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Development and Integrity



# ASSESSMENT



# OF CORRUPTION

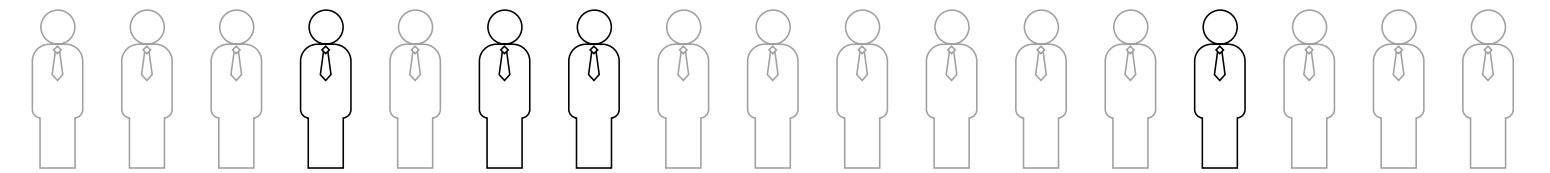
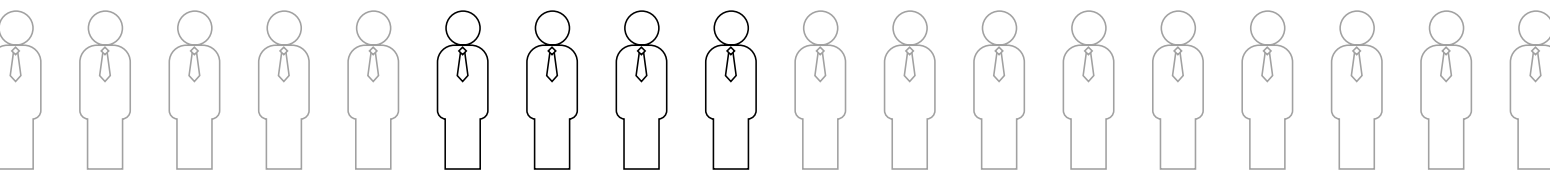
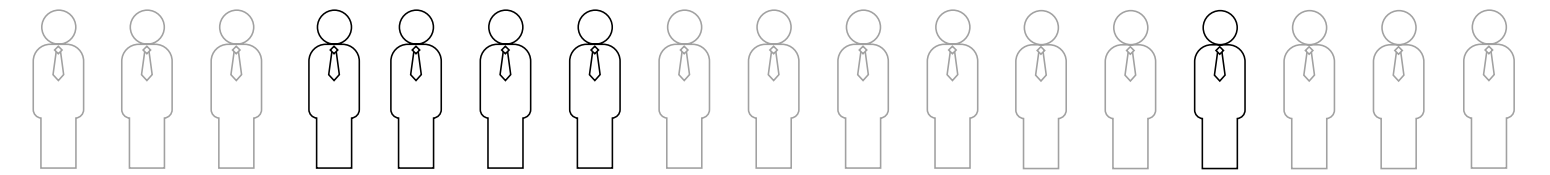


# IN KOSOVO

2016







**ASSESSMENT**

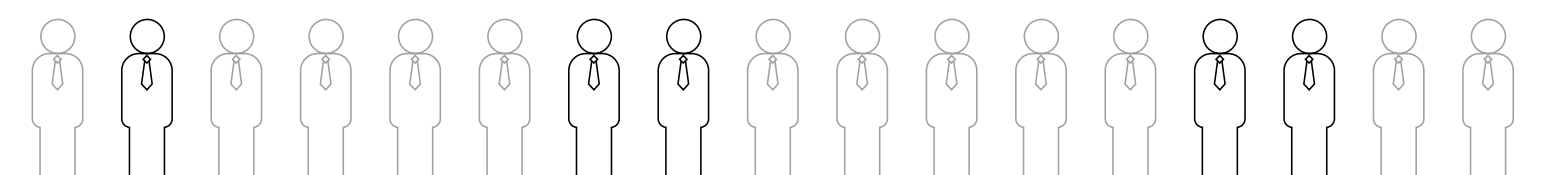
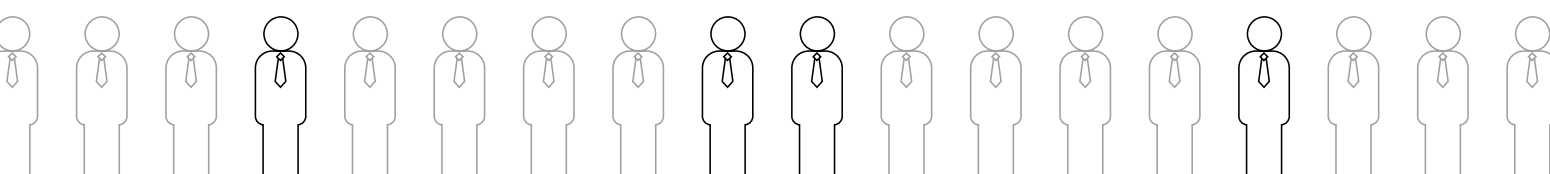
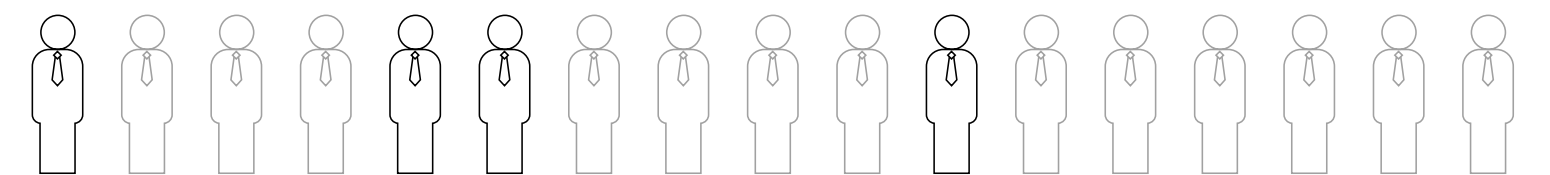


**OF CORRUPTION**



**IN KOSOVO**

2016



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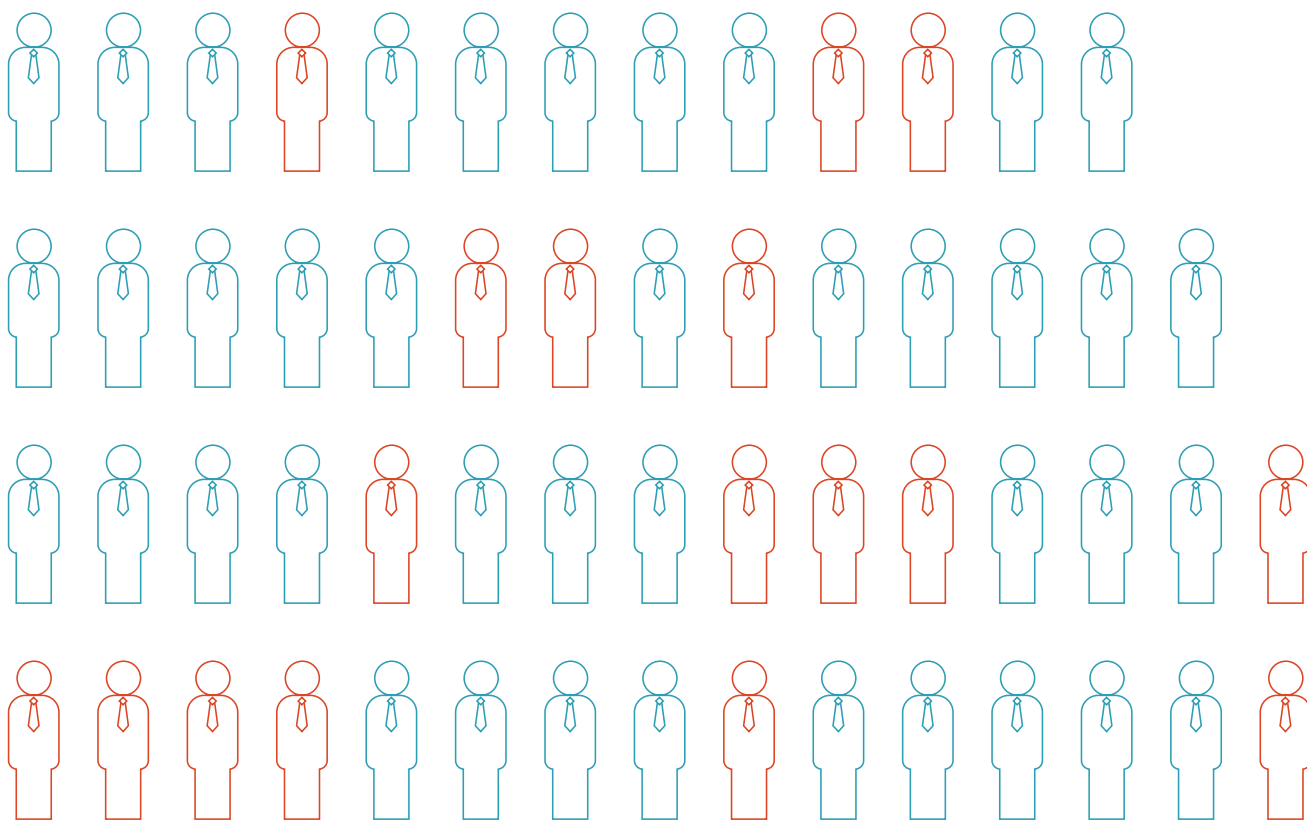


# ABBREVIATIONS

<b>ACA</b>	→	Anti-corruption Agency
<b>BIRN</b>	→	Balkan Investigative Reporting Network Kosovo
<b>CSO</b>	→	Civil Society Organization
<b>CAR</b>	→	Country Assessment Report
<b>EC</b>	→	European Commission
<b>EU</b>	→	European Union
<b>EULEX</b>	→	European Union Rule of Law Mission in Kosovo
<b>GRECO</b>	→	Group of States against Corruption
<b>KDI</b>	→	Kosova Democratic Institute
<b>NGO</b>	→	Non-governmental Organization
<b>OAG</b>	→	Office of the Auditor General
<b>ODC/ODP</b>	→	Office of the Disciplinary Counsel/Prosecutor
<b>OSP</b>	→	Office of the State Prosecutor
<b>SEE</b>	→	South-eastern Europe
<b>PPRC</b>	→	Public Procurement Regulatory Commission
<b>PRB</b>	→	Public Review Body
<b>UNDP</b>	→	United Nations Development Programme
<b>UNCAC</b>	→	United Nations Convention against Corruption

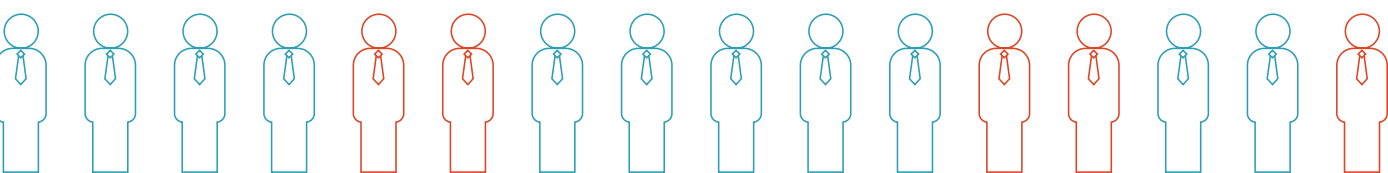
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# Preface

Corruption is a global phenomenon. In a given state, it may take different forms and dimensions, depending on socio-economic conditions or the nature of its institutions. It has rapidly spread in developing countries, particularly hitting hard those struggling to transition from centralised to market-led economies, or those emerging from violent conflicts. Kosovo is one such example. Situated in a region where democratic processes and the creation of a society with transparent and accountable institutions are being hampered by the phenomenon, Kosovo has continuously tried, mainly unsuccessfully, to take corruption under control.

