in Kosovo, and we will do so by taking into consideration significant cases of litigations and reports of corruption against high public officials.

### **The promotion of the corrupted**

The culture of impunity in Kosovo politics may have started with a significant case of misuse of public money, which happened with the fund that was designated to pay salaries for teachers and other expenses during 90s, when LDK organized the “parallel” education system. A lump sum of money collected through the “Fondi 3%” were paid on this behalf through, what was then called, “The League of Albanian Teachers (LASH)”, which was headed by a high official of LDK, and later minister of education, Rexhep Osmani. Weekly newspaper “Zëri” published facts that showed misuse of more than one million of Euros by Osmani<sup>2</sup>. This fact stemmed a deterioration of credibility of the fund and caused an expectation that the undisputed leader of LDK, Ibrahim Rugova, would dismiss the head of LASH. Instead, Osmani was advanced to be a personal advisor of Rugova on education and, after the conflict, minister of education.

<sup>2</sup> Interview with Mufail Limani, a journalist who wrote over the misuse of the money by Rexhep Osmani.

This decision left the independent observers in Kosovo disillusioned and exposed the main feature of the country that was to be borne. Since then, the main developments on politics and governance would bring Kosovo among the most corrupted countries in region, with almost no significant case of corruption successfully prosecuted. For more than eight years of the United Mission Mission in Kosovo (UNMIK) administration of judiciary and police, no case of corruption was put forward in Kosovo courts, while the Kosovo media were filled with reports on misuse of public money, a phenomena that was firmly confirmed by the Office of Auditor General (OAG)<sup>3</sup>, reports of UN Office of Internal Oversight Services (OIOS) and that of the European Anti-fraud Office, OLAF<sup>4</sup>.

### **Corrupted celebration of Independence**

At the very inception of the formal proclamation of the independent state of Kosovo, inclination of the country’s strong-men for stripping what is public for private and clannish gains became realized.

On 17<sup>th</sup> of February 2008, Kosovo declared its idle independence. Immediately after this, a one-sourced tender was carried out by the Prime Minister’s Office to cover

<sup>3</sup> Office of Auditor General – OAG; <http://oag-rks.org/en-us/Audit-Reports>

<sup>4</sup> European Comission; “OLAF Investigations Concerning EU Funds in Kosovo” June 2003. [http://ec.europa.eu/anti\\_fraud/media-corner/press-releases/press-releases/2003/20030617\\_01\\_en.htm](http://ec.europa.eu/anti_fraud/media-corner/press-releases/press-releases/2003/20030617_01_en.htm)

the expenses of celebration that were to take place soon. The company chosen to be paid for a sum of close to 600,000 Euros, “Media Solution”<sup>5</sup>, was soon discovered by the daily “Koha Ditore” to be the same company that used to design and conduct the electoral campaign of 2007, for the upcoming Prime Minister, Hashim Thaçi. The celebration that reached close to 600,000 Euros was soon busted by the further reports that the costs declared by the company sometimes were not covered by financial documentation. This was a bad omen for the “New Born State”, a prerequisite of a future relationship between the government and its clients.

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<sup>5</sup> Koha Ditore, “Kostoja e pavarësisë, 598.000 euro pa tender”; Arbana Xharra; Lulzim Demolli; 10 April, 2008.



## Political Parties - The Root Sin

Regardless of the prevalence of different accounts on correlation between the quality of democracy within political parties and the overall democratic political life<sup>6</sup>, in modern societies, political parties represent the essential factor that inherently binds society with the state<sup>7</sup>. Contrary to this conclusion, there are accounts that confront the idea of the mediatory role of political parties when it comes to the correlation between society and the state, thus defining political parties as more inclined to the state, and less to the society<sup>8</sup>.

Nevertheless, there is a brought consensus among scholars that the attributes and the functioning of the democratic institutions in a country are interchangeably connected to the level and quality of democracy within political parties<sup>9</sup>. Understandably, the political parties are not the exclusive and the most important factor of the democratization of society, as it's known that other social organisms play a decisive role too. However, since the primary role of the political party is to seize and hold the reins of power, and through it to control distribution of the public goods, their role

in overall democratization of a society is undisputedly crucial.

Political parties in Kosovo, neither comply with democratic standards of internal governance, nor fulfill the requirements of financial disclosure.

In fact, political parties in Kosovo represent more traits of clannish structures than organisms that fulfill modern criteria of what a political party embodies. Consistently, they are ranked at the top of the most perceived corrupted institutions<sup>10</sup>. Most of political parties in Kosovo, exemplify the epitome of unaccountability, lack of transparency and complete negligence of democratic standards<sup>11</sup>. Indeed, political parties in Kosovo represent rather vehicles for capturing and appropriating public assets and are also utilized as means of seizing

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6 Center for Research and Policy Making - CRPM; "Internal Party Democracy in Kosovo"; October 2012. [http://www.kas.de/wf/doc/kas\\_32753-1522-1-30.pdf?130116163406](http://www.kas.de/wf/doc/kas_32753-1522-1-30.pdf?130116163406)

7 Prishtina Institute for Political Study - PIPS; "Political Parties, Functions and Organization in Democratic Society"- April 2013. <http://www.pips-ks.org/documents/20130704150822500.pdf>

8 Center for Research and Policy Making - CRPM; "Internal Party Democracy in Kosovo"; October 2012. [http://www.kas.de/wf/doc/kas\\_32753-1522-1-30.pdf?130116163406](http://www.kas.de/wf/doc/kas_32753-1522-1-30.pdf?130116163406)

9 Ibid.

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10 Transparency International – TI; Global Corruption Barometer – 2013; [http://www.kdi-kosova.org/publications/2013\\_GlobalCorruptionBarometer\\_EN.pdf](http://www.kdi-kosova.org/publications/2013_GlobalCorruptionBarometer_EN.pdf)

11 Center for Research and Policy Making - CRPM; "Internal Party Democracy in Kosovo"; October 2012. [http://www.kas.de/wf/doc/kas\\_32753-1522-1-30.pdf?130116163406](http://www.kas.de/wf/doc/kas_32753-1522-1-30.pdf?130116163406) According to this research, Lëvizja VETVENDOSJE!, apart from all other political parties that have seats in the Parliament, and that have been taken into review, represents a higher level of internal democracy. See also: Kosovar Institute for Policy Research and Development – KIPRED; "Strengthening the statehood of Kosovo through the democratization of political parties"; April 2012. [http://www.kipred.org/ad-vCms/documents/70927\\_Strengthening%20the%20statehood%20of%20Kosovo%20through%20the%20democratization%20of%20political%20parties%20-%20ENG.pdf](http://www.kipred.org/ad-vCms/documents/70927_Strengthening%20the%20statehood%20of%20Kosovo%20through%20the%20democratization%20of%20political%20parties%20-%20ENG.pdf)

public offices for personal, clannish and familiar gains<sup>12</sup>. One does not need to go further but examine the finances of political parties and witness their abusive approach. Although some recent audit reports published by Central Electoral Commission attempt to shed light on the finances of the political parties<sup>13</sup>, nonetheless, the findings of several researches portray political parties as deliberately refusing to comply with the requirements of financial disclosure<sup>14</sup>.

