

**Kosovo Law Institute**

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| **CORRUPTION IN KOSOVO 3:**  **Comprehensive assessment report on the effectiveness of the prosecutorial system in implementing the Action Plan on corruption cases** |

**Pristina, December 2014**

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# I. EXECUTIVE SUMMARY

*Kosovo Prosecutorial Council (KPC) on November 4, 2013, has adopted an Action Plan to Increase the Efficiency of Prosecutorial System in Fighting Corruption (hereinafter Action Plan)*.[[1]](#footnote-2) From the entry into force of this plan, Kosovo Law Institute (KLI) in accordance with the Memorandum of Cooperation with the KPC[[2]](#footnote-3), has been monitoring and evaluating the implementation of the Action Plan. By this stage, KLI has published two reports, as a result of monitoring and evaluating the implementation of this plan.[[3]](#footnote-4) While this is the third periodic report regarding the implementation of the Action Plan prepared by the KLI based on the findings of the information and resources in KPC and the SP.

For eleven consecutive months (November 2013 - September 2014) prosecutorial system has failed to meet even half of obligations to solve the corruption cases, which have been listed in the Action Plan until November 4, 2013. The trend of unsolved cases has failed to decline at the end of the reporting period (30 September 2014). With the entry into force of the Action Plan prosecutors have had to work on 516 unsolved cases with 1,682 persons, while on the September 30, 2014, 575 cases remained unsolved with 1,613 persons.So, we have an increased number of unsolved cases, while a reduction in the number of persons against whom cases have not been solved. If we analyze the number of cases early on November 4, 2013 (516 cases with 1,682 persons) and the number of cases received during the Action Plan until September 30, 2014 (433 cases with 800 persons), shows that prosecutors have had to work with 959 cases with 2,482 persons. Out of this total number prosecutions have managed to solve 401 cases or 42% out of 976 persons or 39% of them.Out of a total of 976 persons 39% whom cases are solved in general, prosecutors after investigations or direct indictments have reached to indict 387 persons, against 43 persons have proposed the imposition of punitive order, for 244 persons criminal charges have been dismissed, for 302 persons charges were terminated. According to this, the prosecutors to more than half of the persons, or precisely for 546 persons criminal charges were dissmised, whereas 430 persons were indicted. Kosovo Police (KP) and the Anti-Corruption Agency (ACA) are continously the applicants with the highest number of cases of corruption. Prosecutors until September 30, 2014 have solved cases of 579 persons that were filed by the police. Out of these, for over 261 persons criminal charges or investigations have been terminated, and 318 persons were indicted. After Police as the second largest applicant is ACA on corruption cases, where prosecutors have solved cases filed by the agency for 130 persons, to 79 of them criminal charges and investigations have been dismissed or terminated, whereas 51 persons have been indicted. The KLI estimates that in general this is a weak performance of prosecutors in solving cases of corruption. More worrying is the way of solving cases, where more than half of them are dismissed cases and it testifies serious problems for the cases from the complaints and prosecutors.

***Implementation of the Action Plan for cases registered until November 4, 2014*** - As in previous reports to conduct the measurement of implementation of the Action Plan, the KLI has established indicators, based on their obligations under this plan. Measuring the implementation of the Action Plan is based on the solved cases of corruption, which have been listed until November 4, 2013. According to this indicator, turns out that even during the reporting period (July, August, September, 2014) prosecutions didn’t manage to solve even half of these cases of corruption. With the entry into force of the plan (4 November 2013), prosecutions have had to work on 516 unsolved cases with 1,682 persons, while by the entry into force of the plan during the end of this reporting period (30 September 2014) prosecutions have achieved to solve 251 cases with a total of 751 persons or 45%. It is worth noting that only during the reporting period (July, August, September, 2014), prosecutions have solved 27 cases with 66 persons or only 4% of the cases which have been listed prior to November 4, 2013.

From the solved cases, prosecutors have dismissed criminal charges or have terminated investigations for 431 persons or 58% of them, and have directly indiceded, indictments after investigations or proposed the imposition of punitive orders for 320 persons or 42% of them.

**Basic Prosecution in Pristina** remains to be the prosecution with weakest efficiency in fulfilling the obligations of the Action Plan. **Basic Prosecution in Pristina** has solved cases only of **19%** persons or only of 149 out of 777 persons who have been registered in the Action Plan until November 4, 2013. *However, compared to other prosecutions, the Basic Prosecution in Pristina has solved most of the cases for the reporting period (July, August, September, 2014), a total of 51 persons.*After Pristina, leads the **Basic Prosecution in Mitrovica** with non- efficiency, who has solved **31%** cases of persons or only cases of 44 from 141 persons that were registered on November 4, 2014. *During this reporting period prosecution has solved cases of 8 persons*. KLI anyway taking into account working conditions as a objective reasons of this prosecution we have such a poor results for which even the KLI has asked the Prosecutorial Council to improve working conditions of this prosecution but nothing has been done in this regard. Special Prosecution of Kosovo has not managed to solve even half of those registered persons at the beginning of the Action Plan. Out of 232 unsolved cases of persons that have been registered at the beginning of the Plan, Special Prosecution has reached to solve only 108 cases of persons or **47**% of them. *So, during the three months of the reporting period, Special Prosecution has solved one case of one person who remains as a solved case that was registered in the period of November 4, 2013.*More than half of the cases of persons has managed to solve Basic Prosecution in Ferizaj which out of 126 persons has solved 84 or 67% them. *For this reporting period has managed to solve only cases of 3 persons.***Basic Prosecution in Gjakova** *during this period of three months didn’t solve any case* that were registered until November 4, 2013, and by the June 30, 2013 this prosecution has solved 81% of cases or 52 out of 64 persons as they were at the beginning of the Action Plan . **Basic Prosecution in Prizren** has also managed to solve **86**% of cases, 151 out of 175 persons as it had in the beginning of the Action Plan. *During the reporting period only 2 registered cases of persons were solved by November 4, 2013.***Basic Prosecution in Peja** has managed to solve **95**% of cases or 82 out of 86 persons as it had at the beginning of the plan. *During this reporting period prosecution has solved one case of one person.***Basic Prosecution in Gjilan** has managed to solve **100%** of cases registered until November 4, 2013 in the Action Plan, solving all cases, namely 23 cases with 81 persons. KLI based on the monitoring of the plan, considers that the same until this period is not treated as a matter of absolute priority set in all prosecutions and this was the basis of the results achieved, as shown above.

In addition to solving cases, the National Anti-Corruption Coordinator and Chief Prosecutors have had a series of other commitments but they have failed to meet those commitnments. Like in previous reports, also for this reporting period (July, August, September 2014), KLI has measured the implementation of the obligations, based on indicators derived from the Action Plan. Unlike previous months, KLI for this reporting period has identified a smaller number of prescribed cases, five cases in total.

Chief Prosecutors completely to fail implementing the obligations set out in Section 3.2 of the Plan of Action, which obliges them to compile special reasoed reports for each case that reached the statute of limitation on criminal prosecution, to submit them to the National anti-Corruption Coordinator and to report back to the KPC. Such report has not been prepared by Chief Prosecutors, despite the fact that there have been continuously prescribed corruption cases.

One of the biggest challenges of the justice system, including the prosecutorial system in respect of Tracking Mechanism for registered cases of corruption and harmonization of statistics it can not be exceeded. Nearly a year after the entry into force of the Action Plan, corruption cases, still are not registered on Tracking Mechanism, therefore they are kept in the drawer without registering, in this way violating the general regulations set by the KPC. Failures in this area have a harmful impact directly on the effectiveness of prosecutors in combating corruption and are contributing on blurring the real situation, thus preventing the creation of adequate criminal policies. KLI has found that none of the chief prosecutors nor the National Coordinator were aware that during this reporting period (July, August, September, 2014) have been registered old cases in the system, which for years and decades are kept in the drawer of prosecution . KLI has found that in this reporting period, 36 registered cases with 77 persons, belonged to previous years and decades. Such an alarming situation was concluded also by the internal mechanisms of the KPC in February 2014, where it was made a decision to hold accountable all prosecutors and officials responsible, but never happened until now. KLI expressed its concern about this culture of impunity, which directly affects the series of failures to respect Tracking Mechanism. Not only for Tracking Mechanism, but KPC also for any other failure or obstruction of the implementation of the Action Plan has not imposed any disciplinary measures, despite ongoing problems identified so far by the KLI and by the KPC itself.

Despite reports by the National Coordinator for Combating Economic Crimes that during this year prosecutors have made sequestration of assets acquired through criminal offense in the amount of about 30 million euros, such a thing is not included in Tracking Mechanism. KLI upon conducted interviews with the Chief Prosecutors identified several minor cases in which prosecutors have made requests for sequestration of assets. Neither for these actions, the National Anti-Corruption Coordinator did not received any report on the sequestration or confiscation of assets.