The results of the survey portray a particularly worrisome picture with regard to public perception of corruption in Kosovo, showing that the majority of people consider many sectors of society and segments of government to be tainted with corruption.

Riinvest Institute is publishing this study as its second issue of the *Corruption Assessment Report* series, implemented through the collaboration of the South-eastern European Leadership (SELDI). SELDI is an anti-corruption and good governance coalition involving partners from nine countries of the region on the basis of joint strategy.

The purpose of this report is to contribute to the knowledge which would facilitate the implementation of adequate anticorruption policy measures (and not arbitrary). The study provides in-depth assessment of corruption and anticorruption in Kosovo. The two major parts of this study are (1) the discussion of the findings from the primary research, and (2) the review of the political and institutional (anti) corruption developments in Kosovo.

Research findings provide valuable information that can be utilized by a wide range of actors, including, most importantly, the institutions responsible for drafting policies and strategies to fight corruption. The conclusions presented hereinafter focus on raising awareness for these institutions and the society as a whole on the perception of corruption in Kosovo, and the need for all to fight it together.

The corruption situation in Kosovo is strikingly similar to that of its regional neighbours. The phenomenon is proving to be a serious impediment to the advancement of

democratic processes and the creation of a society with functional, transparent and accountable institutions. This worrisome picture is confirmed by the survey results. The results suggest that Kosovans have a good understanding of what constitutes corruption, have become more sensitive to instances of corruption, and with some minor exceptions, their levels of understanding on the issue have increased since the previous survey conducted in 2014.

The main recommendation that stems from this report is the urgent need to approach the fight against corruption with high priority by all the relevant actors. The necessity for a comprehensive strategy that will be enforced and not only compiled as a requirement for the EU integration is of the utmost importance.



# Introduction

Understanding the changing dynamics of corruption and obtaining reliable information about it are central pieces of a successful fight against it. Historically, the corruption phenomenon has hardly been tractable, and the necessity of different stakeholders of the society to contribute to a common fight remains vital. The civil society, being one of these stakeholders, is a powerful force in raising public awareness, driving policy reforms, and engaging the government in a serious anticorruption mission.

The topic of corruption is not new for Kosovo. Scrutinizing the corruption environment and developing policy tools against it remains a continuous struggle for the rule of law in the young country. The distant prospect of joining the European Union gives Kosovo a framework to follow, however it is the local actors that are responsible for implementing this fight and creating an optimistic sentiment for development.

With the purpose of contributing to the knowledge which would facilitate the implementation of adequate anticorruption policy measures, this study provides an in-depth assessment of corruption and anticorruption in Kosovo.

The two major parts of this study are (1) the discussion of the findings from the primary research, and (2) the review of the political and institutional (anti) corruption developments in Kosovo.

As a result of the work of Riinvest Institute within the Southeast Europe Leadership for Development and Integrity (SELDI), this is the second *Corruption Assessment Report* from Kosovo that employs the *Corruption Monitoring System (CMS)* as the primary research strategy to evaluate corruption.

CMS is a corruption research methodology developed by SELDI and introduced in the beginning of 2000s, a time when corruption assessment was constrained to the evaluation of public perceptions. The important contribution of CMS is the introduction of measures that assess citizens' direct experiences with corruption practices.

The second part of the study discusses the institutional, legislative and political developments in Kosovo, with a special focus on the actual results reached. As will be noted in this

section, the insufficient progress in ensuring independence in the judiciary and its lack of trained and qualified staff, a rather limited success of the reforms in public procurement, and limited institutional functioning, have resulted in a revisiting of the same problems addressed by the first Corruption Country Assessment Report of Kosovo (Riinvest 2014). So, this part of the report also takes the opportunity to review the extent to which the recommendations from the first Corruption Country Assessment were implemented.

The study is organized as follows: the first section presents (1) the research methodology used and explains the structure of the Corruption Assessment indexes generated. The second section summarizes (2) the results of the survey, separated in three main categories: Experiences with Corruption, Attitudes towards corruption and Public Perceptions. The second main chapter of the study discusses the recent corruption and anti-corruption developments in Kosovo through four sections that discuss the (3) Anticorruption Policies and the Regulatory Environment, the (4) New Anti-corruption strategy and Action Plan, the (5) National bodies contributing to the fight against corruption, and finally the (6) Law enforcement and institutional practices. At the end, the report provides a (7) Conclusion referring to a summary of findings and provides (8) recommendations accordingly.

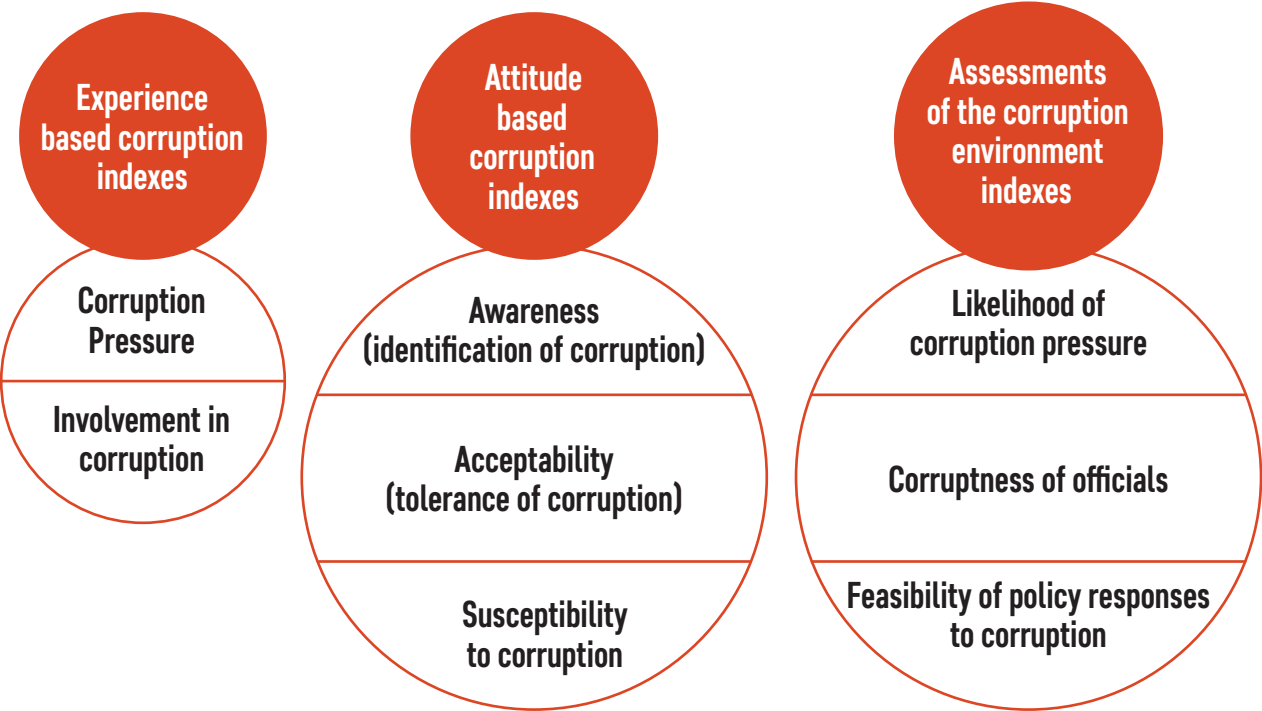
# Methodology

This report is based on primary and secondary data. Primary data included a survey of adult Kosovar citizens, which was conducted between February and March 2016. The sample covers responses from 1000 respondents, randomly collected across Kosovo following the Corruption Monitoring System (CMS) methodology. CMS assesses corruption, beyond the usual practice of assessing public perceptions, by using measures that account for direct experiences of individuals with corrupt officials. CMS is a strategy that is used by all SELDI partners and provides comparability of data across countries through tracking the level of corruption, public attitudes, assessments and expectations since

2002. Corruption indexes are the most important indicators that come as an outcome of the surveys and summarize three groups of concepts:

- **experience,**
- **attitudes, and**
- **perceptions**

**FIG. 01 Structure of the Corruption Monitoring System Indexes**



The CMS indexes, disaggregated in Figure 1, measure administrative corruption which for the purposes of this study is defined as 'the extension of benefits (money, gifts, and favours) by citizens in exchange of services they obtain by public officials' (SELDI, 2014). Each of the main indexes of CMS's strategy consists of sub-indexes explained below.

- **Experience** based corruption indexes are disaggregated into two indexes:

- *Corruption Pressure* which reflects the cases of citizens who either directly or indirectly have been asked for an informal payment. Typically, results show that pressure is a decisive factor for involvement.
- *Involvement in Corruption* which evaluates the cases when the citizens provide informal payment to public officials. Questions used in generating this indicator are referred to as victimization questions and separate responses into two categories: people who have not had an experience with administrative corruption (not made any informal payments), and those that did have at least one experience.

- **Attitude** based corruption indexes expresses the overall political and social atmosphere in the country, while to some degree these indexes are expected to be paired to involvement in corruption (positive attitudes towards corrupt behaviour would be paired with higher levels of involvement in corruption). Attitude indicators used in the CMS are:

- *Awareness (Identification of Corruption)* reflects the citizens' level of understanding of what makes behaviour corruptive- or the knowledge component. There are three levels of awareness depicted: high (all corruption behaviour is identified), moderate (many of corruption practices are identified), and low (few corruption patterns are identified).
- *Acceptability of Corrupt Behaviour* shows the tolerance towards corruption. It assesses acceptability of having public officials receive some sort of rewards in exchange for their service.
- *Susceptibility to Corruption* reflects the tendency of respondents to react to two hypothetical situations- one involving the role of public officials to accept or deny the bribe offered, and the second asks if bribe would be an option if one had a major problem to solve.

**FIG. 02 Interaction between corruption indexes**



- **Perceptions** show the general level of trust and sentiment towards corruption in the society. This dimension is disaggregated in three indicators.