Refusal to provide transparency to the finances of the political parties is the most visible aspect of lack of respect for the rule of law, lack of commitment for institutional development, but also of the complete negligence

12 Democracy for Development Institute – D4D; “A Class of Its Own - Patronage and Its Impact on Social Mobility in Kosovo”; 2013. [http://d4d-ks.org/assets/D4D\\_PI\\_2\\_ENG\\_WEB1.pdf](http://d4d-ks.org/assets/D4D_PI_2_ENG_WEB1.pdf)

13 Central Electoral Commission; Financial Reports and Audits. <http://www.kqz-ks.org/sq/raportet-financiare-auditimet>

14 Kosovo Democratic Institute – KDI; “Untangling Political Finance”; June 2013. <http://www.kdi-kosova.org/publications/crinis2013al.pdf> Group for Legal and Political Study - “Financing of Political Parties in Kosovo – can controllability and transparency help?”; May 2013. <http://legalpoliticalstudies.org/download/Policy%20Report%2005%202013.pdf> By the end of 2012, Organization for Democracy, Anti-corruption and Dignity – ÇOHU! submitted official requests to all political parties that are beneficiaries of public funds with a special focus on making public their bank accounts and transactions. Apart from Lëvizja VETVENDOSJE!, which gave full disclosure of their bank account and transactions, and Partia e Drejtësisë - PD, which also gave access to their bank account and transactions, apart from the year 2011, all of the other political parties have refused to make their bank account and transactions public. Also see: Kosova Sot; “Partitë e mbajnë sekret kostin e fushatës”; D.Neziri, L.Humoli; September 2013.

of any accountability requirements. In fact, the overall secretive attitude of the political parties regarding their finances has produced a vicious circle of cronyism among the parties in power and their financiers.

### **Distribution of public funds, positions and assets to politically affiliated persons and groups**

Public goods in Kosovo have fallen into the fist of politics. Once a coalition of political parties takes the stirring wheel of the state, the rewards from the distribution of the public goods are readily at the hands of politically affiliated groups.

A comprehensive research conducted by Kosovo Center for Investigative Journalism (KCIJ), reveals that over 100 million of Euros were distributed to the financiers of the main political party, PDK, through public tenders<sup>15</sup>. In a same context, other investigations disclose the relocation of public funds from central government to municipalities not based on any prior comprehensive study and needs, but solely based on political allegiance with the aim of extending and maintaining political control<sup>16</sup>.

15 Kosovo Center for Investigative Journalism – KCIJ; “100 million”; May 2012; <http://www.preportr.com/en-us/Money-and-Politics/100-million-92>

16 Kosovo Center for Investigative Journalism – KCIJ; “Purchasing political land with public funds”, May 2011; <http://www.preportr.com>

Besides of providing public money to politically affiliated persons and groups, public administration in general has alike become a nest of nepotism and a residence for political appointees<sup>17</sup>. An umpteen number of information and facts reveal that employment in public administration and companies, independent agencies, but also in other public institutions, has the party allegiance as the basic unwritten criterion<sup>18</sup>.

By the same token, the distribution of the public goods, have frequently gone to those companies that either directly support the party in power<sup>19</sup>, or are controlled by the relatives of politicians<sup>20</sup>.

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com/sq/Parate-dhe-politika/Blerja-e-territorit-politik-me-paran-publike-46

17 Democracy for Development Institute – D4D; “A Class of Its Own - Patronage and Its Impact on Social Mobility in Kosovo”; 2013. [http://d4d-ks.org/assets/D4D\\_PI\\_2\\_ENG\\_WEB1.pdf](http://d4d-ks.org/assets/D4D_PI_2_ENG_WEB1.pdf)Gazeta EXPRESS; Administrata Shtetërore e Politizuar; February 2013. <http://www.gazetaexpress.com/?cid=1,15,104829>

18 Daily newspaper Zëri; “Baushtellat” e Kosovës”; Lavdim Hamiti; March 2013. <http://www.zeri.info/artikulli/1164/baushtellat-e-kosove> Gazeta JnK; “Kreu i Agjencisë Kufizuese Vjen nga PDK-ja”; August 2013. <http://www.gazetajnk.com/index.php?cid=1,3,6165>Kosovo Center for Investigative Journalism – KCIJ; “Odat e punësimit familjarë”; January 2012.<http://www.preportr.com/sq/Parate-dhe-politika/Odat-e-punesimit-familjar-79>

19 Kosovo Center for Investigative Journalism – KCIJ; “From BLACK to BLACK”; November 2011. <http://www.preportr.com/en-us/Public-assets-and-privatization/From-BLACK-to-BLACK-53>Gazeta JnK; “Ligji Nuk Peshon sa Devolli”; October 2011. <http://www.gazetajnk.com/index.php?cid=1,987,164>

20 Kosovo Center for Investigative Journalism – KCIJ; “So good to be a...Lushtak”; August 2012.<http://www.preportr.com/en-us/Money-and-Politics/So-good-to-be-alushtak-184>Gazeta JnK; “Kontrata

The general approach of rewarding with public goods companies and individuals with political affiliation is not confined to the central government only. This phenomenon stretches alike on municipalities, agencies and other budget organizations. In another extensive research, it is revealed that the Municipality of Prishtina exposes the same pattern to that of the central government when it comes to distributing public funds and assets<sup>21</sup>.

## Elections

The latest national electoral process of 2010 was marked by pervasive and assorted manipulations. To date, the defining axiom of these elections is identified by the slogan; “industrial steeling of the votes”<sup>22</sup>. Yet, the so-claimed illegitimate and illegal governing coalition is reaching its 4<sup>th</sup> year in power. With no exemption, the roots of the problem in this regard are political parties and their commissioners, as recently admitted by the head of Central Electoral Commission<sup>23</sup>. Nonethe-

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Me Zyrën e Kryeministrit dhe Kompanitë e Lidhura me PDK-në”; September 2012. <http://gazetajnk.com/?cid=1,3,3211>

21Kosovo Center for Investigative Journalism – KCIJ; “Isa n’fron!”; March 2013. <http://www.preportr.com/sq/Parate-dhe-politika/Isa-n-146fron-290>

22 Kosovar Institute for Policy Research and Development – KIPRED; “The Unsupervised State - Internally Divided, Internationally Half-Legitimate”; August 2012. [http://www.kipred.org/advCms/documents/66246\\_The-unsupervised\\_state.pdf](http://www.kipred.org/advCms/documents/66246_The-unsupervised_state.pdf)

23 Klan Kosova; “Daka: Partitë mund t’i prishin zgjedhjet”. October 2013.



less, and despite a prevalence of consent in this regard, the 2010 fraudulent electoral process vividly exposed also the deficiencies of the institutions in prosecuting and adjudicating the offenders<sup>24</sup>.

In general, Kosovo's institutional mechanism failed to provide an adequate and decisive response on one of the most fraudulent processes and still, the most imperative one concerning the proper consolidation of a democratic state.

Yet, and despite of the prevalent acknowledgement of the lack legitimacy of the current governing coalition, it was during this mandate that some of the most significant and far-reaching decisions have been taken. That includes: a) Brussels' mediated political negotiation between the Government of Kosovo and the Government of Serbia, b) privatization of electric distribution company, Kosovo Energy Distribution and Supply Company (KEDS), and c) despite persistence and occasional intimidations, failing to privatize Kosovo's most profitable telecom company, Post and Telecommunication of Kosovo (PTK).

