

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

KOSOVO*: OVERVIEW OF POLITICAL CORRUPTION

QUERY

Can you provide an overview of and background to recent measures taken to address political corruption in Kosovo? We are particularly interested in elections, political party financing, codes of conduct, asset declaration, immunity, conflict of interest and lobbying.

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SUMMARY

Since Kosovo's independence, the fight against corruption has been among the priorities of the international community and more recently of the Kosovar government. In particular, corruption within the political and electoral process is seen as one of the greatest challenges as it has pervasive consequences for the country's social and economic development. Political corruption has been defined as the manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision-makers.

2013 was a year of several reforms as well as achievements. The first uniform municipal elections were conducted without major drawbacks, an amendment to the Law on Political Party Financing was promulgated, and amendments to the Law on Conflicts of Interest and Asset Declarations were also approved in the first readings. However, there were no developments with regard to the electoral reform process initiated in 2011 or with regard to the code of conduct for members of the government.

In spite of this progress, the implementation and enforcement of the current rules remain overall a serious problem, and the low track record of punishment of high-level senior officials involved in corruption or failing to comply with the law supports the culture of impunity permeating the country.

1. OVERVIEW OF POLITICAL CORRUPTION IN KOSOVO

Background

After years under Serbian rule, an armed conflict led by the Kosovo Liberation army emerged in 1998. The war ended with a NATO military intervention in the following year. Between 1999 and 2008, NATO forces and a United Nations interim administration mission administered the territory (Bertelsmann Foundation 2014).

Kosovo became independent in 2008, and is slowly taking over the responsibilities over its governance. The mission of the International Civilian Office (ICO), tasked with supervising the country's independence, finished in 2012, but the country has received support from the European Union particularly to strengthening the rule of law (i.e. European Union Rule of Law Mission – EULEX) as well as of international organisations to ensure the democratic process happens in fair and free manner (Freedom House 2013). Kosovo still struggles to stabilise its relationship with Serbia and to fully exercise control over Serb-majority regions, although 2013 saw many positive developments in this regard (European Commission 2013).

The country features among the poorest countries in the world, with 30 per cent of the population below the poverty line and an unemployment rate close to 40 per cent. Kosovo's economic dependence on the international community results mainly from an underdeveloped industrial sector, insufficient investments and a large informal economy (Bertelsmann Foundation 2014; Freedom House 2013).

Corruption aggravates the situation. According to one of Kosovo's anti-corruption NGO Cohu (Stand Up) "corruption has made Kosovo almost impermeable for other businesses, except for those with political connections" (Bertelsmann Foundation 2014). In the last year, a series of protests against corruption and mismanagement have reached the streets of Pristina (Balkan Insight 2013; Deutsche Welle 2014). The fight against corruption is also one of the key criteria for Kosovo's European integration.

Extent of corruption

Corruption is one of the main challenges faced by Kosovo. The country ranked 111 out of 177 countries assessed in the Transparency International's 2013 Corruption Perceptions Index; with a score of 33 out of 100, its performance is the second worst among the Balkan countries, only better than Albania (Transparency International 2013a).

The World Bank Worldwide Governance Indicators also confirm Kosovo's poor performance in the control of corruption at a percentile rank of 30.14 (from 0 to 100), showing no significant improvement since 2003 when the first assessment was conducted (World Bank 2013).

Likewise, 46 per cent of respondents to the 2013 Global Corruption Barometer consider that corruption has increased a lot in the two years preceding the survey. Of the respondents 67 per cent see corruption as a serious problem in the country and 96 per cent believe corruption in the public sector remains a problem. In addition, close to 70 per cent of respondents state that the government's efforts to fight corruption in the country are ineffective (Transparency International 2013b).

Political corruption in Kosovo

Kosovo's efforts to improve good governance and fight corruption in the last years have brought positive results in some areas. The country has improved transparency in the budget process, improved the rules governing civil servants, enhanced public participation in decision-making and passed a new criminal code and a new criminal procedure code. In addition, a new anti-corruption strategy was adopted in 2013. Cooperation between anti-corruption and law enforcement bodies is still not ideal, but it has improved in the last years (European Commission 2013). Nevertheless, the challenges faced by the country to effectively curb corruption are many.