- *Likelihood of Corruption pressure* that measures the citizens' expectations about the likelihood of facing corruption pressure by public officials.
- *Corruptness of Officials* captures the integrity reputation of different groups of public officials. So, this indicator provides an assessment of attitudes of citizens towards public officials and shows the sectors most affected by corruption.
- *Feasibility of Policy Responses* evaluates the potential public trust in government's fight against corruption as well as public's support for anti-corruption policies.

The interaction between the corruption indexes in the CMS strategy is visualized in Figure 2. In this figure, corruption perceptions and experience with corruption move in the same direction since changes in perceptions are triggered by changes in the experience with corruption. Corruption attitudes, on the other hand, move on the opposite direction with corruption perceptions- demonstrating a lower acceptability of corruption with more negative perceptions of corruption and greater corruption experience.

# 1

## Experience with corruption

In the CMS results, **experience** of citizens with corruption is picked up in two categories of indicators: indicators related to (1) **corruption pressure** and (2) indicators related to **involvement in corruption**. The former category generates indexes that reflect how often citizens were directly asked by public officials to pay a bribe. Such cases are referred in this study as victimization from corruption pressure. The second type of indicators estimates the involvement in actual cases of corruption and accounts for three types of briberies, including 'Giving cash to an official', 'Doing an official a favour', and 'Giving gift to an official'.

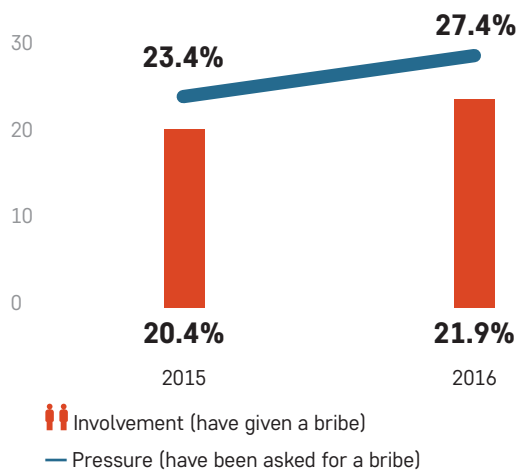
Corruption **pressure** and **involvement** in corruption are indexes jointly analysed in this model within the concept of **experience** with corruption because SELDI CMS regional data have shown that pressure is a vital factor that leads to involvement. In the majority of cases, corruption transactions occur after corrupt officials have initiated the act by asking for a bribe. These particular indexes show levels of corruption for the year preceding the implementation of the 2016 survey, as respondents were asked about their experiences in the previous year.

Figure 3 shows that the rates of experience with corruption in Kosovo for the preceding year of the survey implementation (2015) are high. Almost two thirds (27 percent) of the population claim that they have been asked for a bribe, and over one fifth (22 percent) claim that they have given a bribe. The same indexes, in the 2014 CMS results reach slightly smaller shares (23 percent pressure and 20 percent involvement).

It is clear from these data that corruption is a systemic characteristic of public institutions in the country, although, due to the lack of longer CMS time series, it cannot be concluded that experience with administrative corruption in Kosovo faces an increasing trend.

**FIG. 03 Corruption pressure and involvement in corruption**

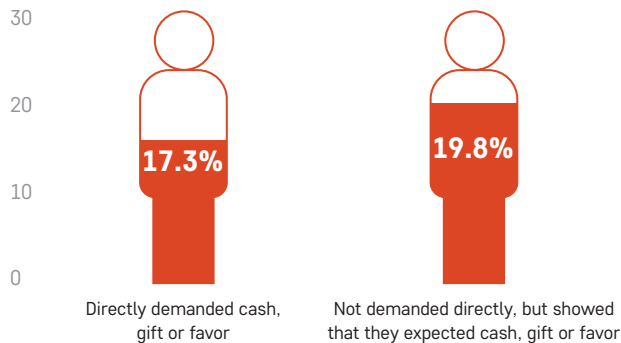
(% of the population 18+ who have been asked to give and have given a bribe (money, favour, gift) in the last year)



SOURCE: SELDI/ CORRUPTION MONITORING SYSTEM 2014, 2016

### FIG. 04 Explicit and Implicit corruption pressure

(% of population 18+ who have been asked directly and indirectly for a bribe in the preceding year)



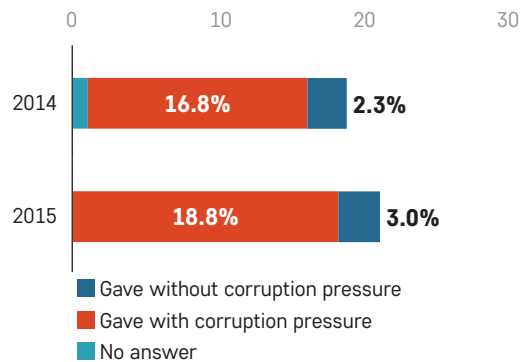
SOURCE: SELDI/ CORRUPTION MONITORING SYSTEM 2016

Corruption pressure can either take an explicit or implicit form, depending on whether asking for a bribe has been a direct request from public officials, or whether the request for bribing was only implied. Figure 4 shows that in Kosovo, pressure for bribing has occurred through both direct and indirect scenarios, indicating that corruption instigation is not an extraordinary occurrence in the operation of the public administration.

Figure 5 shows that involvement in corruption is a vital determinant of corruption transactions, and the vast majority

### FIG. 05 Involvement in corruption with or without corruption pressure- Kosovo

(% of the population 18+, who have given a bribe with or without corruption pressure)



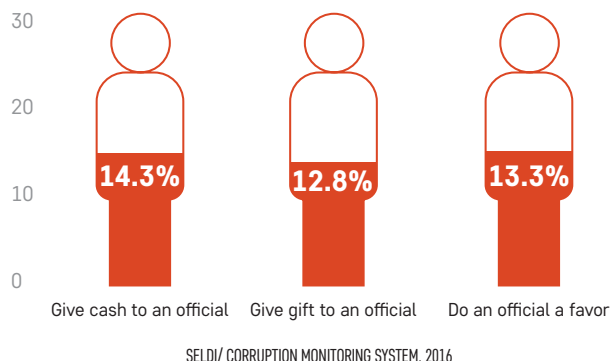
SELDI/ CORRUPTION MONITORING SYSTEM 2014, 2016

of those that paid bribes were pressured to do so. Societies with high pressure and high involvement in corruption are characterised with low resilience to corruption. In return, bribery becomes a way of easing the way to public services.

The experience of Kosovo citizens with different types of bribing is demonstrated in Figure 6. Within the three types of briberies assessed, the Kosovar shares of population who have given cash, gifts, or favours are 14, 13, and 13 percent, respectively. On average, these results are 3 percentage points lower than those of CMS 2014.

**FIG. 06 Involvement in corruption and types of bribes**

(% of population who have given money, gift, or done a favour to an official in the preceding year)



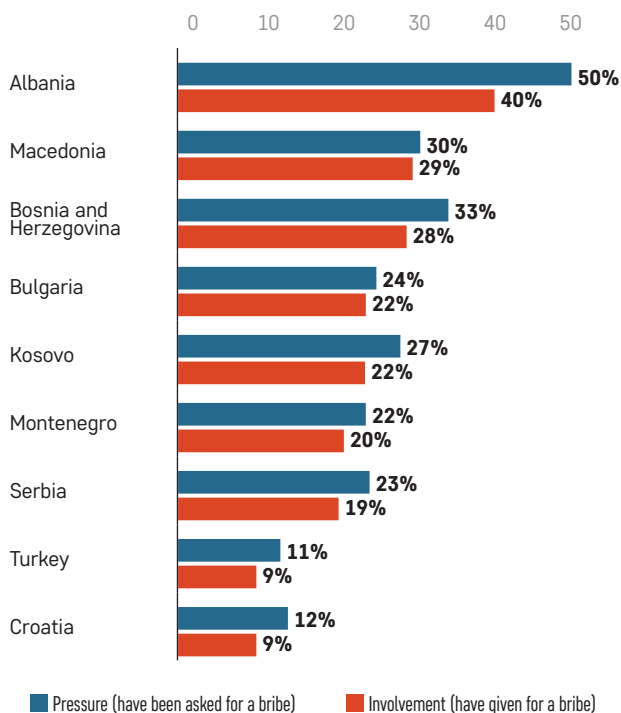
A country- comparison of the experience with corruption between SELDI partners, shows that administrative corruption in Kosovo is at a comparable level with the region. Figure 7 illustrates the involvement in corruption for all SELDI partners and places Kosovo's corruption level between Bulgaria and Montenegro, at a median point of the overall list. The ordering is done based on the share of population who were involved in corruption, whereas if the countries are sorted based on corruption pressure, Kosovo would be ranked one position higher.

The ranking shows that Albania is the highest ranked country on both corruption experience indexes. It has the largest share of population that were either *involved* in corruption or experienced corruption *pressure*. Whereas, on the other end of the ranking stand Turkey and Croatia, both countries that have the lowest share of reported corruption level for CMS 2016 and 2014.

In this section of **Experience with corruption**, the two main indexes discussed (involvement in corruption and corruption pressure) showed a sizeable share of population affected by corruption. The findings further point out that pressure is a vital determinant of corruption transactions (involvement), and that in most cases, bribes are given as a response to initiation of the act by corrupt public officials.

**FIG. 07 Corruption pressure and involvement in corruption in the region**

% of the population 18+ who have been asked to give and have given a bribe (money favour, gift) in the last year

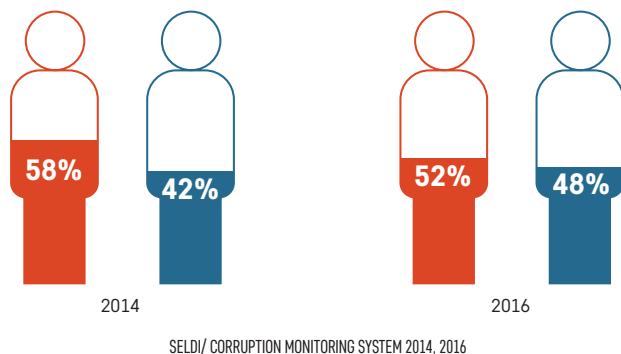


SOURCE: SELDI/ CORRUPTION MONITORING SYSTEM 2016

# Attitudes towards corruption

**FIG. 08 Acceptability of corruption**

(% of the population 18+, who accept or do not accept different forms of corrupt behaviour)



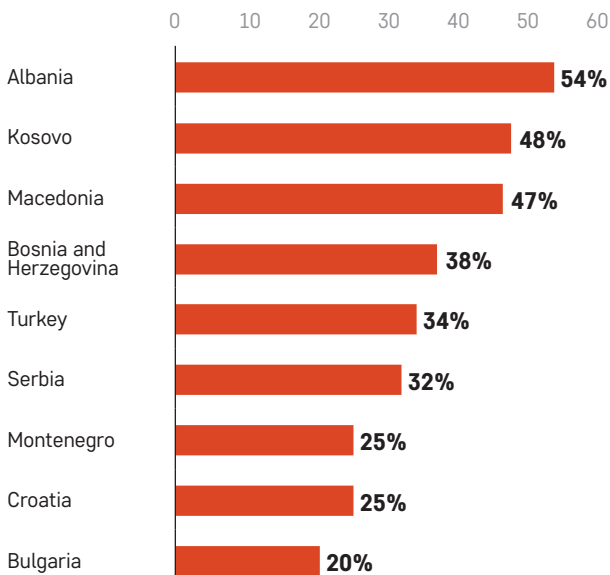
**Attitudes** reveal the society's stance with regards to the phenomenon of corruption. The mind-set of the people in the CMS is captured through three attitudes indexes: (1) **acceptability** – measuring how acceptable is corruption for the citizens, (2) **awareness**– reflecting the degree to which corrupt activities are recognized for violating legal conduct, and (3) **susceptibility** to corruption– presents the integrity of citizens, or their likelihood to give or accept bribes.