The challenge addressed in each local and international report remains a serious problem for the justice system. Cooperation, coordination and communication between institutions and law enforcement agencies still leaves much to be desired. Having identified this problem, the Action Plan has defined as an obligation to organise regular meetings between these institutions and agencies, but in practice such a thing is partially accomplished.

Public Relation component defined in the Action Plan is implemented minimally by the National Anti-Corruption Coordinator. KLI has estimated the approach and informed the public about the implementation of this plan, but the findings indicate that this obligation has remained largely unrealized. For this reporting period (July, August, September 2014) National Coordinator should have kept 6 regular media conferences but during this period she has just released a written press release.

Also for this reporting period, the KLI has received and analyzed the prosecutorial legal acts (decisions to dismiss the criminal charges, decisions on termination of investigations and indictments). Limitation of corruption cases and placement cases contrary to the provisions and deadlines, inadequate criminal provisions and procedural criminal provisions are the main problems identified by the KLI analysts. The same problems have been identified by the internal mechanisms of KPC, who analyzed the same legal acts, which demonstrates that the expertise of the KLI has been accurate to be used for identifying problems and creating adequate criminal policies to increase efficiency and effectiveness in fighting corruption.

# II. METHODOLOGY

KLI in order to compile a comprehensive and analytical report, concerning the implementation of the Action Plan for Increasing Efficiency of Prosecutorial System for Fighting Corruption has used a mixed methodology of research. Research on implementation of Action Plan initially came as a result of the Memorandum of Cooperation between Kosovo Prosecutorial Council and the Kosovo Law Institute in which mutual obligations are defined in terms of monitoring and evaluating the implementation of this plan. KLI based on the obligations of the Action Plan has established clear indicators for measuring progress in the implementation of these obligations. The research is based on statistical data provided by the Performance Review Unit of the Prosecutor, the National Anti-Corruption Coordinator and Chief Prosecutors of the seven Basic Prosecutions in Kosovo for corruption offenses .[[4]](#footnote-5)

Reports provided by the KLI are summarized in a database which included all cases and persons at all stages of the proceedings in the prosecutorial system of the Republic of Kosovo. There are two categories of cases of corruption for which the KLI has provided data from the Performance Review Unit of the Prosecution.[[5]](#footnote-6) Category on investigation cases which are filed with criminal charges by the applicant or as they are known to the State Prosecution as PP and category of cases for which we are providing information on corruption by the applicants, namely cases that are at the stage of gathering information or as they are known to the State Prosecution as PPN. For these two categories of cases of corruption KLI has collected data at the start of the Action Plan on November 4, 2013, for the admission of new cases of these categories, to solve them and the method of solving them during reporting period and for the status of cases which are pending at the end of the Action Plan on June 30, 2014. The database was used to identify issues of concern relating to the implementation of the Action Plan mainlu for solution, way of solution and unsolved cases of corruption by prosecutors. Through KLI statistics analyzed some aspects which are presented and commented in tables, including all the specifics of corruption cases for each prosecutor, for each applicant in the case of corruption, the seniorit of reported cases on corruption and ways of solving of cases.

KLI has established an indicator based on the Action Plan to measure progress in the implementation of this plan. The main indicator is determined by the state of unsolved cases of corruption from the entry into force of the Action Plan on November 4, 2013 and progress in resolving these cases by prosecutors. So the degree of implementation of this plan is based on the solution or unsolved cases of corruption, which have been recorded as unsolved until 2013. On November 4, the KLI has analyzed and presented the solution of new cases received during the period of November 4, 2013 to the end of the plan on September 30, 2014.

KLI has been continuously monitoring the activities of the National Anti-Corruption Coordinator, acting Chief of Special Prosecution in the Republic of Kosovo and seven Chief Prosecutors of Basic Prosecutions in Kosovo. With all these prosecutorial functions and engaged prosecutors the KLI has conducted in-depth interviews, based on indicators of the Action Plan. The interviews conducted are codified so that issues and information derived from them are included in the report. KLI also monitored meetings of Kosovo Prosecutorial Council regarding the activities and decisions about the Action Plan. Despite all these efforts to have an accurate, objective and comprehensive assessment, KLI in accordance with the Memorandum of Cooperation between the KPC and KLI, have submitted to President of KPC the draft version of this report with findings and assessments on the implementation of the Action Plan, to get comments of all chief Prosecutors, to be included in the report.From all prosecutions, only SPRK has returned comments, which are addressed in the report.

Also, to be more accurate in identifying problems and proposing solutions to the problems in combating corruption, namely the implementation of more efficient and effective Action Plan, KLI has collected and analyzed in detail the relevant local and international documents which relate to the fight against corruption in Kosovo.

# III. CORRUPTION CASES IN THE PHASE OF INVESTIGATION - PP

## TREND OF UNSOLVED CASES

Strategic policies of prosecutorial powers to combat corruption, resulted in the issuance of concrete plans for solving corruption cases. From 4 November 2013 Kosovo Prosecutorial Council (hereinafter KPC) has started the implementation of the Action Plan to Increase the Efficiency of Prosecutorial System for Combating Corruption (hereinafter, the Action Plan). Since this period, Kosovo Law Institute (hereinafter, KLI), based on the Memorandum of Undertanding[[6]](#footnote-7) with KPC has done external monitoring and evaluation of the implementation of this Action Plan.

During this period of three months (July, August, September, 2014), as of the entry into force of the Plan of Action, KLI has constantly monitored activities of the National Anti-Corruption Coordinator, Acting Prosecutor of the Special Prosecution of the Republic of Kosovo and the seven Chief Prosecutors of Kosovo Basic Prosecutions.Monitoring is done through direct visits to the National Coordinator, Chief Prosecutors of Basic Prosecutions, Performance Review Unit of the Prosecutor (hereinafter,PRUP).KLI has continuously received statistics from the National Coordinator and PRUP analyzing all trends of cases of corruption by prosecutors.KLI to have a real picture of corruption cases which appear officially in all prosecutions in Kosovo, has created a database, through which developed all analyzes regarding the cases of corruption at work.[[7]](#footnote-8)

Based on statistical analysis, KLI found that for 11 consecutive months, prosecutors have failed to meet even half of the Action Plan, ie they have solved the half of corruption cases registered in the Action Plan until November 4, 2013. The trend of unsolved cases has failed to decline at the end of the reporting period (September 30, 2014). With the entry into force of the Action Plan, prosecutors have had to work 516 unsolved cases with 1,682 persons, while on September 30, 2014 have remained 575 unsolved cases with 1,613 persons. So, we have an increased number of unsolved cases, while a reduction in the number of persons against whom cases have not been solved.[[8]](#footnote-9) KLI has done three denominations to make comparison of the trend of unsolved cases and persons for the period November 4, 2013, June 30, 2014 and September 30,2014. See table 1.

**Table 1 - Trend of unsolved cases in three periods:**

**November 4, 2013, June 30, 2014 and September 30, 2014**

Trend of unsolved cases show a non- efficiency of prosecutions in solving corruption cases. According to the trend presented in Table 1, it turns out that prosecutors are failing to change the initial state of unsolved cases, which have been at the beginning of the Action Plan. While at the beginning there were 1,682 persons against whom cases have not been solved, in September 30 remained 1,613 persons against to whom cases of corruption have not been solved, or only 4% less persons than they were at the beginning of the Action Plan.

Basic Prosecution in Pristina continues to face an increasing trend of unsolved cases. This prosecution has never managed to decrease the number of unsolved cases, in contrary the number always increased. While at the beginning of the Action Plan had 224 unsolved cases with 777 persons, at the end on September 30, 2014, the number of unsolved cases has increased to 355 cases with 978 persons which results in 201 persons more or 21% more the end of September.