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<http://www.klankosova.tv/index.php/lajme-nga-vendi/17732-daka-partite-mund-ti-prishin-zgjedhjet.html>

24 Kosovo Law Institute – KLI; “Krimi i Organizuar në Zgjedhje: Analizë e Politikës së ndjekjes dhe dënimeve”; Qershor 2012. <http://www.kli-ks.org/publikim.php?id=2> Kosovar Institute for Policy Research and Development – KIPRED; “The Unsupervised State - Internally Divided, Internationally Half-Legitimate”; August 2012. [http://www.kipred.org/advCms/documents/66246\\_The-unsupervised\\_state.pdf](http://www.kipred.org/advCms/documents/66246_The-unsupervised_state.pdf)

## Internationals – Kosovo’s Sultans

Open and harsh interference of foreign diplomats on the work of Kosovo’s institutions, especially on that of the Parliament, has often served as an excuse for Kosovo’s authorities to avoid accountability. This intrusion has often been exercised openly and blatantly. When an ambassador, especially the US Ambassador, acts upon an issue, the pressure for accountability against Kosovo’s authorities usually dissipates, and sometimes, also the pressure of the media and civil society.

In three occasions, the interference of the former Ambassador of U.S. in Prishtina, Christopher Dell, halted debates over highly important aspects of the matters. When Prishtina International Airport, in May 2010<sup>25</sup>, was given with concession to a Turkish-French consortium, experts and civil society groups raised the issue of transparency of the tendering procedure. The main objection was the fact that offers were not opened publicly. No answer was given to the media and civil society activists by the Kosovo authorities on an abundance of requests to give explanations on this process. However, Ambassador Dell wrote an opinion over these voices on which he gave his personal insurance that the concession of Prishtina International Airport was a process to be “heralded as transparent” calling cynics those who “raised suspicions” over the fact that the basic legal requirement of public opening of the offers was not met<sup>26</sup>.

25 ECIKS; “Limak-Airport de Lyon gets the concession for PIA”; May 2010. [http://www.eciks.org/english/lajme.php?action=total\\_news&main\\_id=1022](http://www.eciks.org/english/lajme.php?action=total_news&main_id=1022)

26 United States Embassy in Prishtina; Concession of the Airport;

Despite the promise that the offers would be made public on “another day”, thus far this has not happened. The speech of Dell was published at front-pages of Kosovo newspapers and transmitted on newscasts as a final word on the process that consisted on the headlines like: ‘The truth on concession of the Airport’.

On another occasion, the intervention of U.S. Ambassador occurred while voting on Kosovo Parliament was going on over the Strategy on Privatization of Post Telecom of Kosovo. The document was rebuffed by majority of votes on Parliament after several attempts of the Government to pass it. Finally, on 15 October 2010, former Ambassador Dell paid a visit to Parliament and had a meeting with Head of Parliament, Jakup Krasniqi. After Krasniqi came back from the meeting, he cast the Strategy on vote despite a clear lack of quorum<sup>27</sup>.

The most prominent case of intrusion into the exclusively internal affairs of the country by US ambassador was during the voting process of the current President of Kosovo<sup>28</sup>. The overall issue blatantly revealed the nature of relationship between the widespread omnipo-

May 2010. [http://albanian.pristina.usembassy.gov/dell\\_fjalimet/ambasadori-dell-koncesioni-i-aeroportit-19-maj-2010.html](http://albanian.pristina.usembassy.gov/dell_fjalimet/ambasadori-dell-koncesioni-i-aeroportit-19-maj-2010.html)

27 Organization ÇOHU!; “Crime and Corruption: 10 Years of coexistence with Politics; part IV; Cowboy in the Ally”; June 2011. <http://www.youtube.com/watch?v=J4mWloxBuE0&list=SPD4587C9088FEFD3C>

28 BallkanWeb; “Zgjedhja e Presidentit SMS e Pacollit debat mes medias dhe Dell”; Shkurt 2011. [http://www.balkanweb.com/bw\\_lajme2.php?IDKategoria=2686&IDNotizia=56842&res\\_start=10](http://www.balkanweb.com/bw_lajme2.php?IDKategoria=2686&IDNotizia=56842&res_start=10)

tence of US ambassadors in Kosovo and the powerlessness of local elite.

Arbitrary proceedings on privatization of publically owned companies have served as a spur to the diplomatic support that Kosovo's PM, Hashim Thaçi, has been receiving. Privatization of Kosovo Energy Distribution was concluded by the Turkish Çalik Group, the very same entity that won concession of the Prishtina Airport. Managed by CEO Berat Albayrak, Erdogan's son-in-law, Çalik Holding dealings Kosovo's PM to overcome diplomatic isolation that he encountered after a report done by European Council's reporter, Dick Marty, who accused Thaçi as being involved in the organ trafficking and drug smuggling during the war<sup>29</sup>. During this period, Kosovo's PM had several meetings with Erdogan, who eventually paid a visit during the latest local elections, endorsing Thaçi to win the city of Prizren which was stripping from his hand, where the Turkish community is concentrated<sup>30</sup>.

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29 Council of Europe; Parliamentary Assembly; "Inhuman treatment of people and illicit trafficking in human organs in Kosovo" December 2010. <http://www.assembly.coe.int/CommitteeDocs/2010/ajdoc462010prov.pdf>

30 Koha net; "Thaçi, Rama e Erdogan në Prizren, lavdërohet Ramadan Muja"; October 2013.

## The intelligent structure - ShIK

The most sustainable political structure that took shape as a form of an illegal intelligence body, during these ten years, is the PDK's Kosovo Intelligence Service (ShIK). Soon after the war in Kosovo, PDK established a self-proclaimed Interim Government of Kosovo (QPK) with ShIK as its security arm. Its officials, on a considerable manner, are today included in Kosovo institutions either as MPs<sup>31</sup>, or as former holders of executive offices<sup>32</sup>, despite the fact that half a dozen of the members of ShIK, have been sentenced for serious crimes committed under its umbrella, including that of killing<sup>33</sup>.

The structure considered itself so exceptionally authoritative that, when the Kosovo declared independence, ShIK's head Kadri Veseli, issued a statement in May 2009, through the Kosovo Public Television (RTK), on which he announced dismantling of the structure<sup>34</sup>. Several years after Kosovo had its elected institutions, the head of ShIK, through national television said that "throughout the time of its existence, ShIK has worked

with a 'legal' mission to create the state of Kosovo"<sup>35</sup>. "While respecting the legitimacy and relevant international and local institutions, ShIK during this whole period of time has been 'legal' and active part of work and a partner for the local and international institutions", said Veseli on two occasion and expressed appreciation for "cooperation of all countries" that contribute on state-building in Kosovo.

ShIK was a structure that clearly had capacities to collect and use information about the activities of the opposition parties. A compromising report on the officials of LDK was published on the daily newspaper "Gazeta Express", run by the PDK Member of Parliament, Berat Buzhala, and former deputy-minister of environment Ilir Mirena. These reports did cause turbulence on the political scene of Kosovo discrediting high officials of LDK run government.