Figure 8 shows that almost one in two citizens in Kosovo would accept some type of a corrupt practice, confirming a high level of tolerance towards administrative corruption. In addition, the extent to which corruption is engrained in the system is further demonstrated by the 6 percent increase of the **acceptability** of corruption from CMS 2014 data to 2016.

A country-comparison reveals that acceptability of corruption in Kosovo is high relative to the acceptability of corruption in the other countries in South-eastern Europe. Sorted based on the share of population that accept different forms of corruption among SELDI partner countries, Kosovo is ranked as the country with the second most tolerant population towards corruption, with only Albania ranked higher (Figure 9). This dimension raises concerns of Kosovo's social responsiveness to the issue of corruption, as well as the civic awareness of the repercussions of a corrupted administration for the development of the country.

**FIG. 09 Country- comparison of the acceptability of corruption**

(% of the population 18+, who accept different forms of corrupt behaviour)



SOURCE: SELDI/ CORRUPTION MONITORING SYSTEM, 2016

**Awareness of corruption**, the second index within the concept of **attitudes**, presents another important indicator in the assessment of the corruption phenomenon. Although awareness is not directly related to the level of corruption in the country, it shows the extent to which corruption is a topic of social debate and how visible the fight against it is in the country.

Respondents were asked to evaluate whether the actions listed in Table 1 are examples of corruption. The responses show that, in general, there is an improved recognition of corrupt activities from year 2014 to 2016.

Table 1 presents the awareness of respondents of what activities they consider as corrupt. Small improvements on the ability to identify corrupt activities from the 2014 survey to the one in 2016 are marked in blue. The darker the color blue, the bigger the improvement. On the other hand, color red marks activities which were identified as corrupt by more respondents in the 2014 survey than in 2016.

**TAB. 01 Awareness of common corruption practices**

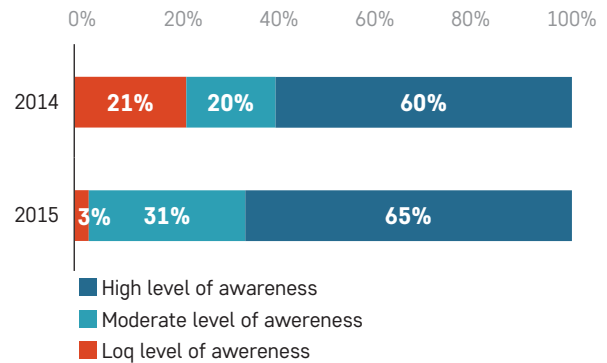
**In your opinion, which of the following actions are examples of “corruption”?**

	2014	2016
Giving a gift to a doctor so that he/she takes special care of you	70.8%	76.6%
Giving money / doing a favour to an administration official in order to win a competition, concession or public procurement tender	79.9%	95.2%
Using “connections” to receive a particular public service that you are entitled to (by law)	72.8%	53.4%
Lobbying a public official to hire a relative (family, friend) of yours	76.6%	77.3%
Contacting a municipal councilor personally, in order to receive a permission for construction	70.6%	76.1%
Giving money to a police officer so that your driver’s license is not suspended	75.5%	93.9%
Using someone’s official position for doing private business	73.9%	83.0%
Providing confidential information acquired in public office to acquaintances of yours for personal gain	73.2%	75.2%
Administration officials accepting money for allowing tax evasion or tax reduction	76.3%	79.5%
Pre-election donations to political parties	67.7%	66.1%
Paying additional remuneration to a lawyer who assists a defendant to stop a lawsuit against him/her	70.1%	71.6%

SOURCE: SELDI/ CORRUPTION MONITORING SYSTEM 2014, 2016

**FIG. 10 Awareness (identification) of common corruption practices**

(% of the population 18+ identifying common corruption practices - all (high), many (moderate) and few (low))



SELDI/ CORRUPTION MONITORING SYSTEM 2014, 2016

Milder forms of corruption such as (1) ‘Using “connections” to receive a particular public service that you are entitled to (by law)’ and (2) ‘Pre-election donations to political parties’ are actions which are least recognized as corrupt. The ultimate cases of corruption on the other hand are considered (1) ‘Giving money / doing a favour to an administration official in order to win a competition, concession or public procurement tender’ and (2) ‘Giving money to a police officer so that your driver’s license is not suspended’.

So, in Kosovo, the level of awareness of corruption has increased in the past two years. The increase is marked with a significant reduction on the share of adult population which has a *low* level of awareness (Figure 10).

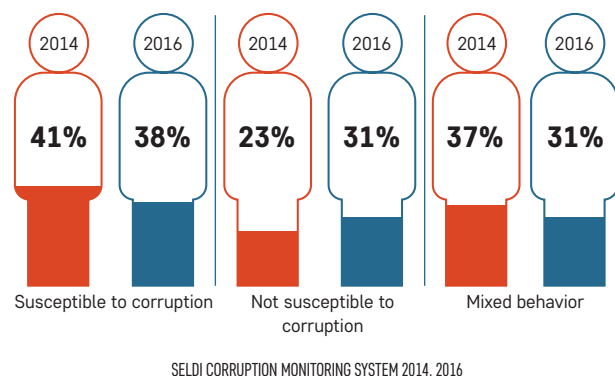
According to CMS 2016, the share of population identified with *low* awareness in 2014 has almost disappeared. Yet, a third of the population only has a *moderate* level of awareness. And lastly, an indication of the fact that there is plenty of room for improvement on the level of awareness of corruption is the fact that Kosovo has the lowest level of awareness from all SELDI countries. In Bosnia and Herzegovina, for instance, 86 percent of the population have *high* level of awareness, 20 percent higher than in Kosovo.

**Susceptibility** to corruption is the third index estimated in the category of **attitudes** to corruption. This index captures the predisposition of citizens to engage in administrative corruption behaviour. Countries with low susceptibility are considered to have higher levels of integrity and higher resilience to corruption pressure.



## FIG. 11 Susceptibility to corruption

(% of the population 18+, who accept or do not accept different forms of corrupt behaviour)



In the 2016 CMS survey, citizens were asked if they would accept or give cash, gifts or favour if they were themselves in a low paid position, or if they had a major problem to solve. It turned out that 38 percent of the adult population are susceptible to corruption (a slight decrease from 2014), and 31 percent were uncertain of their conduct as their decisions would depend on the results they expect and the setting of the issue. The responses of the last 31 percent of the population showed that they were not susceptible to corruption at all- and that they would not use corrupt practices by no means.

The evaluation of **attitudes** towards corruption points at developments in different directions. First of all, analysis of the **acceptability** show that there has been an increase on the acceptability of corruption in the Kosovar society. Corruption turning into 'business as usual' has put Kosovo on top of the ranking of corruption perception among SELDI countries.

In the same time, **awareness** of citizens with what coincides as corrupt behaviour is at a low level compared to the region, although awareness has increased since 2014. Similarly, the indicator of the susceptibility of corruption shows that although the share of those willing to engage in corruption in order to solve a major problem decreased from 2014 to 2016, the problem remains of great relevance.

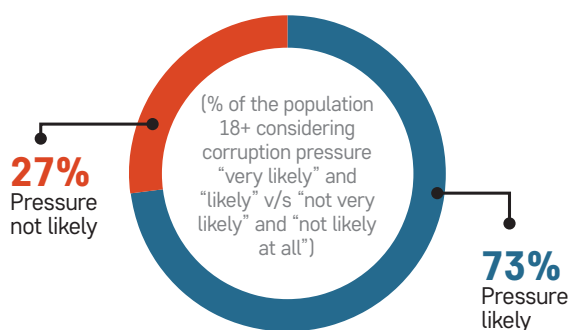
# Assessment of the corruption environment

The assessment of the **corruption environment** shows the perceptions of citizens about the political sentiment and their trust on the practices of government. Perceptions of corruption are usually much more negative than the actual spread of corrupt practices, and as such they are not the ultimate proxy for the level of corruption in the country. Still, perceptions are traditionally used as an indicator for the assessment of the corruption environment at the international level.

Expectations of experiencing some type of corruption pressure for the Kosovo population are high. 73 percent of the population believe that it is likely for them to encounter pressure by a public official for giving some type of a bribe in order to have a problem solved (Figure 12). This high perception of the **likelihood of corruption pressure** in Kosovo is comparable to that of the region (see SELDI 2016), and demonstrates the prevalence of the problem in Southeast Europe.

In the CMS survey, the corruption **environment** is further assessed based on the perception of corruption spread among the different **public institutions**. Institutions within the three core branches of governance, the executive, the legislative, and the judiciary, are perceived as the three most corrupt ones. The government has the highest index of perceived corruption, equal to 3, in a scale of 1 to 5.

**FIG. 12** Perceptions of the likelihood of corruption pressure (%)



SELDI CORRUPTION MONITORING SYSTEM 2014, 2016

**TAB. 02** Estimates of the corruptness of public institutions

According to you, what is the degree of corruption proliferation in the following institution?

