



**Republika e Kosovës**

**Republika Kosova-Republic of Kosovo**

**AGJENCIA KUNDËR KORRUPSIONIT**

**AGENCIJA PROTIV KORUPCIJE**

**ANTI - CORRUPTION AGENCY**

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# **ANTI-CORRUPTION STRATEGY**

## **2012-2016**

**Pristina, November 2011**

## TABLE OF CONTENTS

<b>Introduction</b>	<b>3</b>
<i>General climate for corruption in Kosovo</i>	
<i>Process of drafting the new Anti-corruption Strategy and Action Plan</i>	
<b>Vision</b>	<b>5</b>
<b>Mission</b>	<b>6</b>
<b>Chapter I - Evaluation of the Strategy 2009-2011</b>	<b>6</b>
<b>Chapter II - General principles</b>	<b>18</b>
<b>Chapter III - Priorities and orientations for the new Strategy</b>	<b>19</b>
<b>Chapter IV - Horizontal (Cross-sector) objectives of the Strategy</b>	<b>20</b>
<b>Chapter V - Specific objectives for priority sectors</b>	<b>22</b>
1. <i>Political Sector</i>	22
2. <i>Local Government</i>	23
3. <i>Central Administration</i>	24
4. <i>Law Enforcement, Prosecution and Judiciary</i>	25
5. <i>Public Finances and their management; Public Procurement</i>	26
6. <i>Private Sector and Business Environment</i>	27
7. <i>Civil Society and Media</i>	28
<b>Chapter VI - International and Regional Co-operation</b>	<b>29</b>
<b>Chapter VII - Monitoring and Implementation</b>	<b>30</b>
<b>Conclusion</b>	<b>32</b>
<i>Annex I - Corruption Risk Assessment in Priority Sectors</i>	
<i>Annex II - Strategy Evaluation Framework</i>	

## Introduction

- **General climate for corruption in Kosovo**

Despite some progress noticed in the area of combating corruption in the period 2009-2011, which concerned mainly the adoption of the necessary anti-corruption legislation<sup>1</sup>, weak implementation capacities and lack of genuine political will remain to characterise the efforts provided by the state to consistently apprehend this phenomena. General perception is that although legal framework is often in place, it is frequently not respected or used to sanction its violation. Thus, the ability of institutions to effectively respond to threats of corruption is being undermined. In addition, political corruption remains key feature: in the Transparency International Global Corruption Barometer 2010, political parties are identified as the area which is most affected by corruption in Kosovo, since 55% of the surveyed households assess it as 'extremely corrupt'. According to the same source, 57% of households believe that the government's fight against corruption is 'somewhat/very ineffective'<sup>2</sup>.

In such a context, designing an Anti-corruption Strategy seems a delicate task. Sometimes, it is often wrongly considered to be just a mere bureaucratic instrument. However, the impact the instrument brings may be high if properly understood and put into place. Therefore, the new strategic cycle 2012-2016, taking into account lessons learned from previous strategic documents as well as benchmarks against which progress is usually assessed in the process of European integration<sup>3</sup>, intends to bring a refreshed and result-oriented responses to anti-corruption efforts in Kosovo.

- **Process of drafting the new Anti-corruption Strategy and Action Plan**

In accordance with the Law on Kosovo Anti-corruption Agency (KAA), and in cooperation with other public institutions and civil society organisations, the KAA prepared the present Anti-corruption Strategy and its corresponding Action Plan for implementation (2012-2016). These documents foresee detailed, concrete and focused objectives and measures for preventing and combating corruption during the third strategic cycle in Kosovo, after those of 2004-2007 and 2009-2011.

At the outset, it is worth mentioning the fact that this new cycle covers the period of 5 years, comparing to 4 or 3 years previously, since it envisages objectives and

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<sup>1</sup> For instance, the last EC Progress Report 2011 for Kosovo notices some progress in Anti-corruption polices, see p.13, at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2011/package/ks\\_rapport\\_2011\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/ks_rapport_2011_en.pdf)

<sup>2</sup> [http://www.transparency.org/policy\\_research/surveys\\_indices/gcb/2010/in\\_detail](http://www.transparency.org/policy_research/surveys_indices/gcb/2010/in_detail)

<sup>3</sup> Good governance (integrity, independence, transparency, accountability), implementation capacities and significant track record of criminal prosecution of corruption cases

measures to be realized within a short, medium or long term and since many of these can only bring tangible results after such period. In addition, a bi-annual review of the Action Plan for implementation of the Strategy needs to be carried out by the KAA in 2014, so to allow adaptation of the Strategy to new realities and needs of the country<sup>4</sup>.

The conceptual preparations for drafting the new Strategy and Action Plan started in August-September 2011. The first meeting of KAA contact points in responsible institutions for implementation of the Strategy and Action Plan (“contact points”), was held in parallel. Amongst these, Prime Minister Office/Office for Good Governance, representatives from competent ministries, independent institutions, civil society and media were included and actively participated in the process.

In order to provide advice, guidance and overseeing of the process of drafting the new Anti-corruption Strategy and the Action Plan, the Council of Europe and KAA agreed on engaging an expert in the Project “Threats to the Rule of Law (Corruption)”, who worked during three on-site missions to KAA from September to November 2011.

Two meetings have been held in Pristina during which methodology for risk assessment and evaluation of the strategy was presented. 13 competent institutions were asked to provide elements for risk assessment in each priority area, based on which the future Strategy and Action Plan shall be based. In parallel, KAA has prepared draft evaluation of the previous Strategy 2009-2011 with recommendations to be followed in the drafting process of the new Strategy.

In addition to the internal evaluation and risk assessment in key priority areas, the basis for drafting the new Strategy and Action Plan is also the latest Progress Report of the European Commission for Kosovo, as well as other international and independent assessments of areas sensitive to corruption in Kosovo.

Draft Strategy and Action Plan were finalised during the intensive workshop on 2 and 3 November 2011, in Ohrid, Macedonia, where 25 representatives of competent institutions and international experts discussed details of all objectives and measures necessary for inclusion in the new strategic documents.

The new Strategy followed the structure of the previous document, insofar it contains horizontal (cross-cutting) objectives as well as specific objectives in each vertical

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<sup>4</sup> Law on Anticorruption Agency, Article 17.2 states that “the Anticorruption Action Plan can be amended and supplemented on the basis of proposals from the responsible institutions or at the initiative of the Agency”.

priority sector, namely: Political Sector, Local Government, Central Administration, Law Enforcement-Prosecution-Judiciary, Public Finances-Public Procurement, Private Sector/Business environment, Civil Society and Media and International and Regional co-operation. However, the objectives were formulated in a way to reflect particular needs of the moment, as result of the evaluation process and risk assessment. Therefore, they can be re-grouped in following categories: Prevention, Implementation of Laws, Criminal Prosecution, Inter-Institutional Co-operation and Awareness Raising. As such, both horizontal and vertical priorities contain these features and put particular accent on them.

General goal of the new anti-corruption Strategy is to contribute to progressive and consistent reducing of corruption, strengthen integrity and building citizens trust in institutions of public governance and promote principle of zero tolerance of corruption through implementation of international anti-corruption standards, which helps effective and functioning rule of law in Kosovo. In addition, the Strategy should help the governance structures to change their institutional anti-corruption culture and attitude towards more result-oriented approach. It requires pro-active engagement from all public institutions, other independent bodies, civil society and international community.