No full independent report has ever been conducted on the work of this structure, if we exclude the outcome of two court decisions on which former members of ShIK were convicted for tens of years of prison<sup>®</sup>, and a report published by an U.S. based NGO that said: 'ShIK collects 200 million of US dollars yearly through bribery, extortion, racketeering, and protection services'<sup>®</sup>. However, some media investigations reveal that a company related to the head of ShIK<sup>®</sup>, but also companies related to the official members of ShIK, have actually won con-

31 Current Kosovo Parliament MPs that officially were part of ShIK: Ilmi Reçica, Latif Gashi, Fatmir Xhelili, Fadil Demaku, Bekim Haxhiu. See, Gazeta JnK; "Nuk Isha "Luli" dhe ShIK-u Ishte Tjetër"; June 2012. <http://gazetajnk.com/?cid=1,979,2465>

32 The former Managing director of Trepça, Ferat Shala, was officially part of the ShIK's structures. Gazeta JnK; "Dorëhiqet Ferat Shala nga Trepça", July 2012. <http://gazetajnk.com/index.php?cid=1,987,2670>

33 Gazeta JnK; "Deklarata Publike Që Çoi Tetë Persona në Burg"; Florent Spahija; Jult 2013. <http://gazetajnk.com/?cid=1,979,6071>

34 Former head of ShIK, Kadi Veseli, for the first time appears in Kosovo's public TV, announcing the dismantling of ShIK. <http://www.youtube.com/watch?v=F0qfYMNQPCk>

tracts through public tendering<sup>36</sup>.

To date, the former head of ShIK, Kadri Veseli, is deputy-head of the incumbent party, PDK<sup>36</sup>, and his engagement on politics has never been disputed<sup>37</sup>. Veseli gave a statement on court on a case on which six former members of ShIK were accused as perpetrators of murder of Ibush Kllokoqi and attempted murder of former LDK's official, Adem Salihaj. Asked by the panel on who appointed him as the head of ShIK, Veseli stated "for this you should ask the Kosovo's PM, Hashim Thaçi"<sup>38</sup>.

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36 Kosova Press; Zgjidhet Këshilli Drejtues i PDK-së, prin Kadri Veseli; January 2013. <http://www.kosovapress.com/sq/arkiva/zgjidhet-keshilli-drejtues-i-pdk-se-prin-kadri-veseli-159407/?old=1>

37 The current head of Kosovo Parliament and former secretary of PDK, Jakup Krasniqi, admitted that, Kadri Veseli, had always been part of decision-making processes within the party. <http://www.youtube.com/watch?v=qKVY1ozV3yA> Also the revelations of several phone taping of PDK's high officials, confirmed that, Kadri Veseli, had been part of political decision-making prior to its official engagement in politics.

38 Gazeta JnK; "Deklarata Publike Që Çoi Tetë Persona në Burg"; Florent Spahija; July 2013. <http://gazetajnK.com/?cid=1,979,6071>

## Reining the Free Horses

After the conflict of 1999, party officials, high public incumbents and other public figures were rather immune in front of any charges on misusing public office or assets, or on any other alleged felony. Political stability had to prevail over the rule of law. In fact, Special Representative of United Nation Secretary General (SRSG), Soren Petersen, soon after he stepped down from the office, revealed that they were obstructed to take any action against politicians and other important figures by foreign governments under the excuse of endangering stability<sup>39</sup>.

In 2005, when Hague Tribunal made it clear an indictment on war crimes would happen against the head of AAK, Ramush Haradinaj, he was chosen as prime minister by the coalition of LDK and AAK. Soon after this, he had to step down to face charges against him on a process followed by allegations of pressures, harassing and killing of witnesses. Hague Tribunal even fined two Kosovo journalists, Baton Haxhiu and Bajrush Morina, under allegations related to revealing identity of witnesses.

On the one hand, Kosovo Parliament, saw a lot of cases of MPs that had penal precedents. The most well known cases are those of Rustem Mustafa and Latif Gashi, both accused and detained close to five years on grounds of

war crimes. On the other hand, heads of municipalities carried out their duties despite the fact they were accused for serious crimes. Notably, the most brutal cases are those of former-head of Kaçanik Municipality, Xhabir Zharku, and that of Skënderaj, Sami Lushtaku, the former held the office until he left Kosovo as fugitive and the latter gave the oath despite that he had been in detention due to the charges related to the war crimes. Moments of impotence of the law in front of party officials were revealed in the latest municipal elections. Several candidates, mainly coming from the ruling party, PDK, running for mayors were at the same time facing charges on war crimes and corruption<sup>40</sup>. The most notable ones, those of Ramadan Muja, Nexhat Demaku, and Sami Lushtaku, who despite of the indictments for criminal acts, won the seats of mayors. A blatant intrusion in the affairs of justice is the declaration of the minister of Justice, Hajredin Kuqi, saying that: "PDK will endorse candidates who are running for the mayors despite the fact that they have been under investigations"<sup>41</sup>.

This retrospective breaks the official stance of politics and institutions, according to which, the judiciary is the main and maybe the sole sector responsive for lack of fight against corruption and organized crime. However, and despite accusations of ineptness, judges and

39 Organization ÇOHU!; "Corruption and Organized Crime in Kosovo-10 years of Coexistence with Politics", June 2011. [http://www.preportr.com/sq/Dokumentar/Korrupsioni-dhe-krimi-i-organizuar-n-Kosov-10-vjet-bashkjetes-me-politikn-55&video\\_id=28](http://www.preportr.com/sq/Dokumentar/Korrupsioni-dhe-krimi-i-organizuar-n-Kosov-10-vjet-bashkjetes-me-politikn-55&video_id=28)

40 Gazeta Zeri; "Ligji nuk i detyron të japin dorëheqje"; Anita Kadriu; November 2013. [www.zeri.info/artikulli/20187/ligji-nuk-i-detyron-te-japin-doreheqje](http://www.zeri.info/artikulli/20187/ligji-nuk-i-detyron-te-japin-doreheqje)

41 Gazeta Express; "I kandidojmë edhe ata që janë nën hetim"; August 2013. <http://www.gazetaexpress.com/?cid=1,13,119436>

prosecutors stay appalled and hopeless when they see former offenders elected at top-offices on central and local level of governance.

However, judiciary itself is marred by ineffectiveness in prosecuting and judging serious cases of crime, especially those related to corruption and organized crime. According to the statistical data, cases of corruption and organized crime fall behind in prosecution and trial compared to the other cases of offenses<sup>42</sup>.