The trend of increased unsolved cases followed Mitrovica and Special Prosecution. Unlike Basic Prosecution in Pristina, in which the trend of increased unsolved cases was 201 persons or 21% more than they were in the beginning, in Mitrovica and Special Prosecution, incresed trend has been in small percentage. Basic Prosecution in Mitrovica on September 30, 2014 had 157 persons or 16 persons more than at the beginning on November 4, 2013, while the Special Prosecution had 237 persons or 5 persons more than at the beginning of the Action Plan. While all other prosecutions have managed to reduce the number of unsolved cases, compared with the initial state of the entry into force of the Action Plan. Note in Table 2, the trend of increased unsolved cases for each prosecutor, in three periods that include November 4, 2013 (*entry into force of the Action Plan*), June 30, 2014 (*the end of the implementation of the Action Plan for cases registered until November 4, 2013*) and September 30, 2014 (*continued KLI periodic evaluation for the implementation of the Action Plan for the three months of July, August, September 2014)*.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| State Prosecutor | | November 4, 2013 | | June 30, 2014 | | September 30, 2014 | |
|  |  | Cases | Persons | Cases | Persons | Cases | Persons |
| 1 | SPRK | 35 | 232 | 41 | 221 | 47 | 237 |
| 2 | Pristina | 224 | 777 | 346 | 935 | 355 | 978 |
| 3 | Prizren | 70 | 175 | 27 | 49 | 33 | 85 |
| 4 | Peja | 37 | 86 | 24 | 38 | 22 | 45 |
| 5 | Gjilan | 23 | 81 | 7 | 9 | 7 | 12 |
| 6 | Mitrovica | 64 | 141 | 61 | 153 | 62 | 157 |
| 7 | Ferizaj | 37 | 126 | 27 | 56 | 30 | 62 |
| 8 | Gjakova | 26 | 64 | 15 | 27 | 19 | 37 |
| 9 | Total: | 516 | 1682 | 548 | 1488 | 575 | 1613 |

**Table 2 - Difference of unsolved cases at the beginning of the entry into force**

**Action Plan on November 4, 2013, on June 30, 2014 and in the end on September 30, 2014.**

NID has paid particular attention to coverage of all unsolved cases at the beginning of July 1, 2014, for each prosecutor, which are old in years. In Table 3, note the usolved cases with the number of persons belonging to the years 2003, 2004, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 new cases in 2014.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PP – Unsolved cases over years at the beginning of the reporting period | 2003 | | 2004 | | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | 2012 | | 2013 | | 2014 | | Total | |
| Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons |
| SPRK |  |  |  |  |  |  |  |  |  |  |  |  | 8 | 31 | 5 | 27 | 7 | 38 | 5 | 31 | 16 | 95 | 41 | 221 |
| Pristina | 2 | 8 | 1 | 1 | 5 | 13 | 9 | 30 | 18 | 60 | 7 | 8 | 17 | 49 | 19 | 99 | 36 | 102 | 86 | 341 | 146 | 225 | 346 | 935 |
| Prizren |  |  |  |  |  |  |  |  |  |  | 1 | 4 | 1 | 1 | 1 | 1 | 5 | 7 | 5 | 7 | 14 | 29 | 27 | 49 |
| Peja |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 1 | 3 | 10 | 15 | 13 | 20 | 24 | 38 |
| Gjilan |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 7 | 9 | 7 | 9 |
| Mitrovica |  |  |  |  |  |  |  |  |  |  | 3 | 4 | 3 | 7 | 4 | 4 | 12 | 40 | 23 | 68 | 16 | 30 | 61 | 153 |
| Ferizaj |  |  | 1 | 4 |  |  | 1 | 2 |  |  | 1 | 1 | 2 | 4 |  |  | 1 | 4 | 14 | 32 | 7 | 9 | 27 | 56 |
| Gjakova |  |  | 1 | 1 |  |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 | 7 | 12 | 6 | 13 | 15 | 27 |
| Total: | 2 | 8 | 3 | 6 | 5 | 13 | 10 | 32 | 18 | 60 | 12 | 17 | 31 | 92 | 29 | 131 | 63 | 195 | 150 | 506 | 225 | 430 | 548 | 1,488 |

**Table 3 - Trend of unsolved cases over the years early on July 1, 2014**

Unsolved old cases at the beginning of the reporting period ( July 1, 2014) dating from 2003[[9]](#footnote-10) are a proof that many criticisms were fair for the work of prosecutors by citizens and various state agencies that have filed criminal charges for cases of corruption. Prior to the enactment of the Action Plan, there was a large number of old unsolved cases of corruption, dating back since 2001. Although prosecutors have solved some of these very old cases of corruption, as can be noted, the number of old cases unsolved continues to be distressing.

Based on these results on implementation of the Action Plan, KLI found that the criticism from applicants is fair for criminal charges and prosecution system until the entry into force of the Action Plan, not giving proper response to corruption cases, despite the fact that the fight against corruption has consistently remained as one of the state priorities.[[10]](#footnote-11)

Trend of the implementation of the Action Plan is proving that these cases are not treated with priority by prosecutors, who have failed to solve old cases over the years of corrupt nature. KP and ACA remain two institutions with the largest number of criminal charges filed in the prosecution for corruption offenses.

In addition, in Table 4, note the condition of old cases of corruption unsolved at the beginning of this period of three months, on July 1, 2014.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PP - Unsolved Cases of persons, in the beginning of the reporting period  (July 1, 2014) with the Applicants in years | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | Total: |
| ACA |  |  |  |  | 6 | 16 |  | 21 | 19 | 101 | 111 | 130 | 404 |
| TAK |  |  |  |  |  |  |  | 2 |  |  |  |  | 2 |
| Kosovo Customs |  | 4 |  |  |  |  |  |  |  |  | 9 | 1 | 14 |
| EULEX |  |  |  |  |  |  |  | 13 | 11 | 1 | 9 |  | 34 |
| KPI |  |  |  |  |  |  |  |  |  | 10 | 11 | 9 | 30 |
| KP | 7 |  |  | 9 | 17 | 25 | 7 | 31 | 28 | 46 | 288 | 188 | 646 |
| Citizen | 1 |  |  |  |  |  | 2 | 10 | 25 | 16 | 22 | 29 | 105 |
| Injured |  | 1 | 2 |  | 5 | 1 | 1 | 10 | 5 | 6 | 47 | 45 | 123 |
| Municipal Administ. |  |  |  |  |  |  |  |  | 1 |  |  | 2 | 3 |
| Received by competence |  |  |  |  |  |  |  |  |  |  |  | 14 | 14 |
| Holde of property |  | 1 |  | 4 | 2 | 18 | 5 | 5 |  | 15 | 1 | 9 | 60 |
| Forest Authority |  |  |  |  |  |  | 1 |  |  |  | 2 |  | 3 |
| Prosecutor-Selfinitiative |  |  |  |  |  |  |  |  | 41 |  | 4 | 2 | 47 |
| Unidentified |  |  |  |  |  |  |  |  | 1 |  | 2 |  | 3 |
| Total: | 8 | 6 | 2 | 13 | 30 | 60 | 16 | 92 | 131 | 195 | 506 | 429 | 1,488 |

**Table 4 - Trend of unsolved cases with the persons, according to the complainants**

**over the years at the beginning of the reporting period (1 July 2014).**

As seen from Table 4, workload on old corruption remains one of the biggest problems facing the justice system. The above table indicates unsolved cases from 2003, which were filed by Kosovo police and citizens, and since 2004 have remained unsolved cases filed by injured parties, the property owners and Kosovo Customs.[[11]](#footnote-12) This inefficiency in solving cases undoubtedly affects falure to discover corrupt persons, the prosecution and adjudication of them, in fact the amnesty of corruption and what is more important, affects the loss of trust in justice. Citizens of the Republic of Kosovo every day address complaints about the inefficiency of the justice system, precisely because of the delay of solving cases, despite the fact that cases were registered for years to justice.[[12]](#footnote-13) KLI finds that there are still a number of corruption cases initiated by filing the criminal charges dating from 2003, which have not yet been addressed, until this reporting period. This fact is extremely worrying because proves that prosecutors in these cases over the years have not taken the necessary legal actions. This affects directly citizens, to whom the message sent that passively fighting corruption is being pardoned by the prosecutors. KLI estimates that the continuation of this trend indirectly affects the perpetrators of corruption offenses stimulated by the justice system. In this way public pledges fall top officials governing the judicial system, which despite the policies and strategies developed and approved, are failing to implement in practice.[[13]](#footnote-14) Non-implementation of positive legislation on combating corruption has a direct impact on the extraction of negative assessments of the the European Commission, which through the Evaluation Committee regarding the fulfillment of criteria for visa liberalization, has estimated that despite some improvements, there are no concrete results final court cases concerning the fight against corruption.[[14]](#footnote-15)

The lack of results in combating corruption, in this reporting period, has led directly to the loss of trust in the prosecutorial system. The UNDP report for the period April-November 2014 shows that trust in the work of the State Prosecutor, has recorded the largest fall of all time, having declined by 17 percentage points, reducing confidence in only 21% compared with 38% in April 2014.[[15]](#footnote-16)

Public trust has decreased in percentage in the court system, which are satisfied only 23% of citizens for the period April-November 2014. While in April of citizen satisfaction with the work of the judicial system was 38%, during this reporting period April-November 2014 declined to 15%.[[16]](#footnote-17)

KLI estimates that the failure to implement with efficiency and effectiveness the Action Plan, has led directly to the collapse of one of the most important elements for justice, public trust in the institutions of justice, namely the prosecutorial system and the judicial system. This fact is very disturbing and KLI estimates that this trend of implementation of the Action Plan will continue to gamble further decreased of public trust in the justice system, namely the administration of justice for them.