The findings and recommendations of the Evaluation of the previous Anti-corruption Strategy (Chapter I) as well as the Risk Assessment in key sectors (Annex 1) were taken into account during the preparation and drafting of the new Strategy. Also the measures that were left unrealised from the previous Action Plan contribute to creating of better synergy and clarity when formulating new anti-corruption objectives measures and contribute to their more effective implementation. Concretely, it means that recommendations from Evaluation of the previous strategy, the Risk Assessment and non-realised measures were translated into new objectives and measures, supposed to reduce or eliminate risks of corruption and contribute better institutional organisation in combating corruption within a given timeframe.

In order to make easier for institutions to measure the impact and fulfilling of the strategy objectives, the anti-corruption measures in the Action Plan are divided into three categories: short-term (one-two years), midterm (two-three years) and long term (four-five years).

## **Vision**

Develop a society in which responsive and efficient anti-corruption system exist, capable of obtaining tangible results and demonstrate the tendency towards maximum elimination of threats of corruption.

## **Mission**

Public authorities at all levels, but also private sector, civil society and other actors are determined to improve and strengthen legislative and institutional framework for combating corruption, as well as increase institutional and human capacities that are necessary for implementation. Kosovo shall continue to develop and improve international and regional co-operation in the field of anti-corruption.

## **Chapter I - Evaluation of the Strategy 2009-2011**

In preparation for the process of drafting of the new Anti-corruption Strategy and Action Plan, the KAA provided an analytical overview and evaluation of the implementation of the previous Anti-Corruption Strategy and Action Plan 2009-2011. It denotes overall evaluation of the progress in fight against corruption achieved through implementation of Strategy objectives and Action Plan measures; underlines challenges which are manifested in the course of implementation; presents the statistical viability of the Action Plan and finally draws conclusions and recommendations necessary for the drafting of future strategic documents.

The KAA, following the work and efforts to meet correctly and in a qualitative manner the duties assigned by law, in particular regarding the monitoring of the Anti-corruption Strategy and Action Plan, has shown in the last strategic period commitment and care that should be noted.

The overall objectives of the Strategy and Action Plan 2009-2011 were directed towards progressive and sustainable reduction of corruption. They focused on: increasing integrity, accountability and transparency of the legislative, executive and judiciary and the promotion of governance values through the rapid and sustainable economic and human development; enhancing the role of civil society, and increasing the participation and oversight of the process by the public; ensuring effective and equal implementation of law and development of international cooperation in the field of prevention and fight against corruption.

This strategy identified priority sectors and specific objectives of the fight against corruption that should be implemented by institutions of particular area. Accordingly, there are 7 priority sectors: the Political Sector, Local Government, Central Public Administration, Law Enforcement - Monitoring Agencies and Judiciary, Public Finance and their Management, Private Sector/Business Operations and Civil Society and International Cooperation.

In order to facilitate implementation of the strategy, KAA has developed an Anti-corruption Action Plan, a document containing concrete measures to be implemented by responsible institutions at both central and local levels, within a given timeline.

The KAA has initiated preparing of the Action Plan by convening internal working group, which in December 2008, in cooperation with other institutions, has begun the preparation of the Action Plan. This document was finalized in May 2009, and adopted by the Kosovo Assembly as integral part of the Strategy on 12 October 2009.

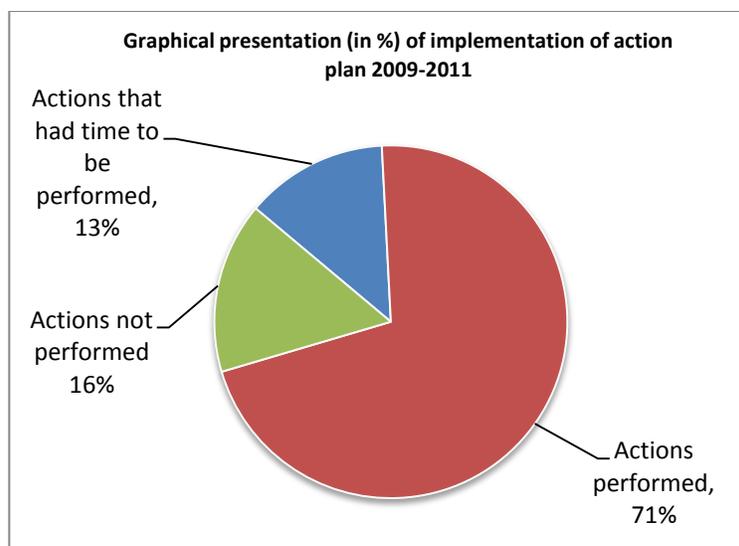
To make possible the implementation of objectives and actions set forth in the Anti-Corruption Strategy and Action Plan, KAA has requested from institutions which are directly responsible for implementation and reporting of relevant actions to designate points of contact who will report on the implementation of the Strategy and Action Plan.

In cooperation with the European Union Project on Support to Anti-corruption institutions in Kosovo (EU - SACIK), in the period 2009-2010 the KAA has prepared the matrix for monitoring, evaluating and reporting on the implementation of the Strategy and Action Plan.

#### **Reporting for the period June - December 2009**

On 06 January 2010, the KAA requested from the contact points included in the Action Plan that until 15 January 2010 they submit reports on implementation of the Strategy and Action Plan, and review the objectives and actions listed in the Action Plan. In the process of reporting have been included central and local public institutions, private sector and civil society.

For the reporting period, June - December 2009, the Anti-Corruption Action Plan 2009 - 2011 had provided a total of 153 actions. Responsible institutions during this reporting period have not reported for 20 actions or 13%, because for them, the Anti-Corruption Action Plan 2009-2011 has set the performance period after the reporting period. For 133 other actions reported by the institutions and according to reports received, the KAA has concluded that 109 or 71% actions were performed, and 24 actions or 16% remained not performed, as presented in the following graph.

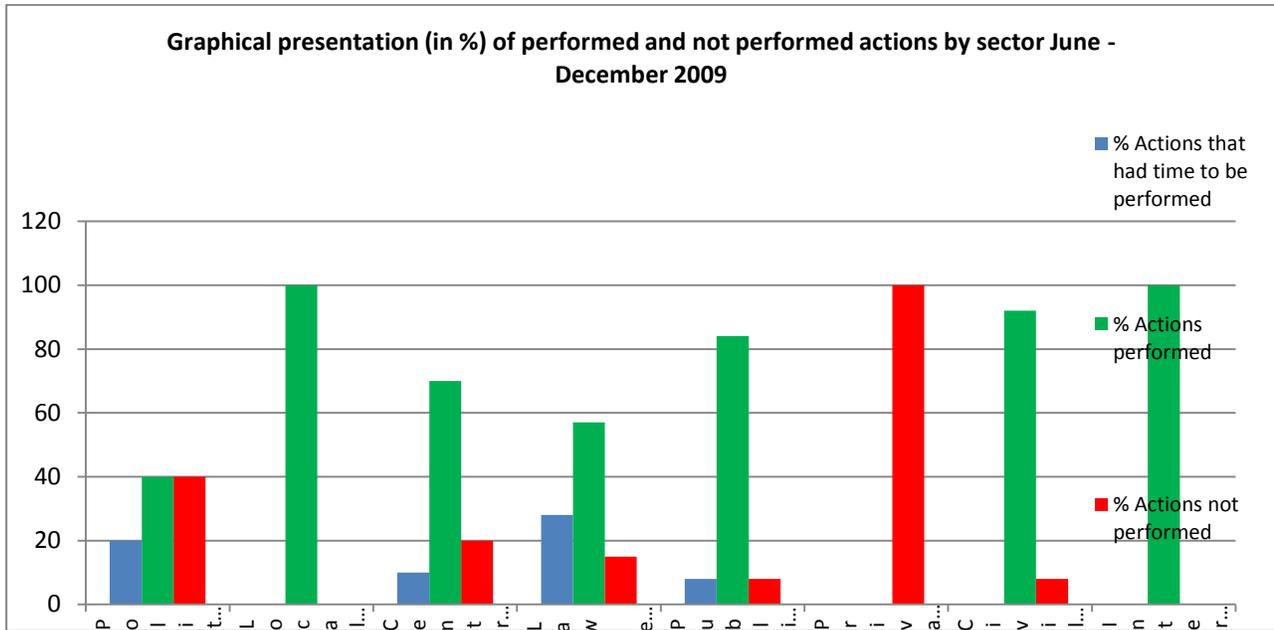


Through the following table are given specifically the activities performed, not performed as well as ongoing activities for which time for reporting was set at a later stage, disaggregated by sector, as provided in the Action Plan.