The failure to provide decisive respond to the acts of corruption and organized crime has proved to be a feature also of the EU Mission on the Rule of Law (EULEX). In fact, where EULEX substantially differs from the previous international mission in Kosovo – UNMIK, is that it has initiated several cases against corruption and organized crime, and has struck the nest of the ‘untouchable’. As in no previous occasion have the political elite and higher public officials been troubled more by law enforcement mechanisms as with the deployment of EULEX. Nevertheless, disrupting the nest of the Kosovo’s strong men can prove to be contra productive as the results in prosecution and trial of the cases involving higher public figures are not encouraging at all. Some of the most high profile corruption cases against public figures have been undermined by the way

EULEX handled investigations<sup>43</sup>. From the standpoint of Kosovar public, it was an unprecedented example to raid ministries and public institutions and take alleged wrongdoers handcuffed from their offices covered live by TV crews, just to have these cases dismissed several months later<sup>44</sup>. Thus far, from EULEX’s endeavors, only two high profile cases have been successfully prosecuted, namely the trial conducted against the former head of Anti-corruption Task Force, Nazmi Mustafi<sup>45</sup>, and that of the mayor of Municipality of Prizren, Ramadan Muja<sup>46</sup>, although the latter is challenging court verdict<sup>47</sup>.

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42 The Anti-corruption Agency (ACA); “Analizë mbi Ndjekjen dhe Gjykimin e Rasteve Korruptive në Kosovë; June 2013. [http://www.akk-ks.org/repository/docs/Raport\\_Analize\\_2012%20\(1\).pdf](http://www.akk-ks.org/repository/docs/Raport_Analize_2012%20(1).pdf)

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43 Kosovo Center for Investigative Journalism – KCIJ; “The War against Corruption through Media Spectacles”; October 2012. <http://www.preportr.com/en-us/Security-Judiciary/The-War-against-Corruption-through-Media-Spectacles-221>

44 Some of the most notable cases in this regard are: a) Arrestment of former head of the Central Bank, Hashim Rexhepi; b) ‘Dardafone’ case involving former head of Kosovo Telecommunication Company, PTK, Shyqeri Haxha, and c) The case of the former secretary of the Ministry of Health, Ilir Tolaj.

45 Gazeta JnK; “Ish-Ndjekësi i Korrupsionit Dënohet me Pesë Vjet Burg”, Armend Zenelaj e Petrir Kryeziu; May 2013. <http://gazetajnkk.com/?cid=1,1018,5633>

46 Zeri; “Ramadan Muja dënohet me 2 vjet burgim me kusht”; Mars 2014. <http://www.zeri.info/artikulli/28746/ramdan-muja-shpallet-fajtor>

47 Gazeta JnK; Muja: Nuk Vjen në Shprehje Dorëheqja!; Petrit Kryeziu, Qazim Hasanaj; March 2014. <http://gazetajnkk.com/?cid=1,1018,7815>

## Our Prime-Businessman

The Kosovo Prime Minister's brothers have turned into successful businessmen since PDK came into power. Although the Anti-corruption Agency publishes the wealth of higher public officials, including that of the Prime Minister, these data do not reveal how much Thaçi's family fortune is. However, it is known that his brothers are engaged with lucrative business of construction and minerals, but also hold important positions controlling thus important sections of money market in Kosovo, such as businesses of insurance<sup>48</sup>.

Gani Thaçi, the older brother of the Prime Minister, heads the Kosovo Insurance Bureau (BKS)<sup>49</sup>, a body that regulates the sector of insurance in Kosovo. On the other hand, with his company controlling considerable amount of insurance market, "Siguria", deputy-prime-minister Behxhet Pacolli, is also involved on this business through his brother, Rrahim Pacolli, who holds the position of the head of the Board of BKS. Since the mid of the last year, "Siguria" won important tender on providing health insurance to thousands of employees of the biggest public company in the country, Kosovo Energetic Corporation (KEC)<sup>50</sup>.

48 Gazeta JnK; "Thaçët - Ngritja e Një Fuqie Biznesi"; Parim Olluri; February 2013. <http://gazetajnk.com/?cid=1,975,4728>

49 Gazeta JnK; "Vëllai i Kryeministrit Emërohet Drejtor i BKS-së"; Parim Olluri; March 2012. <http://www.gazetajnk.com/?cid=1,987,1642>

50 Telegrafi; "Punëtorët e KEK-ut, me sigurim shëndetësor - me kompaninë e Pacollit!"; May 2013. <http://www.telegrafi.com/ekonomi/punetoret-e-kek-ut-me-sigurim-shendetesor-me-kompanine-pacollit-46-14582.html>

At the centre of Thaçi's clan is the businessman Milaim Cakiqi, who is a business partner with Prime-Minister's other brother, Blerim Thaçi at "Iliria Building", a construction company<sup>51</sup>. Cakiqi was founder of "Ove Group" in Kosovo, a company that takes funds directly from public sector<sup>52</sup>. Thaçi's brother owns more than one construction company on the business of tall buildings in Prishtina. Through construction companies "Iliria Building" and "Odejton", Prime-Minister's brother, Blerim Thaçi, is suspected of doing money-laundering that he acquired or acquires from public sector. He has declined to account on the origin of the money that he invests in the construction business<sup>53</sup>.

But, Prime Minister's business empire does not end here. His other brother, Idriz Thaçi, is connected with a company "Geo Mineral" that deals with minerals in Kosovo, and has won public contracts at KEC<sup>54</sup>. It is of high importance to not that, Thaçi's family have had considerable influence in KEC, through their relative, Njazi Thaçi, that used to head procurement office<sup>55</sup>.

51 Gazeta JnK; "Kompania e Lidhur Me Familjarët e Kryeministrit Fiton Nga Biznesi Minerar"; Parim Olluri; February 2013. <http://gazetajnk.com/?cid=1,987,4597>

52 ibid

53 Gazeta JnK; "Vëllai i Kryeministrit Ndërtton Kompleks Banesor"; Parim Olluri; April 2012. <http://gazetajnk.com/?cid=1,987,1952>

54 Gazeta JnK; "Kompania e Lidhur Me Familjarët e Kryeministrit Fiton Nga Biznesi Minerar"; Parim Olluri; February 2013. <http://gazetajnk.com/?cid=1,987,4597>

55 Kosovo Center for Investigative Journalism – KCIJ; "Kosovo Corruption Corporation – KEK", Visar Duriqi, Qendrim Bunjaku, July 2012. <http://www.preportr.com/en-us/Public-assets-and-privatiza>





## Anti-corruption infrastructure

Proliferation of institutions in conjunction with constant revision of laws, have endeavored to craft a seemingly adequate and effective anti-corruption framework. To date, the overall anti-corruption infrastructure lingers from considerable ambiguities, substantial defects, and especially, falls short in fair implementation<sup>56</sup>. In almost none of the enterprises, neither in establishing institutions, nor in revising laws against corruption, have the overall efforts been preceded by a comprehensive analysis on the country's context and dynamics of corruption<sup>57</sup>. In fact, the anti-corruption efforts lacked the genuine engagement and consistency of political authority and have thus exposed deficiencies of public institutions to conduct and conclude an effective infrastructure against corruption.