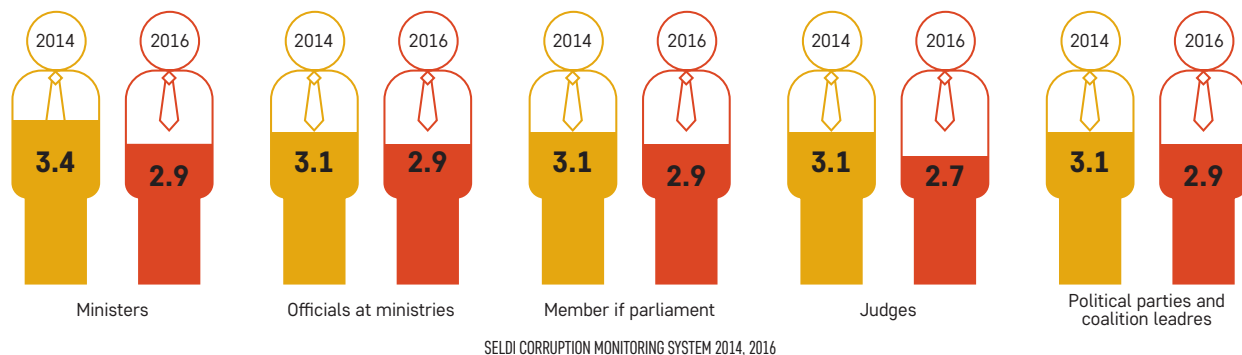
5= Proliferated to the highest degree  
1= Not proliferated at all

Government	3.01
Parliament	2.68
Courts	2.64
The Prosecution	2.58
Municipal government	2.58
The Investigation	2.57
Privatization agency	2.55
Tax administration	2.55
Customs	2.54
EULEX	2.44
Municipal administration	2.43
KEDS	2.39
Kosovo Telecom	2.38
National audit office	2.38
Police	2.25
Central Bank of Kosovo	2.06
Presidency	1.99
Army	1.52

SOURCE: SELDI CORRUPTION MONITORING SYSTEM 2016

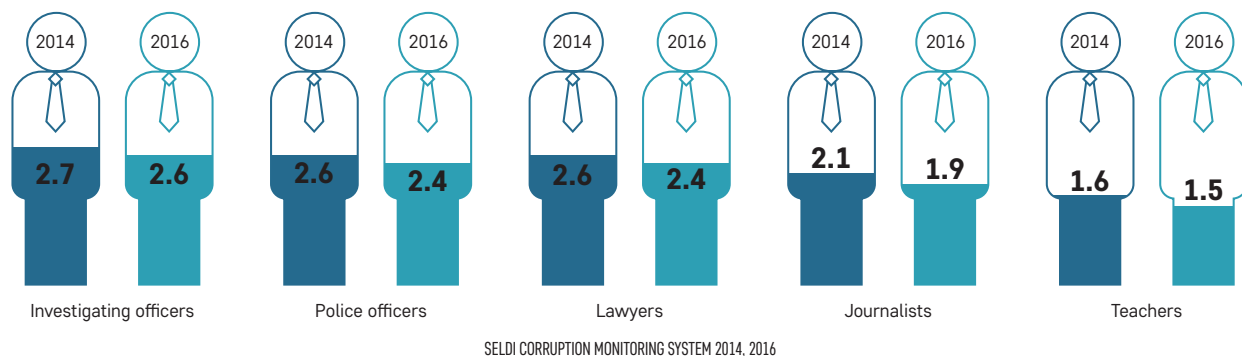
### FIG. 13A Perceptions of corruptness of public officials – most corrupted

Officials perceived as most corrupted on a scale from 1 to 4, where 1 is “Almost noone is involved” and 4 is “Almost everybody is involved”



### FIG. 13B Perceptions of corruptness of public officials – least corrupted

Officials perceived as least corrupted on a scale from 1 to 4, where 1 is “Almost noone is involved” and 4 is “Almost everybody is involved”



The parliament and the courts follow up with 2.7 and 2.6, respectively. The least corrupt institutions are perceived to be the army, presidency and central bank. Table 2 shows in more detail how corruptness of each one of the public institutions is estimated.

According to survey results, more than 60 percent of the respondents believe that corruption is spread out among **all or most of public officials**. Whereas, when they were asked to rank the proliferation of corruption in public institutions based on different jobs, the Government officials are evaluated as the most corrupt officials. Figure 13a

shows that in a scale of 1 to 4, officials perceived as the most corrupt are: Ministers (2.9), Officials at Ministries (2.9), Members of Parliament (2.9), Judges (2.7), Political Party (2.9) and Coalition Leaders (2.9), ranked as ordered. On the other hand, the least corrupted officials (see Figure 13b) are considered: Investigating Officers (2.6), Police Officers (2.6), Lawyers (2.4), Journalists (1.9) and Teachers (1.5).

All of these categories of public officials, are rated with slightly lower levels of perceived corruption in 2016 compared to 2014. A potential support of the reduction in the perceived level of corruption indicated in Figure 11.

Table 3 presents the share of the population who believe that most or all of the **public officials** in question are involved in corruption. Sectors with higher perceived level of corruption are marked in dark red, medium-level corruption is marked in bright red and yellow, and low level of corruption is not colored. The data on this table show that

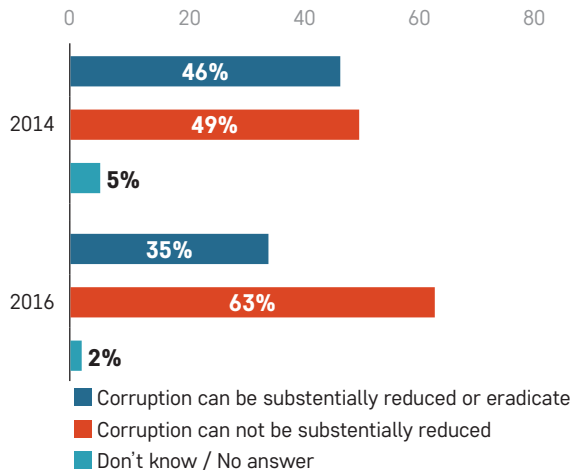
the corruption perception for public officials in Kosovo are ranked in a very similar order with other countries, though Kosovo rates of corruption perception in these groups of officials are below the average position of perceived corruption in other countries (marked with less red boxes in the table below).

**TAB. 03 % of respondents who believe that most or all of the officials in question are involved in corruption**

Officials/Groups	Bulgaria	Albania	Serbia	Macedonia	Average	Croatia	Bosnia and Herzegovina	Kosovo	Montenegro	Turkey
Political party and coalition leaders	78%	80%	77%	66%	68%	69%	73%	66%	56%	46%
Members of parliament	81%	83%	76%	66%	67%	70%	58%	61%	48%	61%
Ministers	77%	83%	71%	67%	67%	66%	64%	64%	52%	56%
Local political leaders	72%	76%	80%	62%	66%	72%	72%	59%	54%	46%
Customs officers	89%	83%	78%	64%	64%	55%	53%	45%	49%	60%
Judges	84%	87%	61%	70%	61%	63%	53%	52%	45%	39%
Officials at ministries	73%	78%	53%	59%	59%	55%	55%	65%	41%	51%
Public prosecutors	82%	80%	55%	63%	58%	58%	50%	50%	42%	39%
Tax officials	70%	70%	63%	63%	57%	56%	50%	43%	43%	57%
Municipal councilors	73%	66%	72%	56%	57%	59%	52%	37%	46%	54%
Police officers	78%	63%	66%	57%	56%	49%	56%	35%	48%	54%
Municipal officials	66%	78%	55%	55%	56%	52%	51%	48%	42%	56%
Lawyers	78%	74%	57%	59%	56%	63%	44%	36%	43%	48%
Investigating officers	76%	73%	55%	55%	53%	41%	52%	43%	39%	44%
Administration officials in the judicial system	62%	80%	51%	57%	53%	42%	49%	49%	36%	47%
Doctors	69%	72%	51%	52%	52%	49%	56%	49%	49%	25%
Business people	67%	48%	69%	54%	51%	56%	45%	33%	34%	51%
University officials or professors	55%	58%	33%	50%	42%	39%	42%	45%	29%	24%
Bankers	65%	25%	34%	41%	36%	50%	24%	16%	30%	35%
Representatives of non-governmental organizations	42%	23%	52%	42%	34%	35%	30%	26%	27%	30%
Journalists	41%	29%	47%	49%	34%	32%	30%	17%	26%	31%
Teachers	17%	26%	25%	25%	19%	20%	20%	10%	15%	11%

SOURCE: SELDI CORRUPTION MONITORING SYSTEM 2016

**FIG. 14 Perceptions of feasibility of policy responses to corruption (%)**



SELDI CORRUPTION MONITORING SYSTEM 2014, 2016

Public perceptions are also a tool for evaluating the anti-corruption efforts. Expectations of people about potential eradication of corruption explain their faith on the effectiveness of anticorruption policies. In Kosovo, the minor results of the long fight against corruption have contributed to a decreasing optimism. Figure 14 shows that the share of population which believes that **corruption cannot be substantially reduced** or eradicated has increased from 49 percent in 2014 to 63 percent in 2016.

The expectations about changes at the local level are naturally influenced by the developments in the region. Citizens refer to the history of neighbouring countries with similar levels of development in order to create a better picture of their own situation and future. Perceptions of Kosovars about the extent of corruption spread in the South-Eastern European countries are developed either through direct experience with the country, or other influences such as media and talks.

Table 4, first of all, shows that the general perception is that corruption is very widespread in Kosovo. Citizens perceive Kosovo as the most corrupt country in the region, with an index of 3.4 on a 1 to 5 scale. The bordering neighbours, Albania, Serbia and Montenegro follow up on the list as the next most corrupt countries with indexes equal to 3.2, 3.1, and 2.9, respectively. Whereas, the bottom of the rank shows that Kosovars perceive Turkey and Croatia as the least corrupt countries.

**TAB. 04 Perception of corruption spread in South-Eastern European countries**

**According to you, to what extent is corruption spread in the following countries?**

5=spread is to the greatest extent;  
1= not spread at all

<b>Kosovo</b>	<b>3.4</b>
<b>Albania</b>	<b>3.2</b>
<b>Serbia</b>	<b>3.1</b>
<b>Montenegro</b>	<b>2.9</b>
<b>Macedonia</b>	<b>2.9</b>
Bosnia and Herzegovina	2.7
Bugaria	2.6
Romania	2.6
Turkey	1.9
Croatia	1.8

SOURCE: SELDI CORRUPTION MONITORING SYSTEM 2016

The assessment of the **corruption environment** confirmed once again the seriousness of the problem of corruption in Kosovo. Citizens' perceptions of the corruption pressure are high and show that the problem is spread at the core branches of governance including the government, parliament, and courts. In addition, the general sentiment is depressed with an increasing share of the population losing faith on the possibility to substantially reduce or eradicate corruption.

# 2

## Review of recent corruption and anti-corruption developments in Kosovo

### LEGAL FRAMEWORK AND ANTI-CORRUPTION INSTITUTIONS

Kosovo has made the fight against corruption a priority on the national agenda. The existing legal framework against corruption in Kosovo offers plenty of opportunities to combat corruption. However, the number of bodies and agencies established to fight corruption are in high disproportion with the actual results. In the recent years, Kosovo has developed a tendency to establish new anti-corruption institutions instead of fighting corruption with the existing ones. Corruption and the fight against it is a central theme on the local media. Frequent calls by the international community to combat corruption remain as the main reproach toward Kosovo. Although the government pledges that it will fight corruption, the chances that this will happen are minimal.