In addition to strengthening rule of law and ensuring the adequate prosecution and sanction of high-level public officials and politicians involved in corruption, Kosovo still has to ensure an adequate legal framework (and its effective implementation) to prevent members of the government of using their positions/ power for their own benefit.

Within this framework, political corruption – defined as the manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision-makers, who abuse their position to sustain their power, status and wealth – may lead to the misallocation of resources and to biased decision-making (Transparency International 2009).

According to Transparency International's Global Corruption Barometer, close to 40 per cent of Kosovars believe that the country is run by a few big entities acting in their own interest. Political parties are perceived as the second most corrupt institution in the country (according to 75 per cent of respondents), only behind the judiciary (Transparency International 2013b).

Against this backdrop, the country needs to do more to fight political corruption, ensuring, for instance, that elections are conducted freely and fairly without abuses from the ruling party, that laws and regulations are decided based on the public interest and are not captured by specific interest groups, that parties do not receive illicit funding, and that the personal interests of officials do not collide with their functions, allowing them to extract rents from the state.

To tackle some of these concerns, a number of measures have recently been taken relating to elections, party financing, immunities, codes of conduct for politicians, conflicts of interest and asset declaration. This answer analyses Kosovo's progress in the regulation and implementation of these measures. Kosovo does not regulate lobbying activities; therefore this area is not included in the analyses.

2. ELECTIONS

Overview

Kosovo's first democratic national elections took place in 2001. The first two parliamentary elections were administered by the Organisation for Security and Co-operation in Europe (OSCE), and the second two were managed by the Kosovar authorities, but facilitated and monitored by international organisations such as OSCE and the International Foundations for Electoral Systems (IFES).

Elections so far have been seen to a certain degree as free and fair, but fraud and several irregularities have been a recurring concern (Bertelsmann Foundation 2014; OSCE 2007). For instance, during the 2007 elections, close to 15 per cent of respondents to a survey conducted by UNODC reported being asked to vote for a certain candidate or political party in exchange for money, goods or favour (UNODC 2011). In addition, reports have pointed to the fact that individuals involved in electoral fraud have not been punished (Freedom House 2013).

In 2011, the indirect presidential elections were also controversial. The Kosovo Assembly elected Behgjet Pacolli, but the Constitutional Court declared the election unconstitutional for not following the required procedures and a new president had to be appointed (Bertelsmann Foundation 2014).

Conflicts with the Serbian communities in the north of the country have also posed several challenges with regards to elections and effective governance. The 2013 municipal elections – the first uniform municipal elections that took place in the country, including municipalities in the northern region of Kosovo which are comprised of a Serb-majority – were thus considered a great achievement (European Union Election Observation Mission 2013).

To a certain extent, the elections were considered free and fair and occurred without major problems. Nevertheless, there is evidence of widespread vote-buying in some regions as well as multiple voting, intimidation, photographs being taken of ballot papers during voting, among other criticisms (European Union Election Observation Mission 2013).

In the run-up to the parliamentary elections, which are supposed to happen in 2014, reform efforts regarding an electoral reform may finalise discussions initiated in 2011 when a temporary parliamentary committee was established. The country has not yet managed to reach an agreement, and the reform is still to be discussed in parliament. In addition, according to experts consulted within the framework of this answer, the electoral reform is unlikely to be substantial as key issues such as the creation of districts, and the establishment of direct presidential election are no longer being discussed.

Legal framework

The Constitution of Kosovo defines the basic principles and fundamental rights governing elections in the country. It also provides for the power structure and institutions relevant to elections. In addition, the Law on General Elections of 2008 also contains relevant rules, such as the eligibility criteria. All Kosovo citizens registered as voters are allowed to run for public office, with the exception of those who have been convicted of a criminal offence (including for corruption) in the previous three years (European Election Observation Mission 2013).

The laws governing elections are not adequate and according to several organisations, Kosovo still does not comply with international standards (European Commission 2013).