In the table below, KLI has shown unresolved cases of corruption, according to the complainants of criminal charges and qualification of offenses for what suspected persons responsible in these acts. Within the chapter of acts against corruption, which remain unsolved early on July 1, 2014, the most expressed crime offense remains "Abuse of power or official authority", followed by "Non-declaration of assets" and "Collection and illegal payments" etc. According to these statistics, it turns out that corruption lies mainly in public institutions, in which the exercise of official authority becomes abusing of official position and authority. Persons against whom criminal charges have been filed for the offense "Misuse of official position or authority", it turns out that for years have exercised their functions, while cases against them are not handled by prosecutors and remained unsolved. For more see Table 5 below.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PP - Unsolved Cases of people in the beginning of this reporting period (1 July 2014) the Applicant and the offense | Total persons | Non declaration of assets | Abuse of position or official authority | Unlawful Collection and Disbursement | Giving bribes | Falsification of official documents | Marrja e ryshfetit | Fraud on duty | Issuing unlawful judicial decisions | Acquisition on duty | Exercise of influence | Misuse of economic authorizations | Entering harmful contract | Conflict of interest | Participation or organization of criminal group organizuar |
| ACA | 404 | 102 | 272 |  |  | 16 | 1 |  | 1 |  | 12 |  |  |  |  |
| KP | 646 |  | 440 | 102 | 8 | 16 | 9 | 8 | 6 | 43 | 4 | 5 | 4 | 1 |  |
| KPI | 30 |  | 18 |  |  | 1 | 5 |  |  | 5 | 1 |  |  |  |  |
| Injured | 123 |  | 106 |  | 1 | 6 | 1 |  | 1 | 4 | 2 | 2 |  |  |  |
| TAK | 2 |  | 2 |  |  |  |  |  |  |  |  |  |  |  |  |
| Forest authority | 3 |  | 3 |  |  |  |  |  |  |  |  |  |  |  |  |
| Kosovo Customs | 14 |  | 4 |  | 1 |  |  |  |  |  |  | 4 |  |  | 5 |
| Prosecutor Selfinitiat. | 47 |  | 46 |  |  |  |  | 1 |  |  |  |  |  |  |  |
| Citizen | 105 |  | 100 |  | 1 |  |  | 1 |  |  | 1 | 2 |  |  |  |
| Holder of property | 60 |  | 49 |  |  |  |  | 2 |  | 8 |  | 1 |  |  |  |
| Received by competence | 14 | 2 | 11 |  |  |  |  |  |  | 1 |  |  |  |  |  |
| EULEX | 34 |  | 19 |  | 5 |  | 4 |  |  |  |  | 6 |  |  |  |
| Municipal Administr. | 3 |  | 2 |  |  |  |  |  |  | 1 |  |  |  |  |  |
| Unidentified | 3 |  | 3 |  |  |  |  |  |  |  |  |  |  |  |  |
| Total: | 1,488 | 104 | 1,075 | 102 | 16 | 39 | 20 | 12 | 8 | 62 | 20 | 20 | 4 | 1 | 5 |

**Table 5 - Trend of unsolved cases of persons at the beginning of this**

**reporting period according to the complainants and offenses ( July 1, 2014)**

## TREND OF RECEIVED UNSOLVED CASES DURING ACTION PLAN

During the reporting period (July, August, September, 2014), prosecutors are constantly loaded with new cases of corruption. SPRK along with seven Basic Prosecutions for these three months have received for processing 82 new cases with 175 persons. BP in Pristina continued to face the greatest number of cases and persons suspected of criminal offenses of corruption, due to the concentration of the all central public institutions in the Capital. Note in Figure 6, the trend of cases and persons received for three-month reporting period.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Cases and persons received during the three months | Cases in July | Persons in July | Cases in August | Persons in August | Cases in September | Persons in September | Total cases: | Total persons: |
| SPRK | 2 | 3 | 1 | 2 | 2 | 6 | 5 | 11 |
| Pristina | 11 | 22 | 7 | 8 | 11 | 23 | 29 | 53 |
| Prizren | 5 | 33 | 5 | 9 | 3 | 5 | 13 | 47 |
| Peja | 3 | 12 |  |  | 1 | 1 | 4 | 13 |
| Gjilan | 2 | 5 | 1 | 2 | 2 | 2 | 5 | 9 |
| Mitrovica | 8 | 8 | 2 | 2 | 2 | 9 | 12 | 19 |
| Ferizaj | 5 | 7 | 1 | 1 | 1 | 1 | 7 | 9 |
| Gjakova | 2 | 4 | 2 | 2 | 4 | 8 | 8 | 14 |
| Total: | 38 | 94 | 18 | 26 | 26 | 55 | 83 | 175 |

**Table 6 - Cases and persons received for**

**each month (period July 1 to September 30, 2014).**

The table below (Table 7) you may notice complainants of criminal charges in corruption cases each month. Same as during the whole period of implementation of the Action Plan, during this reporting period (July, August, September, 2014) Kosovo Police still remains the biggest applicant of criminal charges of corruption cases, where for this period of three months has filed criminal charges against 104 persons, followed by the injured parties in criminal charges against 27 persons, the ACA with criminal charges against 12 persons etc. For more see Table 7.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PP - Cases and persons received by the complainants (July 1 to September 30, 2014) | Cases in July | Persons in July | Cases in August | Persons in August | Cases in September | Persons in September | Total cases: | Total persons: |
| ACA | 4 | 4 | 3 | 3 | 3 | 5 | 10 | 12 |
| KP | 18 | 67 | 10 | 16 | 7 | 21 | 35 | 104 |
| KPI |  |  |  |  | 1 | 1 | 1 | 1 |
| Holder of property | 1 | 3 | 1 | 1 |  |  | 2 | 4 |
| Injured | 4 | 7 | 3 | 3 | 10 | 17 | 17 | 27 |
| EULEX |  |  |  |  | 1 | 1 | 1 | 1 |
| Citizen | 1 | 1 |  |  | 2 | 6 | 3 | 7 |
| Municipal Adminis | 1 | 1 |  |  |  |  | 1 | 1 |
| Received by comp. | 8 | 8 | 2 | 3 | 2 | 2 | 12 | 13 |
| KPA |  |  |  |  | 1 | 5 | 1 | 5 |
| Total: | 37 | 94 | 19 | 26 | 27 | 55 | 83 | 175[[17]](#footnote-18) |

**Table 7 - Trend of cases and persons**

**received by the complainants for each month**

## TREND OF SOLVED CASES

## Trend of solved cases for the reporting period (July, August, September, 2014) has been extremely low for all prosecutors. Except Basic Prosecution in Pristina, which in September has solved a greater number of cases and persons, all other Basic Prosecutions and Special Prosecution during these three months, have solved a small number of cases of corruption. While, in July are solved 21 cases against 35 persons, in August are solved only 11 cases against 12 persons. While in September, should be distinguished BP in Pristina, which has solved 26 cases against 47 persons, while all other Basic Prosecutions and Special Prosecution for this month have solved only 22 cases against 43 persons. As can be seen, in September, six Basic Prosecutions and Special Prosecution have failed to solve cases which were solved only by BP in Pristina. For more see Table 9 below.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Trend of cases solved during the reporting period | Cases in July | Persons in July | Cases in August | Persons in August | Cases in September | Persons in September | Total cases: | Total persons: |
| SPRK | 1 | 1 |  |  | 2 | 14 | 3 | 15 |
| Pristina | 5 | 15 | 3 | 3 | 26 | 47 | 34 | 65 |
| Prizren | 3 | 6 | 2 | 2 | 4 | 8 | 9 | 16 |
| Peja | 4 | 4 | 2 | 2 | 1 | 1 | 7 | 7 |
| Gjilan | 2 | 3 | 1 | 2 | 3 | 3 | 6 | 8 |
| Mitrovica | 2 | 2 | 1 | 1 | 8 | 12 | 11 | 15 |
| Ferizaj | 4 | 4 | 1 | 1 | 1 | 2 | 6 | 7 |
| Gjakova |  |  | 1 | 1 | 3 | 3 | 4 | 4 |
| Total: | 21 | 35 | 11 | 12 | 48 | 90 | 80 | 137 |

**Table 8 - Trend of cases solved with**

**persons for each month for each prosecution**

Increasing efficiency in BP in Pristina in September 2014 to solve cases of corruption, comes after a reorganization of the work, which was done in by the Chief prosecutor of BP in Pristina and the National Anti-Corruption Coordinator.[[18]](#footnote-19) National Coordinator has implemented one of the KLI's recommendations to address the issue of the failure of prosecutors in BP in Pristina in the implementation of the Action Plan. Chief Prosecutor of BP in Pristina and National Coordinator, held a collegium meeting on September 11, 2014, with all the prosecutors of this prosecution, to draw some conclusions about how the reorganization of the work of prosecutors to solve cases of corruption. The conclusions of the meeting of the college are:

*• By the end of 2014 we will make an effort to reduce the number of cases of corruption.  
• Every Friday, not later than 15:00 pm every prosecutor should report to the National Coordinator and Chief Prosecutor of BP in Pristina on cases of corruption.   
• The Working Group of three prosecutors, who will report to the Chief Prosecutor in BP of Pristina, and to the National Coordinator.*

During September, which includes reporting period, the National Coordinator has held regular weekly meetings with prosecutors Collegium of the Serious Crime Department to track solving cases of corruption, which has produced concrete results. Just for the three months prosecutors have solved 26 cases against 47 persons, while the previous eight months (November 4, 2013 until June 30, 2014) had managed to solve 54 cases with 123 persons.[[19]](#footnote-20) Also, since September 11, 2014 until September 30, 2014 BP in Pristina has issued 71 decisions for development of investigations for corruption cases against 77 persons.[[20]](#footnote-21)

Reorganization of the work of BP in Pristina has been very necessary to increase efficiency and establish a communication which enables reflection of the real situation of the problem, which should face prosecution system. This prosecution still has problems with insufficient number of prosecutors, however, KLI during continuous monitoring until September, has observed that there existed a frivolous approach of the prosecution in dealing with corruption cases priority.

Knowing the importance of this prosecution, which according to SPRK, deals with serious corruption cases because of concentration of state administration in Capital, results that this prosecution was not committed to identify and solve problems for cases of corruption. KLI while continuing with monitoring of activities in BP in Pristina, like in any ther prosecution, will address concerning issues which interupt implementation of the Action Plan with efficiency on corruption cases.

From the the entry into force of the Action Plan on November 4, 2013 to the end of the reporting period on September 30, 2014, prosecutors have failed to solve cases to a total of 976 persons for offenses of corruption. KLI below shows the trend in the number of persons against whom corruption cases are solved in each month from the entry into force of the Action Plan. As you can notice in Table 9, December 2013 marked the largest number of cases resolved, to a total of 195 persons. Trend of solving cases has decreased, depending on the month, and the month with the lowest number of cases solved recorded in August 2014, where were solved only cases against 12 persons. In the following table you will notice the trend of cases for each month of the entry into force of the Action Plan before 11 months (November 4, 2013).

**Table 9 - Trend of cases solved with persons for each month from the effective date of the Plan of Action (November 4, 2013) until the end of the reporting period (September 30, 2014)**

## METHOD OF SOLVING CASES

Trend of solving cases of corruption by prosecutors continued in the same manner as in the eight months prior to the implementation of the Action Plan.[[21]](#footnote-22) From the cases solved against 137 persons to more than half of them criminal charges are dismissed or investigations were terminated, while less than half of them were indicted.

## As noted in Table 10, against 60 persons were dismissed criminal charges, against 29 persons investigations were terminated for corruption cases. While, on 2 persons have imposed punitive order, against 12 persons have direct indictment, and 34 persons have indicted after investigation. KLI considers particularly disturbing that from 137 persons against whom cases were resolved, against 65% of them or against 89 persons were dismissed criminal charges or investigations were terminated. While, over 35% of them prosecutors have reached to file indictments.

This method of solving cases, proves that many persons against whom criminal charges for corruption have been filed, have been held hostage in the justice system, due to the negligence of the prosecutorial system to solve their cases. This analysis of method to solve cases, shows that more than half of those held hostage, they were innocent and wrongly held in evidence in prosecutorial system as persons against whom criminal charges for corruption initiated. The same applies to persons who were indicted. It is a legal obligation of each bearer to function in the prosecutorial system to solve in a reasonable time all corruption cases to bring equality and justice for citizens.

As noted in previous reports, the Institute estimates that during the treatment of these cases, prosecutors have not acted in accordance with the duties and responsibilities arising from the Law on State Prosecutor, ie no legal provisions, among other things determined that prosecutors in exercise prosecutorial functions should do the work independently, fair, objective, impartial and ensure that all persons are treated equally before the law, and must observe the highest standards of care in performing its official functions and legal rights protection of witnesses and suspects.[[22]](#footnote-23) KLI emphasizes that prosecutors with this way of acting and respecting the law are not influencing to combat corruption and improve public perception in Kosovo fighting corruption selectively. In Table 10, notice the way to resolve corruption cases by prosecutors, for the reporting period July, August and September 2014.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Method of solved cases for each prosecution for the reporting period (1 July to 30 September 2014) | | Dismissed | Terminated | Punitive order | Direct indictment | Indictment after investigations | Total: |
| SPRK | | 14 | 1 |  |  |  | 15 |
| Pristina | | 30 | 16 | 1 |  | 18 | 65 |
| Prizren | | 11 | 3 |  |  | 2 | 16 |
| Peja | | 1 | 3 | 1 |  | 2 | 7 |
| Gjilan | | 2 | 1 |  |  | 5 | 8 |
| Mitrovica | | 1 | 5 |  | 7 | 2 | 15 |
| Ferizaj | |  |  |  | 4 | 3 | 7 |
| Gjakova | | 1 |  |  | 1 | 2 | 4 |
| Total: |  | 60 | 29 | 2 | 12 | 34 | 137 |

**Table 10 – Method of solved cases according to prosecutions**

Problems with the quality of criminal charges and their arguments have continued in this reporting period. Prosecutors have solved cases against 58 persons for whom the Kosovo Police has filed criminal charges of corruption. Out of them 33 persons were indicted, to 2 persons have proposed the imposition of a punitive order, whereas the 23 persons criminal charges were dismissed or terminated. In this period (July, August, September, 2014), shows that criminal charges by the police have been qualitative, the prosecutors argued or decision has been more professional. Unlike police cases, cases of criminal charges filed by the ACA, the negative trend continued with the evaluation by the prosecutors, who for 17 persons against whom cases have been solved, only to 4 persons were indicted, while against 13 persons criminal charges have been dismissed or investigations have been terminated. For more on the table 11, notice the trend of solving cases from complainants of criminal charges for corruption.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Method of solved cases according to the complainants for the reporting period | Dismissed | Terminated | Punitive order | Direct indictment | Indictment after investigations | Total: |
| ACA | 2 | 11 |  | 1 | 3 | 17 |
| KP | 18 | 5 | 2 | 4 | 29 | 58 |
| Injured | 30 | 5 |  | 2 |  | 37 |
| KPI | 3 | 3 |  |  |  | 6 |
| Citizen | 5 | 1 |  |  |  | 6 |
| EULEX | 1 | 1 |  |  |  | 2 |
| Prosecutor selfinitiativ. |  | 1 |  |  |  | 1 |
| Holder of property | 1 | 1 |  |  |  | 2 |
| Received by competen. |  | 1 |  | 6 | 1 | 8 |
| Total: | 60 | 29 | 2 | 13 | 33 | 137[[23]](#footnote-24) |

**Table 11 - Means of cases and persons**

**according to the complainants (the period from July to September 2014)**

Method of solved cases according to the complainants of November 4, 2013 until September 30, 2014 is reflected in the following table. Out of the total 976 persons against whom cases were solved during the reporting period, against 387 persons indictment has been filed after the investigation or direkt indictment, to 43 persons proposed imposition of punitive order, and to 546 persons investigations have terminated or criminal charges were dismissed (against 302 persons investigations have terminated and to 244 persons were dismissed criminal charges).

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| PP - Method of solving cases from November 4, 2013 until September 30, 2014 | Total persons | Dismissed | Terminated | Punitive Order | Direct indictment | Indictment after investigation |
| ACA | 130 | 40 | 39 | 3 | 11 | 37 |
| KP | 579 | 100 | 161 | 38 | 41 | 239 |
| Injured | 100 | 61 | 24 |  | 3 | 12 |
| KPI | 31 | 5 | 8 | 2 | 1 | 15 |
| Municipal admini. | 9 | 2 | 3 |  | 2 | 2 |
| Kosovo Customs | 1 |  |  |  |  | 1 |
| Forest Authority | 11 |  | 11 |  |  |  |
| Financial intellege. | 2 |  | 2 |  |  |  |
| Citizen | 81 | 28 | 50 |  |  | 3 |
| EULEX | 9 | 1 | 1 |  |  | 7 |
| Prosecutor selfinitiative | 2 | 1 | 1 |  |  |  |
| Titullari i Pronës | 13 | 6 | 1 |  |  | 6 |
| Pranuar Kompet. | 8 |  | 1 |  | 6 | 1` |
| Total: | 976 | 244 | 302 | 43 | 64 | 323 |

**Table 12 - Method of cases from November 4, 2013 until September 30, 2014)**

Even for this reporting period (July, August, September, 2014), Kosovo Police has continued to be the largest complainant of criminal charges in corruption cases. Prosecutors have solved cases filed by the police, to a total of 579 persons. Of these, over 261 people criminal charges were dismissed or investigations were terminated, and to 318 persons are direct indictment and the indictment after investigation and punitive orden were imposed.[[24]](#footnote-25) After the police, ACA is the second biggest complainants for criminal charges of corruption, whose cases are mostly solved after the police. Prosecutors total of 130 persons against whom have solved cases against 79 of them have dismissed criminal charges or have terminated investigations, and to 51 persons have direct indictment, after investigation or proposed imposition of a punitive order.