### ANTICORRUPTION POLICIES AND REGULATORY ENVIRONMENT

Anti-Corruption Agency (ACA) is the most visible institution among the other anti-corruption institutions ...and bodies. It plays an important role on the prevention and the fight of corruption. ACA is an independent institution founded in 2006. Since the mandate of the Anti-Corruption Agency of Kosovo in the current form derives from the Law against Corruption (2004/34), it is therefore focused on detecting and investigating corruption cases, efforts preventing and combating corruption and self-awareness in order to build a healthy society based on the rule of law. Ironically, although the Agency plays the most important role, it does not have appropriate legal mechanisms to exercise these corruption related activities<sup>1</sup>. Articles 16 and 17 of the Law on Anti-Corruption Agency give the Agency the responsibility to prepare, in accordance with other institutions, the Strategy and Action Plan against corruption. The ACA budget for 2016 was 501,666 euro, an increase from 397,851 that was in 2012 but also its number of staff has increased to

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<sup>1</sup> Kosovo Democratic Institute (2015), National Integrity System Assessment Kosovo

39 civil officials. The new increase in the Agency's budget is not sufficient and in line with the new trends of the total budget increase. Additionally, what makes the ACA work more difficult is the inability to proceed with the criminal charges when they have facts for corruption.

In January 2013, the newly amended Criminal Code entered into force. According to the new Law, corruption is a criminal offence that manifests itself as: abusing official position or authority; conflict of interest; misappropriation in office; fraud in office; unauthorized use of property; accepting bribes; giving bribes; giving bribes to foreign public official; trading in influence; failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations, and unlawful collection and disbursement.<sup>2</sup> The other laws that deal with the corruption and anti-corruption sector besides the Criminal Law are laws on public procurement, accesses to official documents, law on declaration, origin and control of property of senior public officials and on declaration, origin and control of gifts of all public officials, conflict of interest and the law on elections.

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<sup>2</sup> Official Gazette of Republic of Kosovo - <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2834>

## THE NEW ANTI-CORRUPTION STRATEGY AND ACTION PLAN

The last Anti-corruption Strategy and Action Plan for years 2009-2011 was not followed by a new strategy. The draft for the Anti-corruption Strategy and Action Plan 2012-2016 did not proceed in the Assembly. Nevertheless, in February 2013, the new Anti-corruption Strategy and Action Plan was approved in the Kosovo Assembly. This strategy was highly contested by members of the opposition parties and civil society organizations. Although in the strategy it is mentioned that all the relevant institutions and organizations from the civil society have been consulted, the consultative Forum of NGOs has deemed the Anti-corruption strategy “*so weak in content that instead of fighting corruption, it legitimizes it*”<sup>3</sup>. Consequently, civil society claims that they have not been consulted at all in the drafting of the strategy but only superficially have been contacted, despite the endless recommendations from international institutions to include the civil society in the process. The new strategy has followed the structure of the previous document, since it features

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<sup>3</sup> Kosova Democratic Institute (2015) – National Integrity System Assessment Kosovo; Gazeta Jeta ne Kosove, Strategjia Kunder Korrupsionit Pa efekt ne Praktike.

horizontal objectives (combined) as well as specific objectives in each vertical priority sector. However, objectives are formulated in a way to reflect the specific needs of the moment as a result of the evaluation and risk assessment. Therefore, they can be regrouped in the following categories: Prevention, Law Enforcement, Prosecution, Inter-institutional Cooperation and Raising Awareness<sup>4</sup>.

The overall goal of the new anti-corruption strategy is to contribute to progressive and sustainable reduction of corruption, strengthen the integrity and build the public trust in the government and public institutions, to promote the principle of zero tolerance to corruption, to implement international standards against corruption which will help the rule of law in Kosovo and to be effective and functional. In addition, the strategy will help the government structures to change their institutional culture against corruption and their attitude towards a more result-oriented approach. This requires a proactive commitment by all public institutions, other independent bodies, civil society and international community<sup>5</sup>.

Some of the new priorities and objectives that derive from the assessment of the last Anti-corruption Strategy and Action Plan (2006-2011) are: Addressing the low level of trust in public institutions, political, judiciary and administration; Preventive policies and mechanisms of removal of persuasion should be encouraged; the level of law enforcement should be on the rise; the policy of putting in place sanctions for not implementing the legislation should be reviewed in order to make them more effective. Priority should be given to law enforcement agencies (police, tax and customs), prosecution and courts; cooperation with the international community, in particular EULEX, as well with civil society should be strengthened<sup>6</sup>.

## NATIONAL BODIES CONTRIBUTING TO THE FIGHT AGAINST CORRUPTION

This section will present a review of the work of other institutions and national bodies in the fight against corruption. The recent developments and changes in the legal framework since the last Country Assessment Report are also highlighted.

Other national bodies that have jurisdiction in the fight against corruption are: the Office of the State Prosecutor, Anti-Corruption Task Force, the National Council Against Corruption, the Office of the Auditor General, the Directorate for Investigating Economic and Corruption Crimes and also the EULEX mission. The role of these bodies remains highly controversial and there is a broad consensus in society that the establishment of various mechanisms and the creation of task forces jeopardize the implementation of existing laws and policies, spending budget in different directions with little results in the fight against corruption and unsatisfying number of convictions.

One of the most important Institutions is the Office of the State Prosecutor, however its role in fighting corruption remains very weak. Some of the reasons identified why the Prosecutor's office remains inefficient is the low budget and insufficient resources. Until 2015, the Government had total control over the OSP. With the new changes in the law, the independence of the OSP has improved a little<sup>7</sup>. Within this office a 'Group of Prosecutors against Corruption' was established with the main objective to fight corruption, however, on December 1<sup>st</sup> 2013 this Group was dismissed on grounds for lack of results. According to the OSP, all corruption cases will be distributed proportionally to all prosecutors and will be treated normally, like any other criminal offense<sup>8</sup>. One of the constant recommendations given to the Government is the need to strengthen the role of the office and increase the authority of the Prosecution.

The National Council against Corruption was established in February 2012 by the then President of Kosovo Atifete Jahjaga with the aim to coordinate the work and activities of institutions and agencies within the competencies and their scope for preventing and combating corruption. Some

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4 Anti Corruption Agency (2013). Strategjia dhe Plani I Veprimit Kunder Korrupsionit (2013-2017). Retrieved from: [http://www.kryeministri-ks.net/repository/docs/Strategjia\\_dhe\\_Plani\\_i\\_Veprimit\\_kunder\\_Korrupsionit\\_2013-2017.pdf](http://www.kryeministri-ks.net/repository/docs/Strategjia_dhe_Plani_i_Veprimit_kunder_Korrupsionit_2013-2017.pdf)

5 Ibid.

6 Ibid.

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7 Kosova Democratic Institute (2015), National Integrity System Assessment Kosovo

8 Gazeta Express (2013), 'Shpartallohet grupi i prokuroreve'. Retrieved from: [http://www.gazetaexpress.com/arkiva/shpartallohet-grupi-i-prokuror-235-ve-kund-235-r-korrupsionit-rezultati-zero-127612/?arch\\_tb=temp](http://www.gazetaexpress.com/arkiva/shpartallohet-grupi-i-prokuror-235-ve-kund-235-r-korrupsionit-rezultati-zero-127612/?arch_tb=temp)



**TAB. 05 Criminal charges in process and processed for 2013, 2014 and 2015 from the overall regional prosecutor's offices.**

Criminal offences	2013			2014			2015		
	In process	Processed	%	In process	Processed	%	In process	Processed	%
Corruption related	778	314	40.36	976	444	45.49	950	412	43.37

SOURCE: KOSOVO PROSECUTORIAL COUNCIL (2016), PROSECUTORS PERFORMANCE.

of the functions of the Council are: coordination of activities on prevention and combating corruption; identify and coordinate activities in support of implementation of the national strategy to combat corruption; determine priorities and policies for the implementation of the legislative agenda in increasing effectiveness in the fight against corruption; coordinate work activities of institutions in strengthening the existing mechanisms for combating corruption and raise the awareness of the society for the prevention and combating corruption<sup>9</sup>. The National Council against Corruption is seen as an example of too many number of bodies and agencies which have been founded in recent years with the main goal to fight corruption. It has not been conveyed regularly and to this day it did not produce any desirable outcomes.

Office of the Auditor General is an independent institutions which reports directly to the Assembly. As of 2016 it had 141 civil officials and 5 public officials. OAG reports on its work directly to the Assembly of the Republic, namely, the Oversight Committee on Public Finance. OAG has the reputation of being an institution that performs its tasks professionally<sup>10</sup>.

As a result of a lack of public trust in institutions, a Code of Ethics for civil servants was approved in March 2015, bringing forward a positive development but its practical results have yet to be seen. Another factor that hinders the rule of law is the constant disregard that the Government shows toward the recommendations of the Auditor General and the Ombudsperson. According to the laws in place and the Code of Conduct, judges and prosecutors are obliged to declare their assets and gifts received. The Office of the Disciplinary Counsel/Prosecutor (ODC/ODP) suspended one judge due to allegations of taking bribes<sup>11</sup>.

<sup>9</sup> Official website of the President of Kosovo. Retrieved from: <http://www.president-ksgov.net/?page=1,132>

<sup>10</sup> GAP (2016), Institutions and Independent agencies

<sup>11</sup> European Commission (2015), Kosovo Progress Report

Some other amendments have been made on legal anti-corruption framework, as on the declaration, origin and control of the property of senior public officials and the declaration, origin and control of gifts for all official persons. Also the threshold for the movable property to be declared was lowered from 5 000 euro to 3 000 euro. These measures have ensured that corruption related offences need to be criminalized<sup>12</sup>.

## LAW ENFORCEMENT AND INSTITUTIONAL PRACTICES

Kosovo continues to have a weak judiciary system, marred by conflicts of interest, political intrusion and lack of resources to exercise the law. The ongoing clashes between the political parties that have occurred in Kosovo in the last two years have further contributed in bringing the Kosovo assembly to a stalemate, thus affecting the proper function of the assembly.

It is important to note that the assembly needs to supervise the main anti-corruption agencies through the appropriate Parliamentary Commissions. Another important issue is the need for punitive measures to be put in place which would control the independent institutions and particularly the anti-corruption independent agencies. Civil society has been adamant in their demand that the Kosovo Assembly should as soon as possible adopt the legislation on the prevention of conflict of interest, to depoliticize the Central Election Commission and to adopt the law on political parties for a better and more transparent system<sup>13</sup>. In 2015, the ACA has conducted preliminary procedures in total of 354 cases of which 56 of them were transferred from the previous year.

<sup>12</sup> Ibid.

<sup>13</sup> KDI (2015), National Integrity System Assessment Kosovo

126 cases out of 298 for the year 2015 have been forwarded to the Prosecutor and the police for further processing<sup>14</sup>. The number of officials who have declared their assets for 2016 within the legal period was 4320 or 99.26%, an increase from 98.3% in 2015 (Anti-Corruption Agency, 2016).