Sector	Ongoing Actions	Actions performed	Actions not performed	Total actions by sector
Political Sector	1	2	2	5
Local Government	0	9	0	9
Central Public Administration	6	43	12	61
Law enforcement monitoring Agencies and Judiciary	11	23	6	40
Public Finances and their management	2	20	2	24
Private Sector	0	0	1	1
Civil Society	0	11	1	12
International Cooperation	0	1	0	1
<b>Total</b>	<b>20</b>	<b>109</b>	<b>24</b>	<b>153</b>

Table 1. Review of the implementation of actions of the Anti-Corruption Action Plan 2009 - 2011, according to strategic sectors, the reporting period July - December 2009.

Through the following graph are given by percentage (%) all activities performed, not performed and activities for which there was time for reporting, disaggregated by sector, as provided by the Action Plan:



### **Review of Anti-Corruption Action Plan**

The KAA undertook to review the Anti-Corruption Action Plan, and for this purpose it held a total of 14 meetings with representatives of central and local public institutions, private sector and civil society. At these meetings contributed, amongst others to harmonize the Anti-Corruption Action Plan with the Public Administration Reform Action Plan, due to non duplication of objectives and actions, and this has resulted in the clearing of many actions that have been in the two action plans. Also in Review of Anti-Corruption Action Plan are incorporated new objectives and actions, while those which were performed during the review of the Action Plan are removed from the Anti-Corruption Action Plan.

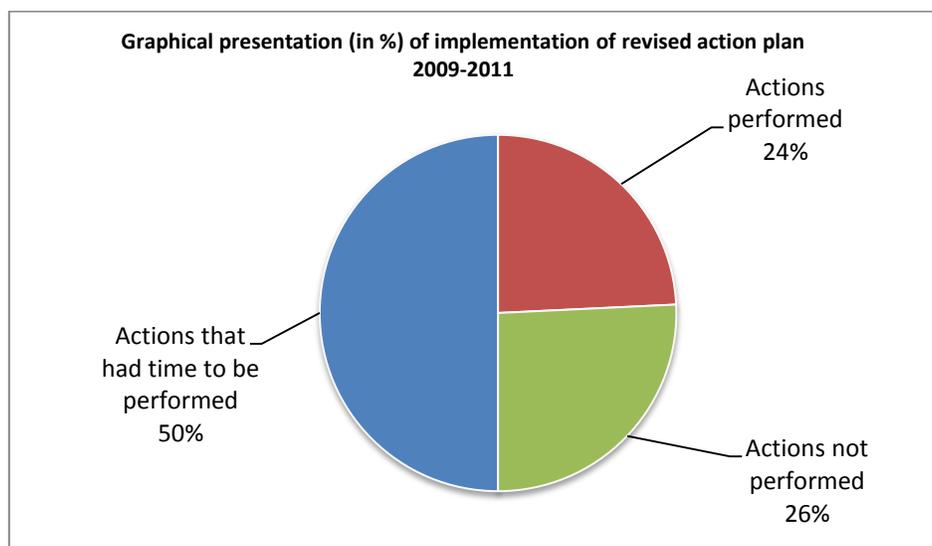
The KAA on 29 September 2010 issued a decision by which was endorsed the Matrix of the Revised Anti-Corruption Action Plan 2009-2011. This revision of the Action Plan included the General Objectives of the Anti-Corruption Strategy and Specific Objectives within the sectors of the Action Plan Matrix. The revision was necessary not only because of above-mentioned harmonisation with other similar strategies, but also in order to re-focus its objectives and measures and make them more compatible with general objectives of the Strategy, for which the Action Plan is an instrument of implementation.

## Reporting for the period October - December 2010

The KAA on 14 January 2011 requested from the contact points that were included in the Action Plan up to 31 January 2011 to submit reports on implementation of objectives and actions arising from the Action Plan for the period October - December 2010.

Review of Anti-Corruption Action Plan 2009-2011 provided a total of 132 actions, including some horizontal measures (general objectives of the strategy)

The responsible institutions during this reporting period have not reported for 66 actions or 50.00%, because for them, the review of the Anti-Corruption Action Plan 2009 - 2011 provided the anticipated period of implementation after the reporting period. Instead, they reported for 66 other actions, and according to reports received, KAA concluded that 32 or 24.24% of the actions were implemented and 34 or 25.75% of the actions were not implemented, as presented in the following graph:



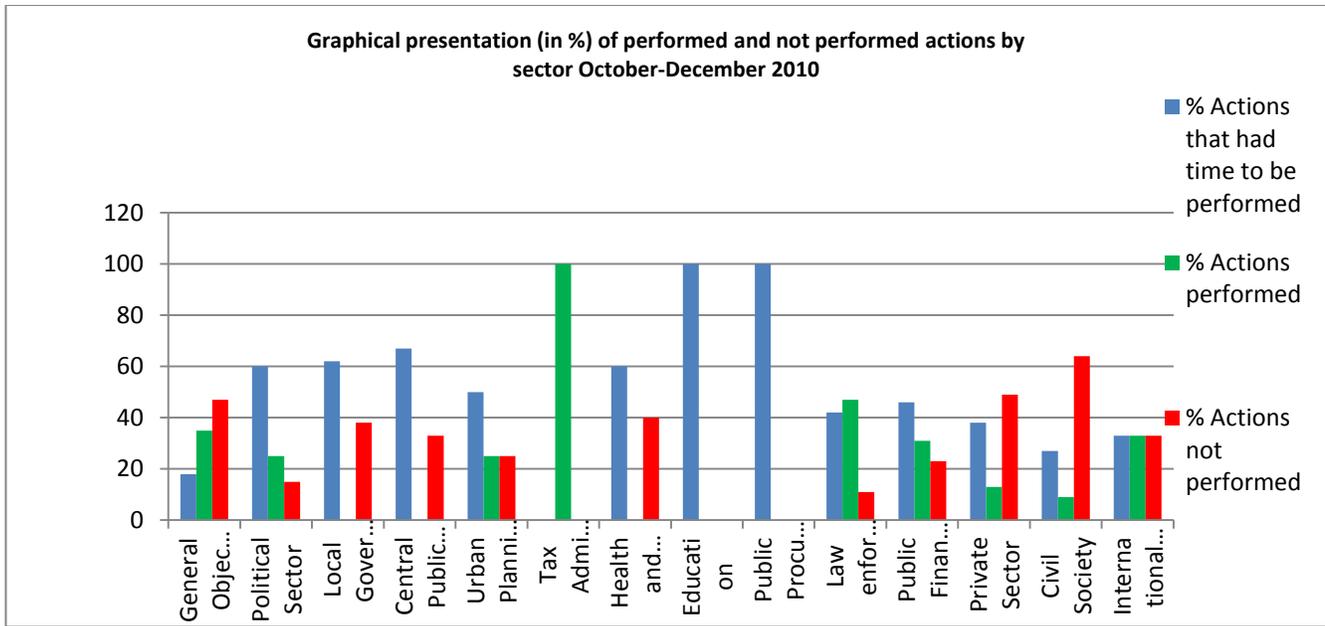
Through the following table are given specifically the activities performed, not performed as well as ongoing activities, disaggregated by sector, as provided in the revised Action Plan.