For example, the legal framework does not provide detailed rules on important issues, such as the counting, tabulation, certification of elections results, procedures for nullifying election, and notification of public events, among others. These issues are currently regulated by ad hoc rules issued by the Central Election Commission (CEC) prior to the elections, affecting the legal certainty and confidence in the process (European Union Election Observation Mission 2013).

Election management and oversight

The CEC is the permanent body responsible for the management, administration and oversight of the election process. It is comprised of a chair, appointed by the president from among judges of the Supreme Court for a term of seven years, and 10 members appointed by the six largest groups represented in parliament (International IDEA 2012). The CEC is an expert based election management body, and its members have work experience of at least five years and a university degree in law, public administration, political science, election administration, or related field (International IDEA 2012).

Some have assessed the CEC as being extremely politicised, but observers to the last election reported that elections were in general conducted in a professional and rather transparent way (European Election Observation Mission 2013).

During the elections period, a Municipal Elections Commission and a Polling Station Commission are also appointed to support the process. In practice, however, the CEC centralises to a great extent the tasks related to the administration of the elections (European Election Observation Mission 2013). According to experts consulted within the framework of this answer, in the majority of municipalities, meetings of Municipal Election Commissions are not held regularly and information sessions with political parties and observers are mainly done through informal channels.

The CEC is also responsible for keeping the voters' list and for registering voters living outside the country. The accuracy of the voters' list is challenged by several non-governmental organisations in Kosovo. The main problem is that the list is extracted from the central civil register maintained by the Ministry of Interior, and the CEC, at least prior to the 2013 municipal elections, has not had time to verify the accuracy of the information.

The registration of voters living outside of Kosovo was also very problematic. According to observers, the CEC exercised full discretion to decide whether or not an individual would be accepted as voter, without following any objective criteria (European Election Observation Mission 2013).

Moreover, the CEC also opened the postal ballots from outside voters without the presence of any observer. Out of the 11,700 envelopes received in the first round of the elections, the CEC did not accept approximately 6,000 for not containing a copy of a valid voter's ID (European Election Observation Mission 2013).

The new Criminal Code that entered into force in 2013 establishes both fines and prison time for election fraud. Yet there has been little progress so far in combating election crimes, and political inference could stand in the way of implementing and enforcing the new provisions (Freedom House 2013). Nevertheless, according to experts consulted, due to the mobilisation of political parties, justice and police institutions, as well as strong campaigns by civil society on the new Criminal Code provisions on election fraud, the 2013 local elections had fewer irregularities compared to the 2010 elections.

3. PARTY FINANCING

Overview

The funding of political parties is an important element of democracy and essential so that parties can carry out their activities throughout the year and during election periods. However many problems may arise if companies and influential individuals use contributions to political parties to pursue their personal interests and influence policy decisions.

As in many other Balkan countries, in Kosovo political party funding is also problematic and prone to corruption. For instance, investigations conducted by journalists revealed that companies that had donated funds to political parties during their election campaign were the most likely to win government contracts (Freedom House 2013).

After five election campaigns, Kosovo is still adapting its legal framework to reduce the chances that companies and individuals unduly influence the electoral process. An amendment to the Law on Financing Political Parties promulgated in August 2013 addressed many of the legal shortcomings underscored by the European Commission as well as watchdog organisations (Kosovo Democratic Institute/ Transparency International Kosovo 2013; Group for Legal and Political Studies 2013). It is still to be seen whether the law will be effectively implemented and enforced.

Nevertheless, rules on political financing are still scattered across many and often contradictory laws, allowing the utilisation of double standards and making implementation and enforcement more complicated (European Union Election Observation Mission 2013).

Legal framework

As mentioned, the regulatory framework regarding political party funding in Kosovo is based on several laws which complement each other, such as the [2010 Law on Financing Political Parties](#), the [2011](#) and [2013](#) Laws on amending and supplementing the Law on Financing Political Parties, the Law on General Election in the Republic of Kosovo and further regulations approved by the CEC.

Political parties are allowed to receive contributions from natural persons (not exceeding 2,000 euro per year) and from legal entities (not exceeding 10,000 euro per year).