The last Country Assessment Report criticized the limitations of repressive measures that the Anti-Corruption Agency (ACA) in Kosovo takes and its provision of resources almost entirely towards preventing corruption (not repressing it). While this still remains a valid criticism in mid-2016, we further consider that the ACA carries an exaggerated mission which is too broad to complete, and which has led to agency's minimal success. The ACA is by law responsible for a sort of universal fight of corruption of all types in Kosovo including monitoring the disclosure of assets and the wealth of public officials, monitoring public procurement, the ethic code of public officials and receiving complaints from citizens. Its competencies also conflict the prosecution of criminal acts by the judiciary. The State Prosecutor certainly remains a more qualified organ to work on investigating and repressing corruption, but its overlap of competencies with the ACA creates ambiguity and opportunity for avoiding accountability by both institutions. So, it is recommended that the ACA undergoes some sort of remodeling and redefining of its mission. An alternative might be narrowing down the tasks of the agency to the declaration of assets of public officials. More specifically, the agency would focus on controlling the data validity and accuracy, a spectrum of work on which the agency has proven successful.

The key findings in Kosovo progress report recognize a steady progress in the anti-corruption legal framework which has been proved also by the factual assessment in other areas. However, accountability and efficiency of the overall judiciary and in particular public procurement need strong improvements, and consultations and cooperation with civil society should be intensified. The lack of a track record system that will show effective prosecution cases is a recurring theme in the Progress Report<sup>15</sup>. In overall, Kosovo is still at an early stage of alignment in most areas with the European Union acquis.

Another step taken as part of the Law enforcement is the improvement of infrastructure for judiciary system. The

Palace of Justice was inaugurated in March 2015 with the purpose of providing a comprehensive infrastructure for a number of courts. This development has been part of the efforts taken by the Kosovar institutions in the fight against corruption. Since the inauguration of the Palace of Justice, multiple problems have been detected in the construction of the building<sup>16</sup>. Kosovo's courts now have a clearance rate of 84% of cases resolved within a year. However, since the time given by law to investigate cases of corruption is too short, it creates additional deadlocks for courts to come to desirable decisions<sup>17</sup>.

Despite some progress that has been achieved in improving the anti-corruption legislation, the European Commission Progress Report for 2015 acknowledges the deficits in the fight against corruption strategic framework "[...] inadequate financing and a lack of any measurable impact indicators are seriously undermining results" (European Commission, 2016).

## CORRUPTION AND THE ECONOMY

The economic situation in Kosovo remains dire and the main problems that the society is facing for years are unemployment and the lack of economic opportunities. The Business sector has a poor performance and does not show any signs of improvement. The state continues to interfere in the business sector, while the business sector complains for corruption methods in place that they have to abide to to have expedient results, such as informal payment for municipal official in order to receive municipal services<sup>18</sup>. Privatization Agency of Kosovo didn't have until recently a completed board and as in the case of other independent agencies boards, has been criticized for being highly politicized by the political parties in power. Furthermore, the high levels of informal economy and organized crime have constantly been identified by local business as the main reasons that hinder the proper function of the market economy in Kosovo. The local SME have problems with competition, having to compete with foreign firms and although Kosovo signed the Association and Stabilization Agreement with the EU, it is sceptical how soon the local firms will be able

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14 Anti-Corruption Agency (2016), Annual Report 2015.

15 European Commission (2015), Kosovo Progress Report.

16 Kallxo (2015) - <http://kallxo.com/bie-nje-plate-e-tavanit-ne-pallat-te-drejtise/>; Kallxo (2016) - <http://kallxo.com/ashensoret-e-pallatit-te-drejtise-jashte-funksionit/>

17 European Commission (2015), Kosovo Progress Report

18 KDI (2015), National Integrity System Assessment Kosovo

to compete in the European market. Informal payments are another issue that are reported in Kosovo especially in the Health sector. The structural weaknesses of Kosovo's economic environment have been identified in the both Progress reports for 2014 and 2015.

“Substantial efforts are needed to tackle structural weaknesses to cope with competitive pressures and market forces within the Union over the long term. (EC, 2014)”

Bribery in private and public sector is another problem that the business sector has to deal with daily. Bribery is prevalent not only between private companies and public officials but also between businesses themselves. Most of the businesses claim that the corruption risk and organized crime has stayed the same in the last years<sup>19</sup>. Businesses complain about the high level of red tape in public procurement and they have problems in understanding how the bureaucracy really works. Moreover, an inefficient public procurement helps the mismanagement of tendering procedures.

The challenges in the field of anti-corruption hinder the proper function of market forces. Widespread corruption combined with weak institutions continue to obstruct business environment. Privatization to this day is marred with corruption allegations. As it is recognized in the progress report for 2015:

*“The unresolved status of property rights and lengthy legal proceedings in dealing with financial claims on privatized assets hinder the privatization process and delay disbursement of privatization revenue held at the central bank”* (European Commission, 2015).

The high levels of corruption are emphasized in the report to exist also in other sector such as in Customs and Tax administration, Health services and Education sector which remains a high-risk area for corruption especially in the tertiary-education levels<sup>20</sup>.

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19 UNODC (2013), Business, Corruption and Crime in Kosovo.

20 European Commission (2015), Kosovo Progress Report.

## PUBLIC PROCUREMENT AND CORRUPTION

Law on Public Procurement in Kosovo establishes the Public Procurement Regulatory Commission (PPRC) as having primary responsibility for overall functioning of public procurement rules and system in Kosovo. Public procurement remains tangled with corrupted public officials who misuse public funds for personal gains<sup>21</sup>. It is particularly prone to corruption and it is highly politicized and it has been criticized for a lack in transparency and accountability (EC, 2015). Public Procurement Regulatory Commission highlights the challenges in the implementation of the legislation on public procurement despite given efforts on the legislation reforms.

Moreover, there is lack of publication of expenditure reports, budgetary transparency and procurement plan from the Government of Kosovo. Most of the ministries do not publish on their websites the notifications on contracts. Despite the fact that most of the key budget documents in Kosovo are available to the public, none of these documents are produced in a reader-friendly format or machine readable (including here also the country statistics from Kosovo Agency of Statistics). Budget reporting format lacks transparency and improper reporting methodology. Most of the ministries publish official budget documents as final reports without providing detailed information<sup>22</sup>. For reporting year 2015, from all the ministries (19 ministries in total) in Kosovo only the Ministry of Justice managed to provide budget expenditures in a detailed format and easy accessible for public use.<sup>23</sup> Although the PPRC legally is responsible to publish the successful tenders and contracts, it would be beneficial for citizens to get direct information from a centralized government website<sup>24</sup>. In 2015 and 2016, some important steps have been taken to enforce a centralized system of procurement. A central procurement would improve current capacities, enhance administrative capabilities and increase efficiency. Further improvement in aligning Kosovo's public procurement system with EU acquis is noted in the Progress report of 2015. When it comes to public procurement, Kosovo has

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21 Kosovo Democratic Institute (2015), National Integrity System Assessment Kosovo

22 Riinvest Institute (2016), Budget transparency and Citizens Budget.

23 Ibid.

24 Kosovo Democratic Institute (2016), Policy analysis on institutional mechanisms in the fight against corruption in Kosovo.

problems with enforcement of legal sanctions on corruption and fraudulent practices, and the high levels of corruption remain the top concern in public procurement. One of the persistent critiques from the Progress Report is the failure of respective institutions to implement appropriate disciplinary practices<sup>25</sup>. Many NGOs have identified the abuse of law in public procurement to award public tenders to businessmen close to politicians. With the approval of the new Law on Public Procurement it is mentioned the position of a procurement expert, a position which in the old law did not exist<sup>26</sup>. During the 5 January 2015–31 December 2015 period, the Procurement Review Body (PRB) has received 592 complaints on public procurement, on public-private and auctions, which have opposed the decisions of contracting authorities to award the contract, decisions on cancellation of procurement activities or against technical favouring/discriminatory specifications provided in the tender file<sup>27</sup>.

Businesses and civil society consider the need for stronger mechanisms that would monitor the public procurement process. With all the changes that have been made, the overall trust in a fair and impartial process remains to this day very low.

## CIVIL SOCIETY, MEDIA, AND INTERNATIONAL COOPERATION IN ANTI-CORRUPTION

Guiding the local political culture and maintaining the integrity of public governance are major interests for many nongovernmental organizations. The active role of civil society in the region has led to its increased influence in shaping the public opinion, drafting laws, and altering decision making patterns. Thus, taking into account the importance of the civil society, this section discusses the practice of nongovernmental organizations in Kosovo in the field of anticorruption. The main aspects addressed are investigative journalism and whistleblowing, corruption monitoring and avocation, as well as the international cooperation.

Civil society in Kosovo has followed a path of transformation that came as a response to the political and social

developments. The number of registered NGOs in Kosovo increased sharply after the 1999 war, although very few of these organizations were truly active. In 2013, there were 7000 NGOs registered in Kosovo, but less than 10 percent of them functioning (Forum 2015).

In the field of anticorruption in Kosovo, there are very few organizations that are highly active. As it is noted by Riinvest Institute (2014), the specialization of these organizations is mostly in evaluating institutional transparency (i.e. KDI- the local Transparency International Charter) or monitoring the legislation enforcement (i.e. Cohu and the Balkan Investigative Reporting Network Kosovo (BIRN)). Still, due to limited access to finance, organizations are obliged to work with a diverse range of activities and cannot specialize in one aspect of corruption.

## REVIEW OF CIVIL SOCIETY'S WORK ON ANTI-CORRUPTION

Another main focus of the civil society in Kosovo has been studying corruption and advocating against it. Among the organizations involved in this mission are both local and international ones.

UNDP as the United Nations' global development network largely present in the anti-corruption mission in Kosovo. In 2014 and 2015 UNDP has published reports regarding corruption in Kosovo in education, the judiciary, as well as the health sector. In their annual Public Pulse survey<sup>28</sup>, UNDP found that the level of satisfaction with the operation of Kosovo's courts increased by about 4 percent between September 2015 and April 2016. Whereas, the level of satisfaction with the performance of the prosecutor's office experienced a similar increase, meaning that 17 percent of citizens, as opposed to 13 percent reported in September 2015, were pleased with this institution.

Nonetheless, the report also highlights that corruption is viewed by Kosovar citizens as being prevalent in almost all institutions, where Kosovo's Courts Privatization Agency of Kosovo, Healthcare Providers, Central Administration/Institutions, Customs, and the Kosovo Electric Corporation are perceived as the most corrupt<sup>29</sup>. As for Education, the

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25 European Commission (2015), Kosovo Progress Report

26 BIRN (2014), Kosovo's monitoring of public procurement

27 Public Review Body (2016). Annual Report 2015

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28 UNDP (2016), Public Pulse XI.

29 Ibid.

major risks identified by the studies are related to textbook procurement, the discretionary power of municipal educational directors, and a risks identified at the University with regards to funding, academic staff recruitment and public procurement<sup>30</sup>. According to UNDP Public Pulse survey, corruption is regarded as the third largest problem that Kosovar society faces. It is highly interlinked and seen as a by-product of unemployment and poverty

One more highly active CSO is the Kosova Democratic Institute (KDI), the local Transparency International Charter. Their reports provide country comparisons of the corruption and anticorruption environment in Kosovo<sup>31</sup>. Furthermore, Kosovo has improved its position in the Transparency International ranking in Corruption Perception Index for 2015 from place 110 to 103 with a 33 score, placed next to Albania as one of the most corrupted countries in the Western Balkans.