After police and ACA, prosecutors have mostly solved cases that have been filed by the injured parties and citizens. From a total of 100 persons against whom have been solved cases filed by the injured parties, against 85 persons have investigations terminated or criminal charges were dismissed, while only against 15 persons were indicted[[25]](#footnote-26). Cases filed by citizens were solved against 81 persons, where prosecutors only to 3 persons have filed an indictment after investigation, and to 78 other people have dismissed criminal charges or have terminated investigations, respectively, over 28 people have dismissed criminal charges, while against 50 persons have terminated investigation.

KLI continues to express concern about the way of solving cases where prosecutors in most cases are dismissed and are investigation were terminated for corruption cases. This concern raises the need to identify the problems in these cases, which should analyze the quality of criminal charges, their argument by the applicant as well as the prosecutors decision to eliminate future problems.[[26]](#footnote-27)

KLI continues to insist the Kosovo Prosecutorial Council to examine through its mechanisms, issues of criminal charges for failure to identify problems about quality, argumentation or decision of prosecutors in corruption cases. In this regard, the KPC should express its willingness to identify and remedy problems filing criminal charges, to ensure effective prosecution of perpetrators of crimes of corruption in cooperation with all law enforcement agencies in Kosovo.

KLI assesses that through these mechanisms will enable the indentification of problems, to enable the creation of criminal adequate policies for prosecuting corruption and increase the quality of justifications of prosecutors for their decisions, which undoubtedly will affect the confidence of citizens that their decisions are fair and based on law.

# IV. THE IMPLEMENTATION OF THE ACTION PLAN FOR CASES E REGESTIRED UNTIL NOVEMBER 4, 2013

The trend of solving cases for the reporting period (July, August, September, 2014) has marked a minimal progress, regards cases registered in the Action Plan until December 4, 2013. In order to assess the progress of the implementation of this plan, KLI has decided to measure solved cases of corruption, registered until November 4, 2013. KLI has set the indicators based on the obligations under the Action Plan. KLI estimates that prosecutors should have treated these cases with an absolute priority, as it is seen by the Action Plan,[[27]](#footnote-28) by aiming to solve old cases, gathered over years in the drawers of the prosecutors. Therefore, KLI explains that the progress of implementation of the Action Plan is based on solved cases registered until November 4, 2013.

KLI estimates that for these three months, prosecutors have failed to implement even the half of the Action Plan, based on solved cases and persons. With the entry into force of the Action Plan on November 4, 2013, prosecutors had 516 unsolved cases with 1682 persons. After the entry into force of the plan until September 30, 2014, prosecutors have managed to solve cases against 751 persons, or only 45% of them. From these solved cases, against 431 persons or to 58% of them, prosecutors have dismissed criminal charges or have terminated the investigations, and to 320 persons or to 42% of them, they have imposed direct indictments, indictments after investigation and have proposed the imposition of punitive orders.

During these three months of reporting period, prosecutors have solved cases against 66 persons, or only 4% of cases registered until November 4, 2013.[[28]](#footnote-29) Ongoing, in table 13, you may see solved cases and the method of solving cases registered until November 4, 2013, respectively you may see the percentage of implementation of the Action Plan for each prosecution.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| The implementation of the Action Plan – The method of solving registered cases until November 4, 2013 for each prosecution | Unsolved persons on November 4, 2013, in total | Persons in total | | Dissmis | | Termination | | Punitive Orders | | Direct indictments | | Indictments after investiogations | |
| Persons | Persons with % | Persons | Persona with % | Persons | Persons wih % | Persons | Persons with % | Personas | Persons with % | Persons | Persona with % |
| SPRK | 232 | 108 | 47% | 10 | 9% | 80 | 74% |  |  |  |  | 18 | 17% |
| Pristina | 777 | 149 | 19% | 56 | 38% | 29 | 19% |  |  | 6 | 4% | 58 | 39% |
| Prizren | 175 | 151 | 86% | 37 | 25% | 48 | 32% |  |  | 3 | 2% | 63 | 42% |
| Peja | 86 | 82 | 95% | 6 | 7% | 55 | 67% |  |  |  |  | 21 | 26% |
| Gjilan | 81 | 81 | 100% | 18 | 22% | 27 | 33% |  |  | 20 | 25% | 16 | 20% |
| Mitrovica | 141 | 44 | 31% | 31 | 70% | 5 | 11% |  |  | 2 | 5% | 6 | 14% |
| Ferizaj | 126 | 84 | 67% | 13 | 15% | 5 | 6% | 35 | 42% | 1 | 1% | 30 | 36% |
| Gjakova | 64 | 52 | 81% | 7 | 13% | 4 | 8% |  |  |  |  | 41 | 79% |
| Total: | 1682 | 751 | 45% | 178 | 24% | 253 | 34% | 35 | 5% | 32 | 4% | 253 | 34% |

**Tabla 13 – The method of solving cases according prosecutions for the period of November 4, 2013 - September 30, 2014**

As you may see in the table 13, BP in Pristina, continues to be the prosecution with the poorest efficiency in fulfilling the obligations of the Action Plan. **BP in Pristina** has solved cases only to 19% of persons or only to 149 persons from 777 of them, registered in the Action Plan until November 4, 2013.[[29]](#footnote-30) *However, compared to other prosecutions, BP in Pristina has solved most of cases for the reporting period (July, August, September, 2014), with a total of 51 persons.*

After Pristina, **BP in Mitrovica** is the most inefficient prosecution, which has solved cases to **31%** of persons or only to 44 persons from 141 of them, registered on November 4, 2014.[[30]](#footnote-31) *During reporting period this prosecution has solved cases against 8 persons.* KLI has on consideration that these poor results of this prosecution, were also due to objective reasons of working conditions, for which KLI required to be addressed urgently by the Prosecutorial Council to improve working conditions, but they did not respond until now.

SPRK has still not managed to solve even the half of those persons, registered at the beginning of the Action Plan. From unsolved cases against 232 persons registered at the beginning of the Plan, **SPRK** has solved cases against 108 or 47% of persons.[[31]](#footnote-32) *So, during three months of the reporting period, SPRK has solved only a case against 1 person who belongs to cases registered until November 4, 2013.*

**BP in Ferizaj** has managed to solve over half of persons, which from 126 persons has solved 84 or 67% of them.[[32]](#footnote-33) *For this reporting period has managed to solve cases only against 3 persons.*

During this period of three months, **BP in Gjakova** *has not solved any of cases* registereduntil November 4, 2013, and until June 30 this prosecution has solved cases against 81% of persons or 52 of them from 64 persons registered at the beginning of the Action Plan.[[33]](#footnote-34)

**BP in Prizren** has also managed to solve **86%** of persons, by solving cases against 151 persons from 175 of them registered at the beginning of the Action Plan.[[34]](#footnote-35) *During the reporting period BP in Prizren has solved cases only to 2 persons registered until November 4, 2013.*

**BP in Peja** has managed to solve **95%** of persons or 82 of them from 86 persons registered at the beginning of the plan.[[35]](#footnote-36) *During the reporting period this prosecution has solved only one case against 1 person.*

**BP in Gjilan** has managed to solve **100%** of registered cases until November 4, 2013 in the Action Plan, by solving all cases, respectively 23 cases with 81 persons.