Sector	Ongoing Actions	Actions performed	Actions not performed	Total actions by sector
General Objectives of Anti-Corruption Strategy	6	8	3	17

Public Sector	12	5	3	20
Local Government	8	0	5	13
Central Public Administration	6	0	3	9
Urban Planning	2	1	1	4
Tax Administration of Kosovo	0	2	0	2
Health and Social Services	3	0	2	5
Education	5	0	0	5
Public Procurement	3	0	0	3
Law enforcement monitoring Agencies and Judiciary	8	9	2	19
Public Finances and their management	6	4	3	13
Private Sector	3	1	4	8
Civil Society	3	1	7	11
International Cooperation	1	1	1	3
<b>Total</b>	<b>66</b>	<b>32</b>	<b>34</b>	<b>132</b>

**Table 2. Review of the implementation of actions of the revised Anti-Corruption Action Plan 2009 - 2011, according to strategic sectors, the reporting period October - December 2010.**

Through the following graph are given by percentage (%) all activities performed, not performed and ongoing activities, disaggregated by sector, as provided by the revised Action Plan for the reporting period October-December 2010:



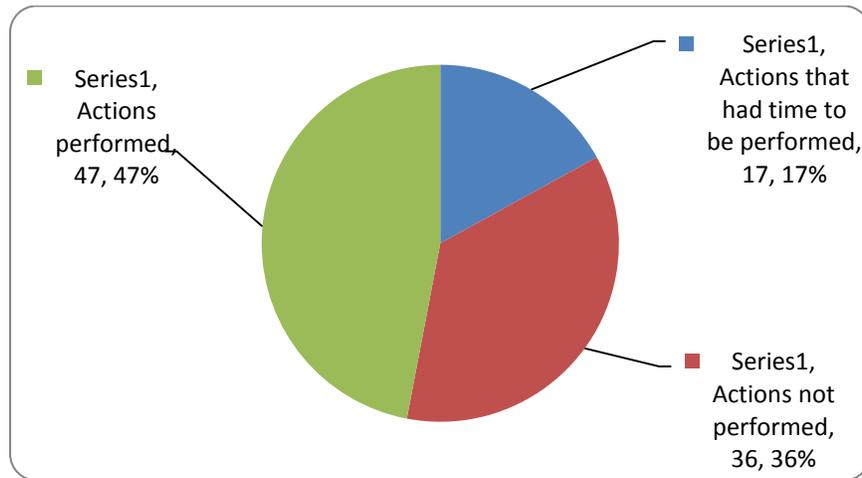
### **Reporting for period January - June 2011**

On 29 June 2011 KAA requested from the contact points that were included in the Action Plan to submit reports on implementation of objectives and actions arising from the Action Plan for the period January - June 2011, up to 12 July 2011

Total of actions from the revised plan for this reporting period was 132 actions, including the overall (horizontal) objectives of the strategy against corruption. The responsible institutions during this reporting period have not reported for 23 actions or 17.42%, because for them, the revised Anti-Corruption Action Plan 2009 - 2011 anticipated the period of performance after this reporting period.

However, responsible institutions reported for 109 other actions, and according to reports received, the KAA has concluded that 62 or 46.96% of the actions were performed and 47 or 35.60% actions were not performed.

### % of performed and not performed activities



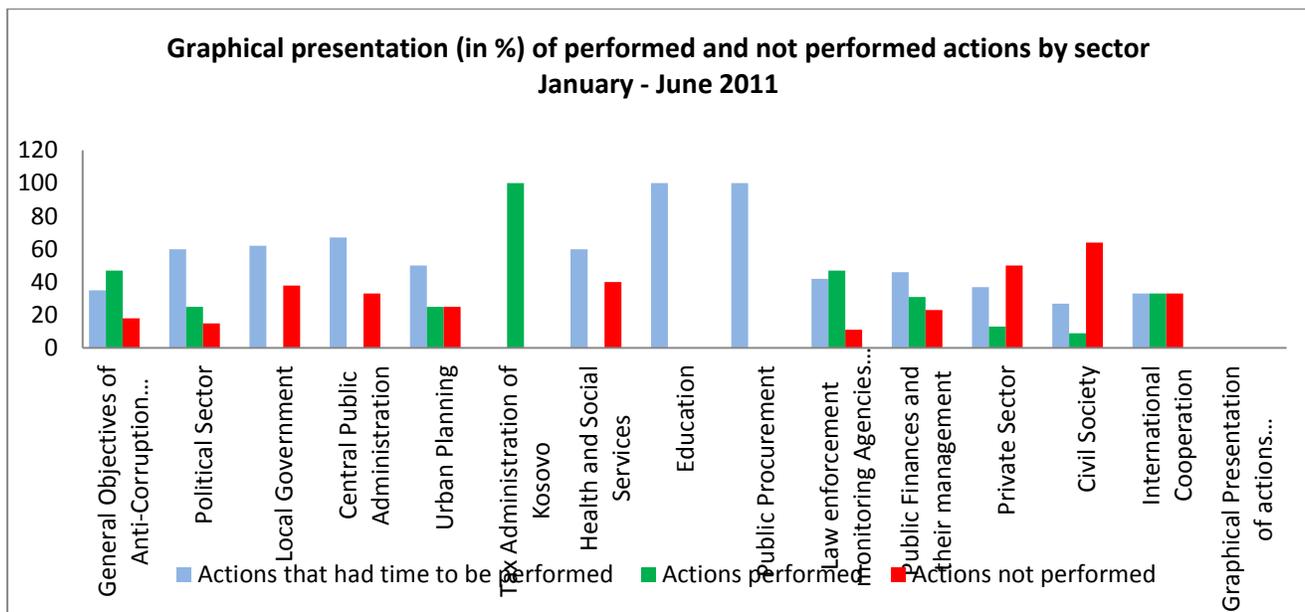
Through the following table are given specifically the activities performed, not performed and ongoing activities, disaggregated by sector, as provided in the revised Action Plan.

Sector	Ongoing Actions	Actions performed	Actions not performed	Total actions by sector
General Objectives of Anti-Corruption Strategy	0	10	7	17
Public Sector	2	14	4	20
Local Government	3	7	3	13
Central Public Administration	2	6	1	9
Urban Planning	0	3	1	4
Tax Administration of Kosovo	0	2	0	2
Health and Social Services	0	0	5	5
Education	4	0	1	5
Public Procurement	0	3	0	3
Law enforcement monitoring Agencies	5	10	4	19

and Judiciary				
Public Finances and their management	3	5	5	13
Private Sector	2	1	5	8
Civil Society	1	0	10	11
International Cooperation	1	1	1	3
<b>Total</b>	<b>23</b>	<b>62</b>	<b>47</b>	<b>132</b>

Table 3. Review of the implementation of actions of the revised Anti-Corruption Action Plan 2009 - 2011, according to General Objectives of the Strategy against Corruption and strategic sectors, the reporting period January - June 2011.