During the overall venture, on establishing institutions and revising anti-corruption legislation, two distinctive

56 European Commission; Kosovo 2013 Progress Report; October 2013. [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/ks\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/ks_rapport_2013.pdf) See also: Kosovo Center for Investigative Journalism – KCIJ; “AKK e zbaton ligjin sipas qejfit”; Besnik Boletini; September 2012. <http://www.preportr.com/sq/Re-publika/AKK-e-zbaton-ligjin-sipas-qejfit-220> “Preteni falsifikon formularët e deklarimit të pasurisë”; Besnik Boletini; February 2012. <http://www.preportr.com/sq/Re-publika/Preteni-falsifikon-formular-t-e-deklarimit-t-pasuris-85>

57 Organization for Democracy, Anti-corruption and Dignity – ÇOHU!; “Legal Framework against Corruption - Drawbacks and the need to review”; December 2011. [http://www.cohu.org/repository/docs/Anti-corruption\\_Legal\\_Framework-English\\_818330.pdf](http://www.cohu.org/repository/docs/Anti-corruption_Legal_Framework-English_818330.pdf) Lëvizja FOL; “Ndikimi i Vendimeve të Qeverisë në Luftë Kundër Korrupsionit 2010-2011”; [http://levizjafol.org/images/uploads/files/Final\\_-Hulumtim\\_Politikash.pdf](http://levizjafol.org/images/uploads/files/Final_-Hulumtim_Politikash.pdf)

patterns have emerged in the surface. Firstly, behind almost each decision on setting up several anti-corruption institutions, one could clearly distinguish that the decisions were taken under the justification that an ‘important process or decision’ was to happen or, ‘an institutional crisis’, was hovering in the prospect, both defined as compulsory circumstances of emergency triggering a limited outcome. Secondly, one could also witness, in case of systematic modification of anti-corruption legislation that institutions always entered the process in the wake of the upcoming EU Progress Reports, disregarding any properly planned policy.

Substantially, the absence of the political will and domestic initiatives to construct an adequate and effective anti-corruption framework have negatively reflected into the efforts of curtailing and combating corruption. As if by default, the overall anti-corruption measures have been directed exclusively at quelling the prevailing concerns of the day and have not been bound at constructing an adequate and effective framework.

In retrospect, permanent resistance of politics, in this regard, was exposed when several civil society organizations proposed measures on verification and confiscation of assets of public officials. In general, the tendency of politics was to introduce complicated and unimplemented measures to tackle the matter, practically leaving the anticorruption mechanisms in vain.

In continuity, the revision of the anti-corruption legislation, since its initiation, has commenced only due to the international pressure and has not derived based on any domestic evaluations and initiatives to construct an adequate and effective framework<sup>58</sup>. Yet, the extent of international pressure has had its prescribed limits and rendered the process rather formal.

## Anti-corruption legislation

Regardless of the several attempts to construct an effective anti-corruption infrastructure, the basics laws against corruption have been expunged of some of the most imperative aspects<sup>59</sup>. The Anti-corruption Agency (ACA), is constrained in its efforts to verify and control the origin of the wealth of senior officials and other higher public figures. In practice, ACA is limited in processing and making public the register of assets, while it's powerless in conducting any further investigation into the matter.

By the same token, confiscation of assets is impeded par-

tially due to the restrains in the legislation<sup>60</sup>. According to the legislation, freezing, ceasing and confiscating assets cannot be conducted devoid of a court verdict, and that, only after there is a clear and direct link between the appropriated assets and a committed criminal offence<sup>61</sup>. The difficulty and almost improbability in linking a criminal offence with the appropriated assets is demonstrated with the rather low profile of assets confiscation by the Agency for Administration of Sequestered or Confiscated Assets<sup>62</sup>. Moreover, the immense accumulation of inexplicable wealth by higher public figures, which are revealed through asset declaration, show that the legislation in this regard, has proved to be

60 Kosovo Democratic Institute, KDI; "Legislation and Practices of the Region in Fighting Organised Crime and Illegally Acquired Assets"; October 2011. [http://www.kdi-kosova.org/publications/praktikat%20e%20mira\\_final.pdf](http://www.kdi-kosova.org/publications/praktikat%20e%20mira_final.pdf) See also: "Illegal Millions - Preventing and Combating"; - October 2011. [http://www.kdi-kosova.org/publications/milionatepaligjshem\\_en.pdf](http://www.kdi-kosova.org/publications/milionatepaligjshem_en.pdf) Kosovo Institute for Policy Research and Development – KIPRED; Confiscation of Illegally Obtained Property; May 2011. [http://www.kipred.org/advCms/documents/98577\\_Confiscation\\_of\\_illegally\\_obtained\\_property.pdf](http://www.kipred.org/advCms/documents/98577_Confiscation_of_illegally_obtained_property.pdf) Lëvizja FOL; "Analizë mbi kornizën ligjore kundër pasurisë së përvetësuar në mënyrë të paligjshme"; Prill 2011. [http://levizjafol.org/images/uploads/files/Analiz%C3%AB\\_mbi\\_korniz%C3%ABn\\_ligjore\\_kund%C3%ABr\\_pasuris%C3%AB\\_s%C3%AB\\_p%C3%ABrvet%C3%ABsuar\\_n%C3%AB\\_m%C3%ABnyr%C3%AB\\_t%C3%ABpaligjshme\\_-\\_Prill\\_2011.pdf](http://levizjafol.org/images/uploads/files/Analiz%C3%AB_mbi_korniz%C3%ABn_ligjore_kund%C3%ABr_pasuris%C3%AB_s%C3%AB_p%C3%ABrvet%C3%ABsuar_n%C3%AB_m%C3%ABnyr%C3%AB_t%C3%ABpaligjshme_-_Prill_2011.pdf)

61 Koha.net; "Pasuria e paligjshme s'mund të konfiskohet pa procedurë për vepër penale" <http://www.koha.net/?page=1,13,146597>; accessed on 07.10.2013.

62 The overall assets administrated by AASCA are rather insignificant. See Lëvizja FOL; "Platforma e Statistikave Anti-korrupsion"; page 20, 21. [http://levizjafol.org/images/uploads/files/Statistikat\\_anti-Korrupsion\\_2011-2012.pdf](http://levizjafol.org/images/uploads/files/Statistikat_anti-Korrupsion_2011-2012.pdf).

58 Organization for Democracy, Anti-corruption and Dignity – ÇOHU!; "Legal Framework against Corruption - Drawbacks and the need to review"; December 2011. [http://www.cohu.org/repository/docs/Anti-corruption\\_Legal\\_Framework-English\\_818330.pdf](http://www.cohu.org/repository/docs/Anti-corruption_Legal_Framework-English_818330.pdf)

59 *ibid* Since 2012, the 'refusal to declare' the assets and 'false declaration', of the wealth, but also 'conflict of interest' have become criminal offences, according to the new amendments in the Kosovo Penal Code. However, there is no court precedence in penalizing any higher public official that has refused to declare or falsely declared their assets yet.

rather ineffective in producing any tangible result<sup>63</sup>. In fact, there is yet no case brought forward against higher positions of public officials concerning ‘unexplained wealth accumulation’, regardless that several different information and data reveal the matter.

## Anti-corruption institutions

As regards the institutional anti-corruption infrastructure, the establishment of numerous anti-corruption mechanisms<sup>64</sup> has alike served to mitigate the prevailing crisis of the day. None of the decisions of setting up all current anti-corruption institutions have been preceded by a clear prospect and dedication in achieving any projected results<sup>65</sup>. Quite the opposite, each deci-

sion to set up an anti-corruption body has been brought under compulsory circumstances<sup>66</sup>. Thus far, the overall anti-corruption institutions either lack adequate mandate and tools to conduct effective fight against corruption, or itself are inundated by corruption.