## THE METHOD OF SOLVING CASES OF THE ACTION PLAN FOR THE REPORTING PERIOD

The main challenge of the prosecutors for the implementation of the Action Plan remains to be the solving of corruption cases that are considered as "old cases", registered until November 4, 2013 in the Action Plan. In this regard, in the reporting period (July, August, September, 2014) prosecutions have solved a small number of cases with only 66 persons. From solved cases against 52 of them prosecutors have dismissed criminal charges and terminated investigations, while only against 14 persons they have imposed indictments. This method of solving cases, demonstrates the trend of dismissing cases by prosecutors, while Prosecutorial Council is still hesitating to do an analysis to these cases, which would serve to identify problems in all these failed cases, and respond then with adequate policies in terms of increasing the efficiency of work as a result of raising the quality of criminal and investigative actions. Ongoing in the table 14, you may see the method of solving “old” cases registered until November 4, 2013, for each prosecution.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| The method of solving cases registered until November 4, 2013, solved cases during this reporting period | Dismiss | Termination | Punitive Order | Direct indictments | Indictments after investigations | Total |
| KSRP | 1 |  |  |  |  | 1 |
| Pristina | 32 | 10 |  |  | 9 | 51 |
| Prizren |  | 2 |  |  |  | 2 |
| Peja |  | 1 |  |  |  | 1 |
| Gjilan |  |  |  |  |  |  |
| Mitrovica | 1 | 5 |  | 1 | 1 | 8 |
| Ferizaj |  |  |  |  | 3 | 3 |
| Gjakova |  |  |  |  |  |  |
| Total: | 34 | 18 |  | 1 | 13 | 66 |

**Table 14 – The method of solving cases until November 4, 2014, of solved cases during the reporting period July, August, September 2014**

As you may see from the table above, BP in Pristina, has been the most effective prosecution during the reporting period in solving corruption cases. While, for these three months were solved cases against 66 persons, only BP in Pristina has solved cases against 51 persons or 77% of them, while all other prosecutions have solved cases against 15 persons or only 23% of them. The increasing of efficiency in BP of Pristina, has been due to the reorganization of work in this prosecution, which has been a recommendation of KLI to the holders of prosecutorial system.[[36]](#footnote-37) The reorganization of work and the report for solving corruption cases has given the first results in increasing the efficiency of BP in Pristina. Since September 11, when it has continues the work with the new organization of work system, prosecutors of Pristina have solved cases against 47 persons[[37]](#footnote-38) only in this period, while only in the last 20 days of September, they have issued 71 decisions for investigations in corruption cases against 77 persons. However that solving cases against 51 persons, has increased the percentage of solved cases, there is still work to be done regards the method of solving cases. From these persons, only to 9 of them prosecutors have imposed indictments, whereas against 42 persons or to 82% of them they have dismissed criminal charges or terminated investigations. The failure of corruption cases shows a problem which is yet unidentified to prosecutorial system, and which is continuing to remain a problem, especially since the entry into force of the Action Plan.

However, the re-organization of workflow, new practices of reporting every week for the Action Plan, has increased the level of responsibility, efficiency and accountability, where for a short time period, it is expected to notice the progress of prosecutors of this prosecution in solving corruption cases.[[38]](#footnote-39) However, in order to increase the efficiency of this prosecution, prosecutorial system should increase its resources and should work in the specialization of prosecutors for investigation and prosecution of characteristic penal offenses.[[39]](#footnote-40)

After Pristina, during the reporting period BP in Mitrovica has managed to solve cases only against 8 persons registered on November 4, 2013 in the Action Plan. From them, against 6 persons the criminal charges were dismissed or investigations were terminated, and only to 2 persons were filed indictments. As it is noted earlier in this report, this is the most unsupported prosecution from prosecutorial system, which is functioning in unacceptable conditions for developing its work process. BP in Mitrovica still lacks on the basic working conditions, ranging from the necessary

space. These conditions have forced prosecutors to work in their houses, in order to solve corruption cases.[[40]](#footnote-41) KLI estimates that such an approach to BP in Mitrovica could cause violation of human rights and freedoms, by disabling normal functioning in solving cases, consequently disabling the realization of citizens' rights and prosecuting offenders. KLI expresses its concerns about the situation of working conditions, where prosecutors are obligated to work in cases at their homes. This fact increases the permanent risk of life and work of prosecutors, who may be threaten and attacked from different individuals who are subject of investigations of prosecutors’ cases. KLI has consistently required commitment from the prosecutorial system and from the state to address urgently the issue of BP in Mitrovica, because this situation is unacceptable.

During the reporting period for three months, SPRK has managed to solve only 1 case against 1 person, and also has dismissed that criminal charge for corruption. KLI expresses its concerns for the inefficiency of SPRK in solving corruption cases, despite the fact that prosecutors of this prosecution, remain to be the most privileged prosecutors[[41]](#footnote-42) of prosecutorial system of the Republic of Kosovo. Heads of this prosecution, emphasized that the main challenges that have disabled a greater efficiency in the implementation of the Action Plan for solving corruption cases, are related to the impossibility of providing relevant evidence to support an indictment, challenges in treatment with priority cases of detention, situations with suspected cases of terrorism and the overloads with organized crime cases. This overload with many cases obliges prosecutors engaged in corruption cases, to be also engaged n other cases of organized crime.[[42]](#footnote-43) However, KLI estimates that the performance of SPRK with proven results in combating corruption is unsatisfactory[[43]](#footnote-44). SPRK is one of three prosecutions that have failed to solve even the half of corruption cases registered until November 4, 2013 in the Action Plan.[[44]](#footnote-45)

During the reporting period of three months, BP in Ferizaj has managed to solve cases only against 3 persons against whom were filed indictments after investigations. Heads of this prosecution complain about the insufficient number of prosecutors, inherited cases from the former District Prosecution of Pristina[[45]](#footnote-46), detention on remand cases, the large number of incomplete and unfound criminal charges from Kosovo Police and ACA. All these challenges cause barriers at the Basic Prosecution in Ferizaj, which affect the inefficiency of this prosecution. In order to increase the efficiency in solving corruption cases, this prosecution should have more resources of prosecutors and the support staff. [[46]](#footnote-47)

During the reporting period of three months, BP in Gjakova has not managed to solve any case against any person registered until November 4, 2013. KLI finds that from this category of cases, this prosecution has to solve 12 persons. From 64 persons on November 4, 2013, until June 30, 2014, this prosecution has managed to solve cases against 52 persons or 81% of them. The main challenge of BP in Gjakova to implement the Action Plan, remains to be the insufficient number of prosecutors,[[47]](#footnote-48) support staff and legal officers.[[48]](#footnote-49)

During the reporting period of three months, BP in Peja has managed to solve only 1 case against 1 person to whom the investigations were terminated. On November 4, 2013, this prosecution possessed cases against 86 persons, and until June 30, 2014, has solved cases against 82 persons or 95% of them. The main challenge of this prosecution remains to be the insufficient number of prosecutors in order to implement efficiently the Action Plan, which this prosecution has engaged only one prosecutor in solving corruption cases. Besides this concern, the level of cooperation with the police and effectiveness of the police in their actions remains to be challenges of the implementation of the Action Plan for solving corruption cases.[[49]](#footnote-50) Another challenge is also the refusal of telephone operators VALA and IPKO to respond on requests of prosecutors about submitting telephone records (SMS). This problem is evident from March 2014, and it is one of the main problems of the investigation to solve corruption cases.[[50]](#footnote-51)

During the reporting period of three months, BP in Prizren has managed to solve cases against 2 persons, to whom investigations were terminated. Until June 30, 2014, this prosecution has managed to solve 85% of cases or cases against 175 persons from 149 cases that were at the beginning of the Action Plan on November 4, 2013. The main challenges in increasing the efficiency of this prosecution to solve corruption cases are: increasing the number of prosecutors,[[51]](#footnote-52) non-responses to invitations of prosecutors by the defendants, the large number of defendants, complicated corruption cases, and the impossibility of access to records (SMS) due to non-cooperation of telephone operators VALA and IPKO, which since April have refused cooperation with the excuse that they are respecting personal data and privacy of individuals.[[52]](#footnote-53)

The applicants of criminal charges for offenses of corruption continue to express their disappointment about the delay in solving their cases. In addition, you may see solved cases against 66 persons, who are part of the category of “old” cases registered until November 4, 2013 in the Action Plan. In this reporting period of three months, prosecutors have solved most cases of persons who were filed by the injured parties. In table 15, you may see "old" cases of applicants solved by prosecutors.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| The method of solving registered cases until November 4, 2013, solved cases in the period July-September 2014 according applicants | Dissmis | Termination | Punitive Order | Direct Indictments | Indictments after investigations | Total: |
| ACA | 3 | 10 |  |  |  | 13 |
| KP | 1 | 4 |  |  | 12 | 17 |
| The injured party | 26 | 1 |  | 1 |  | 28 |
| KPI | 1 |  |  |  | 1 | 2 |
| The Citizen | 1 | 1 |  |  |  | 2 |
| EULEX |  |  |  |  |  |  |
| Prosecutor with self initiative |  | 1 |  |  |  | 1 |
| Holder of property | 1 | 1 |  |  |  | 2 |
| Receieved by competence | 1 |  |  |  |  | 1 |
| Total: | 34 | 18 |  | 1 | 13 | 66 |

**Table 15 - The method of solving registered cases until November 4, 2013, solved cases in the period July, August, September 2014**

The table above shows that prosecutors have solved the most of cases filed by the injured parties, with a total of 28 persons. Then there are presented solved cases filed by the police, with 17 persons, ACA with 13 persons etc. The method of solving cases it is still a concern for KLI, because a largest number of solved persons were dissmised or terminated from prosecutors.