Through the following graph are given by percentage (%) all activities performed, not performed and activities for which there was time for reporting, disaggregated by sector, as provided by the revised Action Plan for the reporting period January-June 2011:



While waiting for the last report of institutions pursuant to the current Action plan, which is due by December 2011, the KAA in the evaluation of Anti-Corruption Strategy and Action Plan 2009-2011 has made efforts to provide answers to these questions:

1. *Are the strategy objectives formulated in a way that they answer the needs to fight corruption at the certain time?*

General strategic objective of "Providing law enforcement through the proper approval and implementation of anti-corruption legal framework and other issues related to it" answered the needs for combating corruption at the certain time. However, the lack of adequate legal framework determined the expectation of this objective. The action plan itself has encompassed many actions or measures of legislative nature to fill the vacuum, and this has resulted in the approval of necessary laws and bylaws. The efforts nevertheless are not yet complete, and the process of adoption or improvement of the legal framework is still ongoing.

2. *Have the individual objectives of the strategy contributed to the change of corruptive phenomena (for better or worse)?*

Given that more than 50% of actions still need to be performed, the answer to this question should be completed after the final reports by institutions in December 2011 or January 2012. However, it is clear that besides mere implementation of legislative measures (adoption of laws and by-laws), the implementation of these continues to be an issue, that needs more attention in the next strategic period.

3. *Have interferences during implementation of the strategy helped/hindered the realization of the objectives, (for example the review of the Action Plan)?*

At the beginning of the implementation period, many responsible institutions have introduced specific Action plan objectives and measures that were part of their daily work within institutions, and not specific anti-corruption measures that would help the fight against corruption. As noted above, it was necessary to review for this very reason the Action plan.

Since the provided actions before reviewing the action plan had more of a legal character or have been legal actions, the review focused on harmonization of the overall Action plan with the Strategy. In this context horizontal and vertical priorities were re-organised and the review brought freshness to the Action plan itself, as it concentrated in the areas that are most susceptible to corruption. From that point of view, the review process helped the progress in implementation of the action plan, because it became more anti-corruption oriented with clearer objectives and measures that could be evaluated with help of measureable indicators. It remains that the adoption of the reviewed Action Plan reduced the second period of reporting (October-December 2010) and haven't left to institutions many time to properly assess the level of implementation.

## **The challenges in implementation of Anticorruption Strategy and Action Plan 2009-2011**

The challenges in implementing the Anti-corruption Strategy have always existed and are very much present. The Division for Legislation and Education at KAA was entrusted to monitor implementation as well as to collect reports from institutions involved in the Action Plan and also for evaluating and analyzing them.

From all activities performed so far, it cannot be asserted that the Strategy has been fully implemented. For this to be possible, the following challenges must be addressed in priority:

- 1) Inter-institutional co-operation and co-ordination;
- 2) Monitoring process should be strengthened and include pro-active engagement and collaboration of civil society through the organization of joint meetings and listening to their concerns, or, in cooperation with independent institutions and local government; and
- 3) Support and firm commitment to the implement objectives and measures of the Strategy and Action Plan is required from the top leadership in all public institutions, as well as from relevant independent and international bodies.

During the implementation of the Strategy the first important challenges of the implementation of such a complex document could be better met, It is obvious that inter-sectoral nature requires serious work and dedication for performance of actions by all institutions responsible under Action Plan. Therefore, KAA has continuously provided assistance to the contact points that had difficulties and uncertainties with the aim of improving their performance.

Fighting corruption is not a one-day battle, nor for a month, nor for a year. It is not only the duty of the Anti-Corruption Agency, Police, Prosecution, Court, Media or civil society alone. In this sense all must do their part in this joint effort.

## **Conclusions and recommendations**

From the evaluation of the implementation of Anti-Corruption Strategy and Action Plan 2009-2011, the following conclusions and recommendations can be drawn, which are supposed to be addressed during the preparation of the future Anti-Corruption Strategy and Action Plan (2012-2016).

- A significant number of actions included in the Action Plan are not implemented by the responsible institutions; in this respect, would be required a better action planning so that they are implemented in a timely and qualitative manner.
- There should be better liaison between the strategic objectives of the strategy and actions involved in the action plan so that they contribute to better implementation of these objectives.
- There should be more qualitative reporting by institutions in order to measure the results of activities involved in the action plan and their impact on preventing and combating corruption. For this purpose, sticking to indicators when assessing the progress is essential.
- In order to evaluate adequately the risks of corruption and measures taken to combat them, it should be reported more specifically on the impact of each action to reduce risks within the institutions and beyond, within a defined time frame (cycles of evaluation and risk-assessment).
- Institutions should indicate the extent to which activities have been implemented and if their purpose was completely fulfilled. If not, either activities shall undergo a review, or, in case of long-term goals, they should be re-scheduled and continue to be part of the future action plan.
- In order to make easier for institutions to measure the impact and fulfilling of the measures, the activities should be divided into three categories: short-term (one-two years), midterm (two-three years) and long term (four-five years).

On the basis of the above evaluation, and taking into account identified risks during the Corruption Risk Assessment process (see Annex 1), the new Anti-corruption Strategy 2012-2016 could have been proposed, consisting of General Principles, Key Priorities and Orientations, Horizontal (Cross-cutting) Objectives and Specific Sector Objectives.

## Chapter II - General Principles

Activities undertaken by all relevant actors in Kosovo in accordance with the new Anti-corruption Strategy shall be based on the following general principles:

Rule of Law and respect for Human Rights and Fundamental Freedoms: requires from all public authorities to abide by legally established procedures; enables citizens whose rights have been violated to ask for effective remedy on equal grounds; obliges institutions to implement relevant laws in force.

Political will: demands from high officials to effectively demonstrate political motivation to tackle the problem of corruption

Responsibility: obliges all competent bodies to take full responsibility in creation and implementation of anti-corruption policies, including implementation of this Strategy and corresponding Action Plan.

Good Governance, Accountability, Transparency and Integrity: require from institutions to put their policies in conformity with best anti-corruption practice; ensure each individual institution and its staff can be held responsible for their actions and decisions; underlines the need to have open institutions, in particular with respect to decision making and citizen's right to access public information; demand provisions and practices that abide by and implement ethical principles regarding institutional and personal integrity.

Political neutrality: reinforces institutional independence, impartiality and autonomy of public sector as a whole in order to function without undue external influence.

Effectiveness and Efficiency: implies that all institutions, within their scope of responsibility, constantly measure progress in implementation of measures, through which tangible results in preventing and combating systemic corruption can be achieved.

Co-operation: calls upon all institutions responsible for implementation of this Strategy and its corresponding Action Plan to co-operate in good faith and in accordance with adopted objectives and measures, which require inter-institutional co-operation.

Inclusiveness: obliges all responsible public authorities in Kosovo to improve and enhance co-operation with civil society.

Self-Assessment: asks for periodical evaluation and assessment of corruption risks by responsible institutions, in order to improve implementation of this Strategy and its corresponding Action Plan.

The above principles shall be further detailed throughout the Strategy, while manner and deadlines for their concrete translation into practice shall be clearly defined through the corresponding Anti-corruption Action Plan, which makes integrative part of this Strategy.