There is a ban on donations (including in-kind contributions) from government institutions, foreign contributors, state-owned enterprises, and anonymous contributors. The 2013 amendment to the Law on Financing Political Parties extended the ban to private enterprises while they are in a contractual relationship with the government for the provision of goods and services and for three years after the end of the contractual relationship.

Article 11 of the Law on Financing Political Parties prohibits contributions by non-governmental organisations, trade unions, charitable organisations, as well as religious organisations, foundations, institutes or other similar bodies created by political parties or somehow related to political parties. Direct donations to individual candidates are also forbidden.

The 2013 amendment also established that every political party is required to open a single bank account through which all transactions should be made.

Moreover, political parties are entitled to public funding that is distributed directly from the annual budget based on the number of seats a party holds. This grant can be used to finance pre-election and election activities, finance the Assembly's parliamentary groups and other regular activities in which political parties are involved.

The Electoral Law sets limits to political parties' expenditures. Political parties are allowed to spend the maximum amount of 500 euro per 1,000 voters (European Union Election Observation Mission 2013).

Political parties in Kosovo are obliged to submit their financial reports during the electoral campaigns and, in addition, submit the annual financial reports outlining all financial activities during the year.

Annual financial reports should include information on (i) income sources, including the contact details and name of the contributor, date and amount of contribution; (ii) expenditures, including all invoices irrespective of the amount (prior to the 2013

amendment only invoices exceeding 100 euros had to be disclosed, which according to watchdog organisations could allow political parties to manipulate the information reported on); and (iii) bank statements, according to Article 15 of the Law on Political Parties.

The 2013 amendment also introduced the requirement for political parties to publicise both annual financial reports and campaign disclosure reports on their website and publish a short summary on national newspapers in a timely manner, according to Article 15. Annual reports and the final audit reports should also be made available by CEC on their website.

Oversight body and sanctions

The CEC is tasked with receiving all financial reports from political parties (annual and campaign reports), but they are verified by external auditors according to accounting standards applicable in Kosovo. These external auditors are selected by the Assembly through an open public invitation, according to Article 19 of the Law on Political Parties.

The sanctions in place until the amendment of the law were assessed as symbolic and not dissuasive (Kosovo Democratic Institute/ Transparency International Kosovo 2013). In 2013, the government increased and expanded the type of sanctions for non-compliance with the rules on party financing. For instance, according to Article 21, political parties that fail to submit their annual reports may receive a fine or lose the eligibility to benefit from public subsidies in the subsequent year. The failure to publish annual reports is also penalised with a fine of up to 5,000 euros. In addition, political parties may be fined twice the value received if they accept donations from prohibited sources, and contributors (natural or legal persons) who provide donations in contradiction of the law may also be penalised. Finally, if funds are misused by a candidate or political party and if the candidate is elected, his/ her mandate can be taken.

Implementation

While the legal framework governing the funding of political parties has improved in the past years, the appropriate implementation and enforcement of the law remains a serious problem.

Studies conducted by civil society organisations have shown that political parties have systematically failed to comply with the law. For instance, between 2009 and 2011, many political parties did not submit detailed and complete annual accounts as requested by the law. They have also failed to comply with the rules, with political parties receiving donations in contravention with the law (Group for Legal and Political Studies 2013).

According to a study conducted by the Kosovo Democratic Institute, political parties often do not reveal the name of contributors and in-kind donations are usually underreported or not reported at all (Kosovo Democratic Institute 2013). In addition, according to information from the 2009 and 2010 audit reports, political parties also failed to submit invoices and receipts to confirm their financial data (Group for Legal and Political Studies 2013).

Studies also point to major discrepancies between the figures reported by political parties in the electoral and annual financial reports (Kosovo Democratic Institute 2013; Group for Legal and Political Studies 2013).

The accuracy of the information provided by political parties is difficult to verify, and the fact that reporting is not done on a standardised format makes verification more difficult (Kosovo Democratic Institute 2013).

