



CORRUPTION WITHIN CIVIL SERVICE: UNVEILING THE COMPLEX WEB

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Introduction

The issue of corruption persists in Kosovo, as it does in many neighboring countries, and is undoubtedly one of the most significant challenges facing our state. Kosovo has made some modest progress in its battle against corruption, with a slight improvement in its score, reaching 39 points – three more than the previous year – on the 2021 Corruption Perceptions Index compiled by the international organization Transparency International. However, reports from international organizations and civil society in Kosovo consistently highlight clear legal limitations on discretionary power in the country, along with inadequate implementation and functioning of mechanisms designed to prevent, correct, and even sanction these arbitrary actions or misuse of official authority. This underscores the need for improving and enhancing the effectiveness of the justice institutions in combating corruption.

Corruption and the Civil Service: A Complex Nexus

Corruption within the civil service is a pressing issue that poses significant challenges to the governance and development of Kosovo, as it does in many countries. The civil service plays a crucial role in the effective functioning of a state, from delivering public services to implementing policies and managing resources. When corruption infiltrates this sector, it undermines the very foundations of good governance, erodes public trust, and hampers progress.

Kosovo, a young state in Southeastern Europe, has recognized the detrimental impact of corruption within its civil service and has embarked on a journey to address this issue comprehensively. While the nation has made strides in its efforts to combat corruption and promote transparency, numerous challenges persist. These challenges encompass legal limitations, insufficient implementation of anti-corruption mechanisms, and the need for a more effective and accountable civil service. The battle against corruption within the civil service is a pivotal aspect of Kosovo's broader efforts to build a transparent and efficient governance structure. This analysis seeks to shed light on the current state of affairs, the progress made, and the avenues for improvement within Kosovo's civil service as the nation endeavors to enhance its governance and strengthen the foundations of democracy.

Despite Kosovo having passed relevant legislation in the field of corruption prevention, investigation, and prosecution, practical implementation remains insufficient. Although institutions with mandates related to pre-trial investigations of corruption, protecting whistleblowers, analyzing and eliminating corruption causes, and managing conflicts of interest exist, these mechanisms often remain inactive in practice, sometimes even serving to camouflage corruption. The issue of whistleblowers, despite having legal safeguards in place, is still hindered by cultural factors, stigmatization, and inadequate institutional protection, thus failing to incentivize individuals to take on the role of whistleblowers.

Corruption has deeply rooted itself both within public institutions and in society at large, continually evolving and becoming more sophisticated. Public procurement has often been cited as a primary hotspot for corruption, with deviations occurring in the procurement process, favoritism towards specific economic operators, and related irregularities. This phase, however, has evolved over time, and the main misuse of public tenders now typically happens

during the budget planning phase when various projects are allocated in the name of the general interest, and the same projects are inserted into the annual budget law, a process under the control of politicians. Subsequent procedural phases are essentially a façade.

While the forms of corruption may vary from one country to another, there is a common denominator – high-ranking political figures behind corruption. They ensure that cases of corruption are not initially investigated, pursued, prosecuted, or penalized.

One positive recent development is the initiative to confiscate and verify unjustified wealth, where public officials in Kosovo can be subject to wealth verification if there are suspicions that their assets have been acquired unlawfully. Furthermore, the verification and confiscation of unjustified wealth also apply to their family members and third parties, meaning individuals suspected of having received assets from public officials. The benefit of this approach is that assets can be confiscated without a criminal conviction, using civil procedures where the burden of proof lies with the party. If one party cannot prove that their wealth is legitimate, it may be confiscated and transferred to the state. This mechanism aims to reduce the primary motivation for corruption, which is the acquisition of wealth through illegal means, under the threat that if the source of wealth is not proven legal, it may be confiscated by the state.

In terms of policy measures, there are two critical directions to pursue. First, the establishment of integrity plans within institutions, coupled with the development of monitoring systems, including civil society actors, would be a beacon of hope for effective prevention and combat against corruption. Identifying positions with a high corruption risk should be a priority during the early stages of integrity plan development, and the involvement of civil society, especially those specialized in this field, is highly advisable.

Increased transparency, data disclosure, and the involvement of civil society during the exercise of public authority, particularly in budget planning and expenditure but also in human resource management, would be an additional opportunity in the fight against corruption.

Implementing a performance-based system, where authority is delegated to professionals, is another mechanism that should be installed in each institution. This would entail establishing a performance and assessment system at both the institutional and individual levels, where compliance with the law and the achievement of the organization's goals are rewarded, while non-compliance is penalized. Delegating authority to specialists and avoiding concentration of power among political figures would contribute to lawful law enforcement and accountability for unlawful actions.

The simplification and reduction of bureaucracy in service delivery are crucial measures in preventing corruption, as easy and straightforward administrative services leave little room or reason for corruption. This includes eliminating unnecessary mandatory requirements, implementing the "once-only" principle, eliminating unnecessary administrative procedures, and digitizing services.

The fight against illegal orders is another critical segment, which is often exploited in public administration. This often occurs within the political sphere, where politicians, taking advantage of their leadership positions, issue unlawful orders that are not always based on legal grounds. Unfortunately, the distinction between the obligation defined by law and an unlawful order from a superior is sometimes blurred in practice, causing confusion among civil servants. However, those who do not comply with such orders, despite the legal obligation, may face legal consequences if they do not comply.

Regarding the strategic framework, in the new strategy against corruption in Kosovo, where civil society groups have also been part of the working groups, the general principles are focused on building integrity, accountability, and transparency within public administration. Additionally, improving legislation and strengthening institutional capacities for the prevention and fight against corruption is emphasized. Public awareness and education on anti-corruption measures represent another key component. On the other hand, issues raised include the lack of a responsible unit for sectoral risk analysis related to corruption risks, ineffective administrative sanctions, and the absence of integrity plans in all public institutions, as well as the lack of a responsible institution for monitoring their implementation.

Conclusions

In conclusion, Kosovo's civil service grapples with persistent corruption challenges despite recent anti-corruption efforts. The need for effective implementation of existing anti-corruption measures is evident, as legislative reforms alone are insufficient to curb corrupt practices. The active engagement of civil society organizations, particularly in monitoring and advocacy, has been instrumental in holding the civil service accountable. Additionally, the introduction of wealth verification and confiscation measures represents a positive stride toward deterring corruption within the civil service.

To further combat corruption, integrating transparency and accountability within the civil service is imperative. This involves enhancing data disclosure, streamlining administrative processes, and adopting performance-based systems to foster a culture of accountability. Reducing political influence within the civil service and delegating authority to professionals can also contribute significantly to minimizing corrupt practices. Collaboration between civil society, international partners, and stakeholders remains essential in the ongoing fight against corruption. Kosovo's dedication to anti-corruption initiatives and innovative measures like wealth verification positions the country on a path toward a more transparent and accountable civil service, ultimately contributing to national progress and stability.

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