### Chapter III - Priorities and orientations for the new Strategy

Taking into account the lessons learned from implementation of the previous Strategy (2009-2011), and in accordance with general public perception of corruption in Kosovo, it became obvious that the new Anti-corruption Strategy should re-shift orientations and priorities in order to step-up the efforts in combating corruption in Kosovo.

- ***Addressing low level of trust in public institutions*** - political, judiciary and the administration - remains the main priority in building a credible state that functions in the public interest. Failing to properly tackle this challenge puts in jeopardy all efforts to obtain full international recognition and internal legitimacy. Therefore, transparency, the access to information, professionalism and independence must be further enhanced.
- ***Preventive policies and dissuasion mechanisms should be more encouraged.*** The existence of a functional public administration largely contributes to curbing corruption. The promotion of integrity, through words and practice, should be the responsibility of every public official and should be incorporated into each manager's daily duties. Ethics must be disseminated and taught.
- ***Level of implementation of laws should be stepped-up.*** Despite of adoption of new legislation addressing main shortcomings in anti-corruption area, there is still a huge implementation gap between the new texts and their enforcement. A part from the necessary political will to implement laws, adequate resources (human, infrastructural and financial) should be allocated for an institution to function effectively.
- ***Policy of sanctions should be reviewed in order to make them firm and effective.*** Priority must therefore be given to the following authorities: law enforcement agencies (police, tax and customs), prosecution and the courts. When it comes to the latter, increasing the independence of judges, reducing the current backlog of cases to show that justice is effective is key challenge. Prosecutors should enhance co-operation with the police and KAA on investigation and enforcement. Measures should be taken to make it obvious

that the law matters and that it applies to every citizen, and priority given to confiscation of illegally acquired assets.

- ***Co-operation with international community, EULEX in particular as well as with civil society*** is crucial for improving standards and reinforcing oversight of anti-corruption measures. This will help to strengthen Kosovo institutions' capacity to effectively tackle corruption phenomena and constantly improve their performance.

In accordance with the above, the new strategy orientations shall primarily consist of the following features:

- Prevention policies
- Importance of consistent implementation of adopted legislation
- Result-oriented objectives and measures, in particular those related to criminal prosecution of corruption
- Co-operation with civil society and international institutions
- Raise general awareness of professionals and public on the fight against corruption
- Monitoring effective implementation of the Strategy and its corresponding Action Plan

## **Chapter IV - Horizontal (Cross-sector) objectives of the Strategy**

### **Background**

The general objective of the previous strategy on “increasing integrity, transparency and accountability of public institutions” was only partially addressed in the last two years. Kosovo institutions still **lack the proper Integrity plan**, and the Office of the Prime Minister/Good Governance Office has initiated necessary preparations. It is expected that the forthcoming integrity framework shall bring, in addition to ethical rules, more detailed conditions and standards each individual public employee should respect in order to reduce risk of corruption at minimum. Apart from adoption of ethical codes in certain institutions the system for monitoring their implementation was not established, contrary to regional and international best practice.

Further privatisation of publicly owned companies increases the risk of corruption. Aiming at increasing **transparency in privatisation** process and reduce abuses, it is

important to strengthen systematic records on execution of privatisation contracts and promptly react in case of violation by the competent state bodies. In particular, the police and prosecutors' capacities in detecting and bringing evidence for corruption in privatisation should be strengthened. Special attention to **prevention of the conflict of interest in privatisation** shall be paid.

Key role in implementation of this Strategy lies on law enforcement bodies, prosecutors and Judiciary, while prevention is key function of the Kosovo Anti-corruption Agency, amongst others. However, besides strengthening their overall anti-corruption capacities (human, technical, financial), the precondition for successful implementation of the Strategy is their **co-ordination and effective co-operation in dealing with sensitive corruption cases**. Until now, progress in this field was noted, but improvement is needed in order to bring tangible results<sup>5</sup>. For this to happen, Heads of respective institutions need to take more responsibility towards concrete results in implementation of strategic objectives.

Kosovo continued to adopt anti-corruption legislation in accordance with international and more importantly European Union standards. However, some of these harmonised laws still need adoption of further implementing legislation, in terms of by-laws and regulations, as well as transforming legal requirements into institutional framework. Some others are missing for efficient fight against corruption, such as the so called "package of Anti-mafia laws". Further analysis of harmonisation of Kosovo anti-corruption legal provisions with UN Convention against Corruption (UNCAC) and Council of Europe Civil and Criminal Law Convention on Corruption is a priority for the next period.

Finally, external oversight of the implementation of the Strategy, and later on the Action Plan requires more pro-active role of both public institutions and civil society, who usually conducts such type of oversight. It is therefore imperative to create a system in which consultations with organisations conducting external oversight of the Strategy shall become more regular and their recommendations fully considered, because the credibility of the Strategy and its implementing Action Plan is at stake.

## Objectives

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<sup>5</sup> As noted in the 2011 EC Progress Report, „Cooperation between the Anti-Corruption Agency, the police and the prosecution needs to be further improved“ (see p.13 at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2011/package/ks\\_rapport\\_2011\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/ks_rapport_2011_en.pdf))

- *Advancing the integrity of public institutions and increasing the public trust in them; further strengthening of accountability and transparency*
- *Promoting the culture of good practice and the principle of zero tolerance for corruption in connection with privatisation*
- *Increasing efficiency and effectiveness of cross-sector and inter-institutional cooperation and establishing efficient co-ordination mechanisms for corruption detection, investigation and prosecution*
- *Further implementation of international anti-corruption standards in the legislative and institutional framework*
- *Encouraging efficient external monitoring for implementing the Strategy and improvement of co-operation with civil-society*

## Chapter V - Specific objectives for priority Sectors

### 1. Political Sector

#### Background

Shortcomings of the political sector, which were inherited from the previous Strategy 2009-2011 needs to be addressed first in the area of financing political parties. According to the EC Progress Report 2011, most political parties did not fully comply with their reporting obligations to the office for political party registration, while the Law on Financing Political parties is still in the procedure of amendments, in order to be in line with necessary standards<sup>6</sup>. Moreover, upon entry into force of the amendments, it is important to strictly monitor their implementation. The risk, however, consist of non applying adequate sanctions for omission to report.

The area in which a special attention should be paid is adequate management of conflict of interest and asset declarations. In other words, the huge discrepancy between declared assets and their origin still exist, and the legitimacy of acquiring assets is difficult to obtain. For these reasons, the KAA's capacities should be strengthened in the area of checking accuracy of declared assets, but also the regime of sanctions as well as legal basis for „false declaration“should be reviewed.

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<sup>6</sup> EC Progress Report 2011, see ref. under previous footnote, p.14

The Assembly of Kosovo should play more pro-active role in conducting oversight of anti-corruption policies of the Government and install regular practice of monitoring sessions of such policies by the competent committees.

An area in which political interference, as the risk for corruption is most visible is the one of the so called “political appointments”, falling under the competence of the Government. When proceeding with appointments to various regulatory agencies, governing boards of public enterprises or other bodies in exercise of executive authority, the Government should make proof of maximum transparency and adopt implement certain standards of professionalism. Because, applying only political criteria in appointments of such category of personnel continue to raise doubts in nepotism and clientelism.