4. IMMUNITY

Overview

Immunities are important to protect members of parliament, the president and other government officials from politically motivated prosecutions. However, to avoid the misuse of this privilege by high-level officials it is instrumental that immunity rules are interpreted in the narrow sense. Politicians and other members of the government need to be protected from prosecution in the exercise of their functions, but this protection should not extend to include other (criminal) offences unrelated to the exercise of public office. Limits to immunity may also include the possibility of prosecution by a specific court or upon approval of the parliament, for example.

Legal framework

The Constitution establishes that members of parliament, the president, members of the government, judges, and judges of Constitutional Court are immune from prosecution, civil law suit and dismissal for actions and decisions within the scope of their responsibilities. In the case of elected office, the immunity will cease at the end of the mandate.

The immunity of members of the Assembly has been largely debated in Kosovo. In 2011, the Constitutional Court decided that the immunity of members of the Assembly and of the president should not prevent their criminal prosecution for actions taken outside of their responsibilities. Members of the Assembly can be arrested or detained when not performing their duties (such as committee meeting and plenary).

However, when performing their duties, members of the Assembly can only be arrested, detained or prosecuted with the consent of the majority of the Assembly members (Council of Europe 2013).

The immunity of members of the Assembly can be lifted by the Assembly upon the request of the public prosecutor (Council of Europe 2013).

Implementation

According to the Council of Europe, the rules concerning immunity per se are not considered as an obstacle to fighting corruption in Kosovo. However, rules regarding the time limit for investigations in relation to immunities could be a problem. The Council of Europe has thus recommended the Kosovar authorities to take the necessary steps to ensure that the period where investigations cannot be carried out due to immunity is not considered in the limited period for investigation (Council of Europe 2013).

5. CODES OF CONDUCT FOR POLITICIANS

Overview

Codes of conduct are a valuable tool used throughout the world to establish standards for ethical and appropriate behaviour in public administration (Transparency International 2012).

In Kosovo, the [Rules of Procedure of the Assembly](#) (RPA) of 2010 contains a code of conduct for members of the Assembly (Annex 3).

Other politicians in the country are not governed by a code of ethics or conduct. A [draft law on the Government of Kosovo](#) tabled in 2011 establishes that members of the government should perform according to the highest ethical standards and comply with the Code of Conduct for Government Members, which shall be issued by the government within six months of entry into force. However, the law is still pending approval.

Legal framework

According to the code of conduct for members of the Assembly, members are expected to follow the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

The code also sets rules regarding (i) voting restrictions: members are not allowed to take part in decisions that could result in financial benefits to themselves; (ii) paid advocacy: members are prohibited from initiating a bill or any proceeding in return for payment or other benefit; (iii) conflicts of interest: members have to orally declare their interests and those of close relatives in matters being discussed by the Assembly, and in addition they have to provide a written declaration of interests related to employment, directorships, consultancy contracts, financial sponsorships, or other gifts to the president of the Assembly within 30 days of taking office and whenever changes occur.

Implementation

The Helpdesk has not found any assessment of how the code is implemented and enforced. According to experts consulted within the framework of this query, the Assembly of Kosovo does not have any mechanism in place to monitor the implementation of the code of conduct.

6. CONFLICT OF INTEREST RULES

Overview

The prevention of conflict of interest is instrumental to

ensure that public office is not abused for private gain. In Kosovo the issue is of particular importance given that often, the division between the political and economic elite is rather blurred and the use of personal connections for economic gain is considered a fairly acceptable practice (UNODC 2013).

For instance, respondents to a survey conducted among businesses in Kosovo shows that approximately 50 per cent of those surveyed consider the use of relationships and personal contacts in public institutions for speeding up business-related procedures to be acceptable. Of those surveyed 30 per cent consider it acceptable to use public resources for private benefit or to perform public functions while having an interest in private companies. Likewise, around 30 per cent consider performing multiple public functions simultaneously to be acceptable (UNODC 2013).

Kosovo has a law on preventing conflicts of interest that cover all elected politicians and officials in high-ranking positions. The law first approved in 2009, has been amended in 2011, but serious loopholes that hamper its implementation still exist as discussed in the next section.