63 Kosovar Institute for Policy Research and Development – KIPRED; The Impunity in Kosovo – Inexplicable Wealth; November 2013. [http://www.kipred.org/advCms/documents/42734\\_Investigating\\_inexplicable\\_wealth\\_ENG.pdf](http://www.kipred.org/advCms/documents/42734_Investigating_inexplicable_wealth_ENG.pdf) Compare the wealth of higher public officials at Lëvizja FOL platform: <http://levizjafol.org/en/deklarimet/>

64 Kosovo authorities, so far, have set up three anti-corruption institutions. a) The Anti-corruption Agency, established under the “Suppression of Corruption Law 2004/24”, was functionalized in 2006. b) Anti-corruption Task Force, was established in 2010 with a Government decision. c) National Anti-corruption Council, was established in 2012 by Kosovo President’s decree.

65 Organization for Democracy, Anti-corruption and Dignity – ÇOHU!; “Legal Framework against Corruption - Drawbacks and the need to review”; December 2011. [http://www.cohu.org/repository/docs/Anti-corruption\\_Legal\\_Framework-English\\_818330.pdf](http://www.cohu.org/repository/docs/Anti-corruption_Legal_Framework-English_818330.pdf) Lëvizja FOL; “Ndikimi i Vendimeve të Qeverisë në Luftë Kundër Korrupsionit 2010-2011”, [http://levizjafol.org/images/uploads/files/Final\\_-\\_Hulumtim\\_Politikash.pdf](http://levizjafol.org/images/uploads/files/Final_-_Hulumtim_Politikash.pdf)

66 A) The Anti-corruption Agency (ACA), was established as part of the requirements of Kosovo Standards in 2004. The disposition 13.4 of the Standards required establishment of central anti-corruption body. The mandate of the ACA in preventing and fighting corruption is constrained into pre-investigating alleged cases of corruption and submitting criminal charges to the prosecution offices.. The ACA is devoid of any prerogatives in controlling and supervising wealth accumulation of the higher public figures. Beyond this, the ACA stands dismayed in front of corruption B) The Anti-corruption Task Force represents the most powerful anti-corruption body, endowed with special prerogatives to prosecute high level of corruption. However, the institution has been enfolded with failures and was itself contracted by corruption. On the one hand, the former head of the Task Force has been convicted on corruption charges, discrediting thus the authority of the body. On the other, the body’s main corruption case, against the former head of Kosovo Central Bank, was dropped out, regardless of the media pomposity at the time of arrestment and despite of the murky case against him. Additionally, the institution has not prosecuted and concluded any single high profile corruption case, but according to the statistical data, the majority of the cases, under investigation, has either been acquitted, or do not represent high profile corruption case. In practice, the foundation of the body went ahead; disregarding any properly planned strategy, and has epitomized the lack of a transparent institution. C) The foundation of the Anti-corruption Council followed a systematic exposition of the former US Ambassador in Kosovo, Christopher Dell, calling for a ‘government with clear hands’, and occurred prior to the publication of the Feasibility Study, which clearly required improving the coordination among anti-corruption institutions.

## Anti-corruption strategies

Concerning the compiling process of the Anti-corruption Strategies, its overall history<sup>67</sup> reveals recurring patterns of the deliberate failures of political authority and of the deficient institutional capacities to construct a platform against the widespread corruptive deeds in the public sector. On the one hand, Kosovo's political leadership has vividly exposed that when it comes to setting up strategic mechanisms in place, aiming at combating corruption, always circumvents the responsibility to bring proper decisions in place<sup>68</sup>. In none of the three consecutive occasions in enacting strategic anti-corruption documents, have the decisions been taken based on the appreciation of the alarming situation in the ground. But, nevertheless, the decisions have been solely driven by accomplishing a number of formal requirements, evading thus the necessity to engulf in a war whose projected targets would turn to be the same politicians and other public figures that enacted those documents.

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67 The first Anti-corruption Strategy, 2004-2007, was foreseen in the Kosovo Standards as one of the obligations under which, the talks on the future political status of the country could commerce. The second Anti-corruption Strategy (2009-2011), came as one of requirements derived from EU Progress Reports of 2009-2010. The third Anti-corruption Strategy, 2012-2016, had to be approved as part of Kosovo's obligations prior to starting negotiation on MSA.

68 Lëvizja FOL; "Dobësitë e Strategjisë Kundër Korrupsion 2009-2011". [http://levizjafol.org/images/uploads/files/Hulumtim\\_Politikash\\_Dobesite\\_e\\_Strategjise\\_Kunder\\_Korrupsion\\_dhe\\_Plani\\_i\\_Vep- rimit\\_2009-2011.pdf](http://levizjafol.org/images/uploads/files/Hulumtim_Politikash_Dobesite_e_Strategjise_Kunder_Korrupsion_dhe_Plani_i_Vep- rimit_2009-2011.pdf)

## The obliteration of the evidences

The integrity of Kosovo Police is a hard task to maintain due to the ever increasing power of the Executive and its omnipotence over other branches of power and independent institutions. The police is perceived to be corrupt, according to international and domestic surveys and the continuous perception as one of the ones most trusted institution has been declining<sup>69</sup>.

Two cases of looting, one in police headquarter in Prishtina, and another one in Peja, were not only embarrassing for the Kosovo police, but valuable evidences of different crimes are supposed to have disappeared.

While the Peja case was resolved, nothing has happened related to the breach that occurred on the Room of Evidences in Prishtina. In complete paradox, the officers responsible for safety of this room have not been dismissed, but were shifted around the police structures. An internal report of the police that showed weakness of safety of the Room of Evidence with the Police Headquarter in Prishtina, was ignored by the officials in

charge<sup>70</sup>. Even after the looting occurred, in the Room of Evidence at the Police Headquarter in Prishtina, according to an investigative report of “Zëri” newspaper, the police didn’t follow the standard procedures to exanimate the site<sup>71</sup>. Instead, evidences might have been lost over the looting of the Room of Evidences by the police itself. No one has ever faced any disciplinary or penal measures for this.

There are other cases in Kosovo on which, evidences were destroyed. After reports of the OAG over the financial misconduct in Kosovo Public Television (RTK), a mysterious fire in October 2012, damaged severely the archive of the institution<sup>72</sup>. The police has never published a full report on this suspected arson, but an independent expert from the Prishtina University that concluded the fire “was not inflicted by human factor”, was arrested for bribe-taking several days later over a case that had been engaged as an expert<sup>73</sup>.