#### **Objectives**

- *Improving the framework for financing political parties and financial reporting of election campaigns*
- *Reducing the gap between declaration and origin of assets of senior public officials*
- *Enhancing parliamentary oversight of anti-corruption policies*
- *Increasing transparency regarding appointments to managerial positions in bodies under government competence*

## **2. Local Government**

### **Background**

Same risk of corruption related to over-politicisation of executive appointments can be detected in municipalities, where directors of departments are appointed by the mayor exclusively based on political criteria. In addition to developing integrity framework for local level of governance, the introduction of procedures in which professionalism will also be considered in appointment procedures seems necessary.

Comprehensive anti-corruption programs in municipalities needs to be developed, in order to encompass in one single and detailed document all measures that must be implemented at municipal level, focusing primarily on prevention of corruption and transparency of the work of municipal organs.

## Objectives

- *Promoting integrity and professionalism of local government*
- *Reinforcing transparency of the work of local government and encouraging participation of civil society*
- *Ensuring accountability for implementing anti-corruption measures at local level*

### 3. Central Administration

#### Background

Although the previous period was characterised by adoption of necessary legislation guaranteeing merit-based recruitment and independence of public administration, the thorough analysis of the situation finds that legal framework is still very much compromised with political interferences. A study finds a difference between how the hiring of civil servants is conducted versus what is stated in the law<sup>7</sup>.

In addition, public administration still lacks proper internal channel to allow whistleblowers' reporting, without fear for retaliation. Laws and procedures on public administration should guarantee those channels and offer protection on those who report irregularities in good faith.

The next period shall also require stronger control of implementation of ethical code for public administration, in order to efficiently fight against corruption phenomena such as nepotism.

Last, but not least, Education and Health, as well as Environment and Spatial Planning continue to be vulnerable to corruption, which is still being considered as "widespread" and where major efforts are needed for proper addressing the problem<sup>8</sup>. One of these, still lacking from the previous strategy was the adoption of sector anti-corruption programs addressing necessary elements proper to these particular areas of central administration.

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<sup>7</sup> See Report by Transparency International „EU Anti-Corruption Requirements: Measuring Progress in Albania, Kosovo, FYR Macedonia, Turkey“, 2011, p.11, at [http://www.transparency.org/regional\\_pages/europe\\_central\\_asia/projects\\_and\\_activities/cimap](http://www.transparency.org/regional_pages/europe_central_asia/projects_and_activities/cimap)

<sup>8</sup> EC Progress Report 2011, see p. 14

## Objectives

- *Building a professional public administration free of political interference*
- *Enabling disclosure of irregularities within each public institution, and offering protection in accordance with international standards*
- *Implementing ethical codes in public administration and combating nepotism*
- *Providing special anti-corruption measures for Health, Education, Taxation, Environment and Spatial planning sectors*

## 4. Law enforcement, Prosecution, Judiciary

### Background

Law Enforcement Agencies, Prosecutors and Courts have one of the most important roles in prevention, detection and combating corruption. How efficient these bodies are in this endeavour will impact on **overall trust of the citizens** in the work of public institutions. Therefore efforts should be structured, focused and result-oriented in the next five years, while additional resources to of all bodies in the chain of criminal prosecution should be allocated to improve their administrative, financial and human capacities.

Another important condition for success in combating corruption is continuous strengthening of **independence of judiciary**. The Kosovo Judicial Council is now functioning institution and it should have pro-active approach when supervising implementation of the rules on recruitment of judges, while external monitoring of its performance can help in increasing transparency and credibility. Also addressing corruption within judiciary, police and prosecution, and strengthening internal control and disciplinary mechanisms should be priority in terms of confidence-building measures. Additional **anti-corruption policies and measures must be introduced within correctional services**, which did not so far plan or implement any of such measures.

At this stage of development of anti-corruption policies, a set of anti-mafia laws are being discussed. Amongst them, the **Law on Confiscation of Assets obtained through criminal activities** has been discussed, and it is supposed to be in line with best international practice, in particular **addressing the issue of reversed burden of**

**proof**<sup>9</sup>. Comparative practice also knows the institute of “extended confiscation”, which can be debated and considered as well. However, actual capacities of criminal prosecution apparatus, including the Agency on managing Sequestered or Confiscated assets are not sufficient to apply consistently the future norms. Therefore, a plan of strengthening those capacities, namely **increasing human, technical and financial means for police and prosecutors** should be prepared. Efficiency of anti-corruption task force of prosecutors and police in common investigation should be increased.

#### **Objectives**

- *Increasing the level of efficiency of law enforcement, prosecutors and judiciary to prevent, detect and combat corruption*
- *Enhancing professionalism, independence and integrity of law enforcement, prosecution and judicial institutions*
- *Further suppressing of corruption inside law enforcement, prosecution, courts and correctional services (prisons)*
- *Improving and implementing criminal mechanisms for combating corruption in accordance with highest criminal law standards*

## **5. Public finances and their management, Public procurement**

### **Background**

In previous years, improved structures have been created for the implementation of financial management and control, and independent units have been set up for internal audit. In order for the above-mentioned institutions to carry out their duties to a high quality, continuous improvement of capacities is needed. It is of utmost importance that the Tax Administration contributes through its transparent activities, to preventive action and reduction of the risk of corruption.

Further initiatives to combat informal economy are required, in particular regarding the use of fiscal cash registers. Tax authority and KAA should link the data on assets from official records, thus increasing possibility to compare data provided by high

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<sup>9</sup> See the Policy Paper no. 2011/05 of the Kosovar Institute for Policy Research and Development (KIPRED), Confiscation of Illegally obtained property, April 2011, p. 11, at [http://www.kipred.net/web/upload/Confiscation\\_of\\_illegally\\_obtained\\_property.pdf](http://www.kipred.net/web/upload/Confiscation_of_illegally_obtained_property.pdf)

public officials on their declared assets and contribute to increased accuracy of declarations. Also, the Tax Administration should be able to more easily and efficiently follow changes in the status of assets of citizens and legal persons. In the Customs, implementation of the sector anti-corruption action-plan must be enhanced.

The recent revision of the Public Procurement Law in accordance with European Standards and a significant increase in public audits from the Office of the Auditor General are important steps forward towards reducing corruption. However, risks identified in this area shows that still it is one of the most vulnerable to corruption in Kosovo, in particular regarding forging of tenders. Therefore, companies are recommended to use a specialised public procurement tools and programs aiming at increasing transparency and oversight in order to mitigate the corruption risks associated with public procurement in Kosovo.

#### **Objectives**

- *Transparency, efficiency and rationality in public expenditures and donations*
- *Preventing corruption and misuse of public wealth and implementing existing anti-corruption legal framework for public finances*
- *Preventing and combating corruption in Public Procurement*

## **6. Private sector and business environment**

### **Background**

This is the sector in which least progress has been achieved in recent years, and very few measures have been implemented during the Strategy cycle 2009-2011. Sometime due to the lack of understanding from public actors, sometime the passive attitude of business associations and similar structures, the Action plan activities remained mainly unrealised. Therefore, the particular attention should be paid because “prevalent corruption” still remains an issue in business environment<sup>10</sup>.

However, some improvements consist in creation of one-stop shops to reduce possibility for corruption, as interaction between civil servants and companies decrease. Nevertheless, further elimination of business barriers, development and

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<sup>10</sup> See, EC Progress Report 2011, p. 29

implementation of the code of conduct for businesses are just some of necessary measures that must bring more results in the next period. Better co-operation of public bodies with professional associations of private sector should also contribute in bringing more positive results.

In addition, the Competition authority, as functioning under the new Competition Law in accordance with European standards, must be further strengthened, as it has no experienced staff and no adequate premises. More advocacy on competition rules among small and medium enterprises, as well as better definition of the dominant market position seem to be priorities for the private sector in the forthcoming period.