On 14 November 2013, the Assembly of Kosovo adopted in the first reading the draft Law on Amending and Supplementing the Law on Prevention of Conflict of Interest in Exercise of Public Function (Eulex 2014). The new amendment is an attempt to bring more clarity to the provisions in place so far.

Legal framework

The Law on Prevention of Conflict of Interest in the Discharge of Public Functions (Law n. 04/L-051) defines the rules, subjects, responsibilities and competencies required for the identification, treatment and solution of cases of conflict of interest.

The law covers senior public officials, including officials occupying elected offices and those in appointed positions (for a complete list, see Article 4).

According to the law, senior officials are obliged to prevent and solve situations of conflict of interest. In cases of doubt, she/ he should consult his/ her manager or the Anti-Corruption Agency. The

manager can require a case-by-case self-declaration of officials' interests at any time.

The law also defines a list of actions that are prohibited as well as the incompatibilities with the discharge of public function. For instance, officials are not allowed to solicit/ receive rewards to compensate for their decisions, influence public procurement processes, influence the decision-making of the legislative, judicial or executive entities, and take actions that benefit his personal interest or the interest of trusted persons, among others (Article 9). In addition, senior public officials cannot be managers of private enterprises.

The law also sets restrictions on post-public employment. Senior officials are not allowed for the period of one year to be employed or appointed to managing positions or to be involved in the control of public or private enterprises if their tasks while in office were connected to monitoring or controlling business activities of those enterprises (Article 17).

Oversight and sanctions

The Anti-Corruption Agency monitors and prevents cases of conflict of interest. The agency is responsible for assessing whether a situation is considered a conflict of interest as well as to verify whether senior officials do not exercise incompatible activities. Administrative procedures are initiated upon the request of the senior officials and the approval of his/ her manager or on the basis of denunciations/ notifications. All decisions regarding conflicts of interest are published on the agency's website.

The non-compliance with the Law on Conflict of Interest is considered as a minor offence and does not incur criminal liability. Violations to the law are punishable with a fine between 500 and 2,500 euros or a prohibition on exercising public functions from a period of three to 12 months. However, the new Criminal Code that entered into force in 2013 includes the non-compliance with conflict of interest rules among its offences.

Implementation

The Law on Prevention of Conflict of Interest has several loopholes that hamper its enforcement. For

instance, senior public officials are not required to systematically declare potential conflicts of interest. The law leaves to their discretion the decision to look for advice or declare a situation that could be in conflict with their role in the public office. The law also fails to establish timeframes for officials to declare their interests, or for the Anti-Corruption Agency to analyse/ provide opinion of specific cases and publish the reports online. In addition, there is no timeline within which competent bodies should follow up on the requests of the Anti-Corruption Agency.

The amendment to the law currently being discussed in the Assembly establishes clear deadlines for these procedures.

In addition to the loopholes discussed, assessments have shown a weak implementation and enforcement of the law. For instance, according to Global Integrity, there have been several cases where senior officials have joined the private sector immediately after leaving public office and contravention to Article 17 of the law (Global Integrity 2011).

According to the latest annual report published by the agency related to the activities conducted in 2012, 869 public officials (approximately 25 per cent) exercised more than two functions, and six of them exercised five functions simultaneously (Kosovo Anti-Corruption Agency 2013). There are also cases of officials who continue to exercise private activities in spite of a declared incompatibility (European Commission 2013).

The European Commission also highlights that senior officials have failed to self-declare their interests on a case-by-case basis as required by the law (European Commission 2013).

7. ASSET DECLARATION RULES

Overview

The disclosure of income and assets allows government agencies, civil society and the media to detect possible instances of illicit enrichment by public officials. It is instrumental that oversight bodies have clear rules; allowing for the verification of information declared and that those are made available to the public.

In Kosovo, there are legal provisions requiring senior public officials to declare their assets and properties as well as regulating the gifts received by them. The law is not effectively enforced, however, and the accuracy of the information declared is rarely verified.

An amendment to the law aiming at closing loopholes and strengthening its implementation and enforcement was approved in its second reading by the Assembly in March 2013.