**TAB. 6 Transparency International ranking in Corruption Perception Index**

Year	Rank	Score
2015	<b>103</b>	<b>33</b>
2014	<b>110</b>	<b>33</b>
2013	<b>111</b>	<b>33</b>

SOURCE: TRANSPARENCY INTERNATIONAL, CORRUPTION PERCEPTION INDEX<sup>32</sup>

30 UNDP (2015), Corruption-Risk Assessment in the Kosovo Education Sector.

31 Kosovo Democratic Institute (2016), Policy analysis on institutional mechanisms in the fight against corruption in Kosovo. For further information see also: Kosovo Democratic Institute (2015), National Integrity System Assessment Kosovo

32 Transparency International (2015), Corruption Perception Index. Retrieved from: <http://www.transparency.org/cpi2015>.

## INTERNATIONAL COOPERATION

Some examples of international cooperation in the field of anticorruption is present in the form of support of institutional building, corruption monitoring and civil society collaborations.

The intentions of joining the European Union have given the South-eastern European countries frameworks to follow. Complying with international anticorruption standards is a target of the compliance monitoring standards from global actors such as the Group of States against Corruption (GRECO) and United Nations Convention against Corruption (UNCAC).

Kosovo, however, due to its political status, is not a member of these organizations. Consequently its efforts to join the international organization are focused on maintaining a harmonized legislature with international standards and monitoring the reforms based on internationally established evaluations.

EU as part of the Instrument for Pre-Accession gives a strong support to Kosovo in strengthening the fight against corruption. With the Stabilization and Association Agreement entered in force in 2016, Kosovo should show clear progress in the fight against corruption as part of the fulfilment of agreement requirements. According to its Rule of Law Assistance Strategy adopted in May 2014, Kosovo until 2020 needs to show advancement in: enhanced legislation that will ensure the independence of judiciary, better training court staff, independence and efficiency of judiciary, access to justice is improved, the penitentiary system complies with international standards, including specific treatment for different categories of detainees, etc.<sup>33</sup>

EU's biggest involvement in Kosovo is through its EULEX Mission, whose work is to support the Kosovar judicial authorities and law enforcement agencies in their progress towards accountability and in further developing an independent justice system which follows the best international standards. The Council of the European Union extended the mandate of EULEX mission until 14 June 2018, after the end of the first mandate which was launched in 2008 and ended in 2016. The Council also approved a combined budget for the mission of EUR 63.6 million providing for the period 15 June 2016 - 14 December 2016 for its operations in Kosovo and until 14 June 2017 for the specialist chambers and the specialist prosecutor office.<sup>34</sup>

33 European Commission (2016), Instrument for Pre-Accession Assistance.

34 European Council-Council of the European Union. Retrieved from: <http://www.consilium.europa.eu/en/press/press-releases/2016/06/14-eulex-kosovo-budget/>

## REVIEW OF POLICY RECOMMENDATIONS FROM RIINVEST COUNTRY ASSESSMENT REPORT 2014

A primary recommendation from Riinvest's 2014 corruption study was the creation of a comprehensive and action driven national strategy for combating corruption. It was suggested that the new strategy must fix the shortcomings of earlier national strategies and put special focus on creating concrete measures of anticorruption. In fact, the Kosovo assembly did pass the new National Strategy and Action Plan against Corruption for the period 2013-2017 which, however, still suffers from the same issue of being a merely vague guide against issues of corruption in Kosovo. Civil society has also opposed the passing of the respective anticorruption legislative package by claiming that at its best, the strategy could lead to tracking down minor bribery cases. Instead, the national strategy and action plan fail to approach higher levels of corruption, privatization procedures, and public procurement issues that pose the biggest threat to public integrity<sup>35</sup>.

Another recommendation from the first study was the editing of the Law on Financing Political Parties in order to define how auditing of the financial statements from the political parties should be done, and who is responsible for it. Unfortunately, this matter regressed in the past three years as the responsibility to audit the financing of parties passed from the Central Election Commission, as an institution with higher independence, to the Oversight Committee on Public Finance within the National Assembly. The Committee did not assign auditors to oversee the finances of parties at all. The fact that political parties' finances are not audited makes the situation alarming, and one could even say that this constellation questions democracy in general.

With regards to the law on financing political parties, we make two other recommendations. First we recommend that as auditing comes back in place, a sharp increase in the amount of fines given to parties in times of violating rules of finance is implemented. The current fines are of insignificant amounts (~10000 euro) and simply become part of 'doing business' in the operation of parties. Second, we recommend that individual candidates within political parties report their own sources of finance for the costs of electoral campaign. Until now, these costs have not been

reported whilst the amounts of money spent on individual campaigning for prominent politicians could even surpass some minor parties.

The 2014 study also raised issues on the Law for the Confiscation of Illicit Assets. Specifically, it suggested shifting the burden of proof more towards the subject of investigation. To this day there have been no amendments made to the law in this regard. Another overall recommendation from a recent study published by the Organization Cohu, insists that this particular law needs to be completely redesigned in order to take a broader treatment, and to include parts like civil procedures, recognition of legal instruments for freezing, seizure and confiscation of property, etc.<sup>36</sup>.

In overall, the major policy issues raised in the former regional and country reports by SELDI remain valid, whereas the fundamental problem faced in public governance is policy and law enforcement.

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35 Kosovo Democratic Institute and Transparency International (2015), National Integrity Assessment. Prishtine.

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36 Organization for Democracy, Anticorruption, and Dignity, Cohu (2016), Confiscation of Property in Kosovo. Prishtine.



# Conclusions

The purpose of this study was the in-depth assessment of corruption in Kosovo. The data exploited in the analysis belonged to both primary and secondary nature.

The study consists of two main chapters. The first chapter presents the empirical methodology used and the results from the 2016 survey, and the second chapter provides a comprehensive overview of the environment of corruption. The latter section brings a review of the institutional, judicial, and legislative developments in Kosovo in the anti-corruption mission.

The results of the first chapter are separated in three sections that address different aspects of corruption including: (1) experience with corruption, (2) attitudes towards it and (3) the assessment of public perceptions.

Indexes measured when evaluating **Experience with corruption** are the **actual involvement** in corruption and **Corruption Pressure**. The estimation of these indexes showed that there is a large share of population affected by corruption; 27 percent of the population report that they have experienced corruption pressure from public officials, and 22 percent of the population were involved in some type of a corrupt practice. The findings further point out that, in most cases, bribing occurs in response to the pressure made by corrupt public officials.

**Attitudes** towards corruption reveal the likelihood of respondents to engage in corruption. First of all, assessment of the **acceptability** of corruption show that halve of the Kosovar society would accept engaging in some sort of a corrupt activity in the future. In the same time, **awareness** of citizens with what coincides as corrupt behaviour is at a low level compared to the region. Similarly, the indicator of the **susceptibility** of corruption shows that although the share of those willing to engage in corruption in order to solve a major problem decreased from 2014 to 2016, the problem remains of great relevance.

Lastly, the assessment of the **corruption environment** confirmed once again the seriousness of the problem of corruption in Kosovo. Citizens' perceptions of the corruption pressure are high and show that the problem is spread at the core branches of governance including the government, parliament, and courts. In addition, the general sentiment is depressed with an increasing share of the population losing

faith on the possibility to substantially reduce or eradicate corruption.

The review in the second chapter of the study shows that Kosovo has developed a decent legal framework against corruption, albeit still in the early stage of alignment with the EU acquis. There are a number of legal dispositions in place that enable the Government to access the endemic problem of corruption. Kosovo has tried to address the problems of corruption through the establishment of agencies, service departments and various task forces but with little success. Moreover, the new Anti-Corruption Strategy and Action Plan (2013-2017) has not met the objectives, and it has been highly discredited by the civil society. The Judiciary is seen as corrupted and the appointment of judges and court's staff are politicized and does not allow for an honest commitment in combating corruption. Transparency in the allocation of the budget, access to official data, the financing of political parties and the use of public funds through public procurement are some of the issues that should be reviewed as soon as possible.

The civil society and international organizations have been loud in addressing sensitive issues related to corruption and state capture. However, even after seven years of being operational in Kosovo with the main objective to fight corruption and oversee the Kosovo judicial system, EULEX has had low levels of success in prosecuting major cases of corruption and organized crime.

Since the last Kosovo CAR there has not been enough progress when it comes to actual implementation of anti-corruption legislation and good governance policies. There have been some positive changes in the anti-corruption legal framework but also many drawbacks have been noted. The new Anti-corruption Strategy and Action Plan, even though approved by the Kosovo Assembly, its content does not leave much room for optimism in its implementation. The amended law on Public Procurement was another development. The introduction of electronic procurement was included in the new law and its implementation started in early 2016. Nonetheless, the inclusion of other stakeholders such as civil society in the drafting of legislation and monitoring the process has not advanced and remains unutilized for the common benefit.

# Recommendations

The main recommendation that stems from this report is the urgent need to approach the fight against corruption with high priority by all the relevant actors. The necessity for a comprehensive strategy that will be enforced and not only compiled as a requirement for the EU integration is of the utmost importance.

Citizens need to report instances where they were compelled to pay bribes on a more frequent basis. At the same time, they must develop an awareness that while being the victims of corruption, by paying bribes, they too are inevitably contributing to the already dire situation for the worse. Nurturing a greater sense of responsibility among the citizens could be one potentially effective means of countering the phenomenon.

The general public should be persistent in demanding for a higher level of accountability and transparency from government officials and institutions. Increased awareness and sense of responsibility of citizens will enable to transform them into a key factor in combating corruption.

More must be done in enforcing the rule of law, increasing transparency and accountability. Implementing transparent regulations in senior administration positions where public exposure is high, is of vital importance towards reducing corruption.

The Office of the State Prosecutor needs to be given more judicial support through a change in the Law on anti-corruption and to increase its budget and personnel resources in line with the EU standards.

The Kosovo Assembly must evaluate the work of the Anti-corruption Agency in line with the legal dispositions in power. There should be a better cooperation between ACA and the other anti-corruption institutions and the exchange of information should be more efficient.

The reports of the Office of Auditor General and the Ombudsperson must be taken seriously by the government and deepen the cooperation between independent agencies and the government.

Establish a 'track record' mechanism for tracking progress and collecting data in the fight against corruption.

The two other recommendations, as were also mentioned in the last SELDI Country Assessment Report, are the need for the Law on Confiscation of Illegally acquired Assets to be amended in order to address the burden of proof issue, as well the regulation on the Protection of "whistle-blowers" must provide clear procedures or at least have an independent body<sup>37</sup>. The protection of whistle-blowers is a sensitive matter that needs to be addressed immediately not only for the fight against corruption but also for combating organized crime.

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37 RIINVEST (2014), Corruption and anti-corruption in Kosovo. SELDI



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