#### **Objectives**

- *Diminishing risks for corruption through further improvement of regulations for business registration*
- *Promoting and increasing joint anti-corruption efforts between the private sector, public sector and civil society*
- *Promotion and implementation of standards of business ethics*

### **7. Civil society and Media**

#### **Background**

Co-operation with civil society in monitoring anti-corruption policies up to now had only limited effects. Thus, there is a need for improvement of co-operation and intensifying dialogue between public authorities and NGOs regarding anti-corruption activities. This is particularly important in the field of analysing anti-corruption laws, instruments and implementing measures of the Action Plan.

Given that Media have increasing role in combating corruption, the development of investigative journalism remains a priority. To encourage such type of reporting, a partnership between public authorities and media seems to be a prerequisite for success, and it can also reflect the need to transmit anti-corruption messages and conducting campaigns. However, journalists investigating corruption cases may be exposed to additional risks. Therefore, security of journalists is also a pre-condition for objective reporting; while in parallel attention ought to be paid at respecting ethical rules of journalists.

### **Objectives**

- *Strengthening the co-operation between public institutions and civil society in monitoring the implementation of anti-corruption policies*
- *Promoting civil society participation in decision-making process of public institutions*
- *Promoting investigative journalism*
- *Increasing the level of co-operation between public institutions, civil society and media in raising awareness on corruption*
- *Enabling co-operation with relevant institutions and international institutions and mechanisms for harmonizing of the legal framework against corruption*

## **Chapter VI - International and Regional Co-operation**

### **Background**

Kosovo participates to some extent in international anti-corruption activities due to the limited access to international legal instruments, as state party. However, it is important to continue adoption of international standards in the field of anti-corruption, in particular regarding the UN and Council of Europe Conventions.

In the next period, areas in which co-operation should increase are the ones regarding anti-corruption conditions and measures necessary for obtaining the visa-liberalisation road map. International activities that should increase in that sense concern, but are not limited to, protection of personal data, border management, asylum and migrations, prevention and control of illegal immigration, money laundering and financing of terrorism, co-operation regarding illegal narcotics, prevention and combating organised crime etc. Multilateral and bi-lateral co-operation in these fields, with assistance of EULEX and other international presences in Kosovo must be given a priority.

### **Objectives**

- *Active participation in the work of international and regional organisations and initiatives in the field of anti-corruption*
- *Encouraging implementation of UN Convention Against Corruption and adopting timeframe and strategy for implementation of the Council of Europe Civil and Criminal Law Conventions against Corruption*

- *Strengthening operational co-operation with other states and organisations, and using EULEX presence to improve domestic capacities for international anti-corruption operations.*
- *Improving bilateral co-operation through implementation of concrete anti-corruption activities; Implement and conclude new bilateral agreements*

## Chapter VII - Monitoring and Implementation

The main instrument for implementation of the Anti-corruption Strategy remains its corresponding Action Plan, which makes integral part of this document.

In accordance with the general and specific objectives established for each priority sector, including both horizontal and vertical priorities of the Strategy, the Action Plan was designed to implement these objectives through specific and concrete anti-corruption measures. It consists of (...) specific action-plan objectives and (...) measures, together with (...) tangible success indicators and clear and realistic timelines. When the timelines are indicated as „ongoing“, it implies that the progress in such measures is supposed to be reviewed annually, in co-operation with corresponding institutions.

The KAA is responsible for monitoring and controlling implementation of the Strategy through measures envisaged in the Anti-corruption Action Plan. Having in mind some lessons learned from the precedent period of implementation (2009-2011), and in order to increase efficiency and ownership of institutions for implementation of measures from the Action Plan, the process of implementation of the Strategy and Action Plan shall be re-organised and based on the following premises:

- The KAA, in co-operation with contact points in each corresponding institution, including civil society organisations and professional associations tasked to implement the measures from the Action plan shall, within 30 days from adoption of the Strategy and Action Plan adopt detailed work plan for annual implementation of each measure. Such work plan should become integrative part of the annual work plan of each institution and be endorsed by the Heads of responsible institutions. It goes without saying that appropriate financial support for implementation of defined measures shall be secured, but also assistance from international community for complex measures may be requested.

- The KAA and its contact points shall focus on effects of adopted measures, and in this sense prepare not only on quantitative, but also qualitative monitoring reports based on success indicators identified in the Action Plan. For the purpose of preparation of qualitative evaluation of measures, the KAA and contact points may be inspired from experience and methodology of civil society organisations for qualitative monitoring. It implies increased level of co-operation and co-ordination with civil society organisations, as proposed in the Strategy.
- Upon establishing of the co-ordination body composed of heads of key anti-corruption institutions, as envisaged by the Strategy, the implementation of complex measures implying higher degree of co-operation between institutions shall be discussed within this body. Such measures, due to their cross-cutting nature share many challenges and require structured and systematic communication between responsible leadership of institutions, with clearly defined roles and responsibilities.
- Regarding implementation of specific anti-corruption education and training measures, the KAA shall, within 30 days from adoption of the Strategy and Action Plan in co-operation with responsible institutions, civil society and international community discuss and establish the annual work plan for conducting education and training activities.
- The six-monthly reporting to the KAA shall be maintained, but overall awareness of the public and institutions on the level of implementation of Strategy objectives and measures from the Action plan must be increased. Therefore, in parallel to regular submission of annual reports on overall implementation of the Strategy to Kosovo Assembly, the KAA can conduct a series of activities in order to raise public trust and ownership towards anti-corruption policies and results of the strategic documents. These activities may consist of, but not limited to, the following:
  - Organisation of a press conference for a limited participation from mass media organisations in order to generate interest towards the national anti-corruption policies. This event can correspond to the “Anti-corruption day” in December each year, when results in implementation of the Strategy and Action Plan can be discussed.
  - Organisation of an international conference to raise awareness about the importance of the issue and inform public about the recent developments in the field of anti-corruption.

- Improvement and regular maintenance of the KAA web-page, which shall include updated versions of the Strategy and Action Plan, as well as key international and national documents in Albanian, Serbian and English language.
- Publication of articles and op-ed columns about anti-corruption measures from the Action Plan

The KAA shall revise the Action Plan after first two years of implementation (2012-2014) in accordance with new priorities and needs for inclusion of bigger number of institutions in implementation of the Strategy.

Finally, at the end of 2016 an evaluation of impact of this Strategy on anti-corruption efforts in Kosovo shall be conducted, in order to better prepare the next strategic cycle. For this purpose, the KAA and relevant institutions shall take into account the evaluation framework, as attached in Annex 2 to this Strategy.

## **CONCLUSION**

The new Strategy 2012-2016 and its corresponding Action Plan are placed in the context of evolution of the Kosovo society, where the responsibility for prevention and combating corruption does not belong equally to all. However, each institution, sector or profession have their own tasks, while particular responsibility lies on law enforcement and prosecution authorities, as well as judicial bodies whose consistent commitment and performance are of crucial importance for success in fighting corruption in Kosovo. This, nevertheless, should not diminish the importance of prevention and education.

For the first time in Kosovo a Strategic document has been based on a thorough analysis and risk assessment by the institutions themselves and not only on perception or evaluation by international actors. In order to be successful, implementation of the Strategy must be tackled seriously, and imply political will and financial commitment of the Government of Kosovo. In this endeavour, appropriate funding from international community may be sought.