Legal framework

The Law on Declaration, Origin, and Control of Property of Senior Public Officials and on Declaration, Origin, and Control of Gifts of all Public Officials (Law n. 04/L050) establishes that all elected officials, heads of departments/ agencies, individuals in appointed positions, judges, prosecutors and their relatives are required to declare their properties, including information on real state, movable property of value of over 5,000 euro (the new law proposes to reduce the value to 3,000 euro), possession of shares in commercial enterprises, savings in financial institutions, annual revenues.

Declaration should be filled within 30 days when taking over a public office, annually by 31 March upon request of the Anti-Corruption Agency, and within 30 days of leaving public office.

These declarations are published on the website of the Anti-Corruption Agency within 60 days of the deadline for submission.

With regards to gifts, the law foresees that public officials are prohibited from receiving gifts or other favours that may influence his/ her decision in the exercise of public duty. Protocol gifts and casual gifts, if not in cash, are acceptable (Article 11).

All protocol and casual gifts, their value as well as the names of the individuals giving the gift should be recorded in an appropriate gift register and kept by the public body where the public official exercises his/ her duties. Copies of the registry should be submitted to the Anti-Corruption Agency annually (Article 12).

The register of gifts is public and can be accessed upon request without any cost.

Oversight and sanctions

The Anti-Corruption Agency oversees the assets of senior public officials and their relatives. The agency should conduct a formality check as well as a detailed control to verify the accuracy of the information disclosed. To facilitate the verification process, the law determines that banks and other institutions are obliged to provide data related to accounts, deposits, and other transactions carried out by senior public officials and their relatives.

According to the law, the failure to submit the declaration of properties and assets is considered an administrative offence, punishable with a fine (1,000 to 2,500 euro). Sanctions may also include prohibition from exercising public functions for a period of one year.

As is the case with conflicts of interest, the Criminal Code that entered into force in 2013 also established a criminal offence for the failure to submit accurate information regarding assets and properties. Therefore, as of 2013, the failure to declare assets is punishable with imprisonment (three to five years) and/ or a fine. The names of public officials who fail to declare their assets in a timely manner are published on the agency's website.

The Anti-Corruption Agency is also responsible for monitoring the receipt of gifts submitted by public bodies.

Implementation

Implementation and enforcement of the rules on asset declaration remain a challenge. While improvements with regard to the Anti-Corruption Agency's verification process took place, resulting in officials who failed to accurately disclose their properties being referred to the prosecutor's office, de facto punishment is still lacking (European Commission 2013).

According to civil society organisations, the agency also lacks the appropriate resources and mechanisms to fully audit the declarations submitted by senior public officials (Kosovo Democratic Institute in The Journal of Turkey Weekly 2013).

During 2012, the great majority of senior public

officials (close to 92 per cent) declared their assets upon taking office. Nevertheless, elected and appointed officials working at the local level seem to be more reluctant in complying with the law. In 2012, only 60 per cent of officials from municipalities declared their assets (Kosovo Anti-Corruption Agency 2013). As of February 2014, following the 2013 municipal elections, approximately 80 per cent of the newly elected and appointed officials had declared assets (Independent Balkan News Agency 2014).

In 2012, the Anti-Corruption Agency started violation proceedings against 306 senior public officials out of the 3,656 officials who are required to declare assets. Final decisions are still pending in the great majority of cases, but in some of them first instance judgments have already acquitted the defendants. The majority of fines that have been imposed were reduced after the appeal. An overview of the cases is available in Annex B of the annual report (Kosovo Anti-Corruption Agency 2013).

The Anti-Corruption Agency also conducted a full analysis of 20 per cent of the declarations received (covering 800 senior public officials), including comparisons across years and with the salaries declared by member of the Assembly. The analysis found significant changes in the declaration in 149 cases and in nine of them changes were in the value of millions (Kosovo Anti-Corruption Agency 2013).

With regard to the registry of gifts submitted to the agency, according to the Global Integrity Report, the Anti-Corruption Agency does not have the means to verify the accuracy of the information disclosed (Global Integrity Report 2011).

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