69 Kosovo Center for Security Studies; Kosovo Security Barometer; December 2013. [http://www.qkss.org/repository/docs/Kosovo\\_Security\\_Barometer\\_Third\\_Edition\\_20786.pdf](http://www.qkss.org/repository/docs/Kosovo_Security_Barometer_Third_Edition_20786.pdf) See also: Kosovo Center for Investigative Journalism (KCIJ); “Run it’s the Police”; Visar Duriqi, Besa Kalaja; December 2012. <http://www.preportr.com/en-us/Security-Judiciary/Run-it-s-the-police-245>

70 Kosovo Center for Investigative Journalism (KCIJ); “Run it’s the Police”; Visar Duriqi, Besa Kalaja; December 2012. <http://www.preportr.com/en-us/Security-Judiciary/Run-it-s-the-police-245>

71 Telegrafi; “Rastin e vjedhjes në polici e shkatërroi policia”; June 2012. <http://www.telegrafi.com/lajme/rastin-e-vjedhjes-ne-polici-e-shkaterroi-policia-2-23023.html>

72 Radio Televizioni i Kosovës – RTK; “Televizioni i Kosovës, po transmeton në gjendje të jashtëzakonshme”; October 2012. <http://www.rtklive.com/new/?cid=1&newsId=65730&mfr06EleUr6x> Koha net; “Zjarri në RTK shkatërroi arkivin 1999-2004”; October 2012. <http://koha.net/?page=1,13,120869>

73 Koha net; “Arrestohet për korrupsion një profesor i UP-së”; October 2012. <http://www.koha.net/arkiva/?page=1,4,119819>



## Ipkopodus and the 16.2 million deal in damage of Kosovo Budget

In 2007, for the second time, Kosovo government attempted to organize a tendering process for the second mobile phone operator. The previous attempt, in 2004, failed due to the suspicions of corruption, even though the tendering process had yielded Mobikos, as a winner, a consortium between Kosovo based company “Dukagjini” and Serb the mobile operator, “Mobitel”. The process wasn’t concluded entirely when the former-PM Bajram Rexhepi, wrote a letter to UNMIK, to bring a decision that would declare the outcome of this tender as null and void because of suspicions of corruption and kickback. The SRSg, Joachim Rucker, did so.

The Telecommunication Regulatory Authority (TRA), later in 2007, roughly with the same composition of the bidders, awarded ones more Ekrem Lluka’s company “Dukagjini” respectively the consortium “Kosmocell”, as the winner of the bidding for second mobile operator. It was widely reported in Kosovo media that during this round, the tendering process was followed with far more legal violations then that of 2004<sup>74</sup>. However, this consortium was not awarded with the license, but instead, the second bidder, consisted out of Slovenian Mobitel and the Kosovo’s internet providing company “Ipko”, along with “Albright Group”, won the license due to the pretention of the Kosovo authorities that “Kosmocell” failed to execute the financial transaction worth

81 million of Euros, an assertion that was disputed by two members of “Kosmocell” consortium, the Kosovo based company “Kujtesa” and the Italian entity, “Capital Management”.

“Dukagjini”, the most significant member of “Kosmocell” consortium, went silent, but later won a contract with “Ipko” mobile operator on the so-called Mobile Virtual Network Operator (MVNO). On the other hand, “Dukagjini” and its consortium “Kosmocell” to thi date, have never paid the fine of 20% of the financial offer, as foreseen by the Tendering Package and with the Kosovo Law on Telecommunication, as well as with other legislation that cover the sector. A warrantee of 16.2 million of Euros has never been transferred to the Kosovo Budget<sup>75</sup>. Despite the fact that former-minister of finances, Ahmet Shala, current ambassador in Japan, who according to the media, si being investigated by EULEX<sup>76</sup>, in a parliamentary debate in 2010, had ensured the MPs that the warrant-paper of “Kosmocell” exists, and it is deposited at TRA.

A whole network of people connected to the tendering process on which Ipko/Mobitel/Albright Group were awarded with license as second mobile operator, ended

74 Organization for Democracy, Anti-corruption and Dignity – ÇOHU!; “Corruption and Organized Crime in Kosovo-10 years of Coexistence with Politics”; June 2011. <http://www.youtube.com/watch?v=rw6JNsXXBGk>

75 Kosova Sot; “Çeku 16.2 milionë nuk shkon në thesar”; July 2010. <http://www.kosova-sot.info/ekonomi/ceku-162-milione-nuk-shkon-ne-thesar>

76 Zëri; “Dosje 2000 faqe për Ahmet Shalën”, Enis Veliu; August 2013. <http://www.zeri.info/artikulli/13587/dosje-2000-faqe-per-ahmet-shalen>



up in diplomatic engagement or in different public offices. The man that stood behind the whole process, at the same time a shareholder in “Ipko”, Akan Ismaili serves as Kosovo’s Ambassador to the United States. Former head of TRA, Anton Berisha, otherwise a former-candidate for MP from LDK, was sent as ambassador to Slovenia, the country of “Mobitel”, the main shareholder of “Ipko” mobile operator. At least, two deputy-ministers and one Member of Parliament from PDK, came out of Ipko’s daily Gazeta Express. Out of Ipko’s transaction, people that won public office, are: Petrit Selimi, deputy-foreign minister, Berat Buzhala, Member of Parliament, where they remained on salary of this company, and Ilir Mirena, former-deputy minister of environment, all from the PM’s party, PDK. Indeed, through its influence in politics, the only private mobile operator, “Ipko”, was engaged on direct financing of political elite and their family members. The most notable case was that reported by Kosovo media on an obscure scholarship awarded to the son of the former-minister of transport and the former first deputy-head of PDK, Fatmir Limaj<sup>77</sup>.

One gets an impression that a deal was reached among the parliamentary parties, PDK, LDK, AAK and AKR, to overturn any attempt to shed light over the warranty-check of 16,2 million of Euro. When one sees the silence of the whole political spectrum in Parliament related to this issue, during the previous and current legislation,

one can establish that a general impunity is approved by all four parties, three of which, were involved on tendering process of 2007 on second mobile operator. Several parliamentary debates were induced by two independent MPs, Driton Tali and Naim Rrustemaj, but their requests for an inquiry were always outvoted by a consensus of PDK, AAK and LDK, but also of AKR, despite the fact that the former two are now in opposition. In January 2011, the check that according to Ahmet Shala was at TRA expired and no case was put forward in Kosovo Courts, though EULEX had started an investigation over these allegations.

<sup>77</sup> Gazeta JnK; “IPKO - Mbi 50 Mijë \$ Bursë Të Parregullt Për Djalë e Limajt”; Njomza Salihi; September 2013. <http://gazetajnke.com/?cid=1%2C979%2C6542>

## Conclusion:

Impunity over political figures and public officials is a wound from which Kosovo has been lingering for a long time. Politics has been indifferent toward allegations of corruption since the inception of first political parties on pluralistic era. Impunity has kept being part of politics prior and after the conflict and the situation just aggravated during the UNMIK period.

Political stability and loyalty of political leadership has been more important to international factors than effective functioning of the justice and law enforcement mechanisms.

On the one hand, Kosovo's politics has never been resistant to corruption and organized crime, but instead, it has indulged itself in an unfettered enterprise of siphoning of public wealth for private interests. This relationship has affected executive, independent agencies and public companies, but it has affected Parliament as well. On the other hand, judiciary has been engulfed by political influence and Parliament has simply been helpless, due to the fact that majority of MPs have merely been so weak to afford the pressure that comes from corrupted leaders of their parties.

Finally, and most importantly, main political parties, PDK, LDK and AAK, have murky history of collection and spending of the funds which were collected on patriotic justification. No one has ever been held accountable for tens of millions of Euros collected through these funds.

Alike, ARK is also overwhelmed by accusations that its leader made a fortune on highly murky circumstances. This puts the main incumbent parties in Kosovo in a situation that makes it impossible for any of them to face corruption and organized crime.