## NEW RECEIVED CASES AND THE METHOD OF SOLVING THEM

During the reporting period (July, August, September, 2014) prosecutors have consistently received new cases of corruption under the Action Plan. Ongoing, KLI has identified new cases received and solved by prosecutors, during the Action Plan. In table 16, you may follow new solved cases. As you may see, prosecutors have solved cases against 71 persons, which mean that they have solved more new cases than “old” cases of the Action Plan registered until November 4, 2013.[[53]](#footnote-54) From 71 persons to 34 of them were filed indictments or were proposed imposition of punitive orders, while to 37 persons the investigations were terminated or the criminal charges were dissmised. For more, see the table below.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| The method of solving received cases after November 4, 2014 during the reporting period | Dissmis | Termination | Punitive Order | Direct Indictments | Indictments after investigation | Total |
| SKRP | 13 | 1 |  |  |  | 14 |
| Pristina |  | 4 | 1 |  | 9 | 14 |
| Prizren | 11 | 1 |  |  | 2 | 14 |
| Peja | 1 | 2 | 1 |  | 2 | 6 |
| Gjilan | 2 | 1 |  |  | 5 | 8 |
| Mitrovica |  |  |  | 6 | 1 | 7 |
| Ferizaj |  |  |  | 4 |  | 4 |
| Gjakova | 1 |  |  | 1 | 2 | 4 |
| Total: | 28 | 9 | 2 | 11 | 21 | 71 |

**Table 16 - The method of solving received cases after November 4, 2014 during the reporting period**

BP in Pristina, SPRK and BP in Prizren, are the prosecutions that have solved cases the most, with a total of 14 persons by each prosecution. Than it is BP in Gjilan with 8 persons, BP in Mitrovica with 7 persons, BP in Peja with 6 persons and BP in Ferizaj and Gjakova by 4 persons.

## UNSOLVED CASES AT THE END OF THE ACTION PLAN

Solving only 45% of “old” cases from prosecution, registered in the Action Plan has caused a large number of unsolved corruption cases at the end of the reporting period on September 30, 2014. KLI expresses its concerns that there are still unsolved cases from 2001, 2003 and onwards. In order to have a clear overview of “old” corruption cases, KLI has presented in the table below, cases and persons for each prosecution, during each year. As in previous reports, KLI has presented this overview of prosecutorial system in order to see clearly the problems and the risk of prescription of these unsolved cases over the years.

KLI estimates that the status of these “old” unsolved cases will lead to the period of statutory limitation for criminal prosecution. Inherited cases from previous years starting from 2001, affect directly in the quality and efficiency of prosecution. As in previous reports, KLI estimates that it is very difficult to prosecutors to defend their cases in court for criminal offenses, which were allegedly committed in previous years as 2001. In these cases a long time has passed since the commitment of a criminal offense and it is very hard to ensure witnesses and to believe them regarding these cases.

In the table below, you may see the situation of each prosecution about unsolved cases on September 30, 2014, while the oldest case of corruption remains to be in the BP of Pristina, from 2001.[[54]](#footnote-55) For more details see table 17.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PP Unsolved cases at the end on September 30, 2014 | 2001 | | 2003 | | 2004 | | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | 2012 | | 2013 | | 2014 | | Total | |
| Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons |
| PSRK |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 7 | 30 | 5 | 27 | 7 | 37 | 6 | 29 | 22 | 114 | 47 | 237 |
| Pristina | 1 | 1 | 1 | 7 | 1 | 1 | 5 | 16 | 8 | 30 | 19 | 61 | 6 | 7 | 17 | 50 | 20 | 100 | 36 | 115 | 77 | 322 | 164 | 268 | 355 | 978 |
| Prizren |  |  |  |  |  |  |  |  |  |  |  |  | 1 | 4 | 1 | 1 | 1 | 1 | 3 | 5 | 6 | 8 | 21 | 66 | 33 | 85 |
| Peja |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 |  |  | 1 | 3 | 9 | 14 | 11 | 27 | 22 | 45 |
| Gjilan |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 7 | 12 | 7 | 12 |
| Mitrovica |  |  |  |  |  |  |  |  |  |  |  |  | 2 | 3 | 3 | 7 | 4 | 4 | 11 | 35 | 21 | 66 | 21 | 42 | 62 | 157 |
| Ferizaj |  |  |  |  | 1 | 4 |  |  | 1 | 2 |  |  | 1 | 1 | 2 | 4 |  |  | 1 | 4 | 13 | 31 | 11 | 16 | 30 | 62 |
| Gjakova |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 1 | 1 | 6 | 11 | 12 | 25 | 19 | 37 |
| Total: | 1 | 1 | 1 | 7 | 2 | 5 | 5 | 16 | 9 | 32 | 19 | 61 | 10 | 15 | 31 | 93 | 30 | 132 | 60 | 200 | 138 | 481 | 269 | 570 | 575 | 1,613 |

**Table 17 – PP Unsolved cases at the end on September 30, 2014**

The failure of solving cases of corruption, has been repeatedly criticized from applicants of criminal offenses, who addressed the main critics to the prosecutorial and judicial system. Based on reported statistics about unsolved cases at the end of the reporting period of the Action Plan, it turns out that they were right to be concern. The delay of solving their cases has directly affected to the loss of citizen’s trust in the State Prosecutor institution and the justice system. To see more about the status of unsolved cases with persons at the end of this period with applicants and “old” years, follow table 18.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Unsolved cases according applicants at the end on September 30, 2014 | 2001 | 2003 | 2004 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | Total: |
| ACA |  |  |  |  | 10 | 16 |  | 22 | 19 | 91 | 111 | 141 | 410 |
| TAK |  |  |  |  |  |  |  | 2 |  |  |  |  | 2 |
| Kosovo Customs |  |  | 4 |  |  |  |  |  |  |  | 9 | 1 | 14 |
| EULEX |  |  |  |  |  |  |  | 12 | 11 | 1 | 6 |  | 30 |
| KPI |  |  |  |  |  |  |  |  |  | 10 | 8 | 20 | 38 |
| KP |  | 7 |  | 9 | 13 | 25 | 6 | 31 | 29 | 63 | 287 | 255 | 725 |
| The Citizen |  |  |  |  |  |  | 3 | 10 | 25 | 16 | 21 | 37 | 112 |
| The injured party |  |  | 4 |  | 7 | 1 | 1 | 10 | 5 | 5 | 31 | 66 | 130 |
| Municipal Administration |  |  |  |  |  |  |  |  | 1 |  |  | 3 | 4 |
| Received by competence |  |  |  |  |  |  |  |  |  |  |  | 19 | 19 |
| Holder of Property | 1 |  | 1 | 7 | 2 | 19 |  | 5 |  | 14 | 1 | 16 | 66 |
| Forestry Authority |  |  |  |  |  |  | 1 |  |  |  | 2 |  | 3 |
| Prosecutor with self-initiative |  |  |  |  |  |  |  |  | 41 |  | 2 | 6 | 49 |
| Unidentified |  |  |  |  |  |  |  |  | 1 |  | 2 | 3 | 6 |
| KPA |  |  |  |  |  |  |  |  |  |  |  | 5 | 5 |
| Total: | 1 | 7 | 9 | 16 | 32 | 61 | 11 | 92 | 132 | 200 | 480 | 572 | 1,613 |

**Table 18 – Unsolved cases with persons according applicants at the end on September 30, 2014**Kosovo Police remains to be the main applicant of criminal offenses, cases of which remained unsolved mostly at the end of the reporting period on September 30, 2014. 725 suspected persons for corruption from the police, have remain unsolved to prosecutors. After the police, there are ACA cases where prosecutors have cases against 410 persons suspected for corruption. Than there are injured parties and citizens, whose cases have remained unsolved by prosecutors, until this reporting period.In table 19, you may see cases filed by institutions and parties, which have remained unsolved on September 30, and about which kind of offenses they were suspected.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Unsolved cases according applicants and penal offenses at the end  (September 30, 2014) | Persons in total | Non declaration of assets | Abusing Official Position or Authority | Unlawful Collection and Disbursement | Giving bribes | Falsifying Official Documents | Accepting bribes | Fraud in Office | Issuing Unlawful Judicial Decisions | Misappropriation in Office | Trading in Influence | Misuse of Economic Authorizations | Participation in Organization of an Organized Criminal Group | Entering into a harmful contract | Misusing Official Information | Unauthorized use of Property | Conflict of Interest | Violation of the Patent Rights | Prohibited Trade |
| ACA | 410 | 101 | 275 |  |  | 16 |  |  | 2 | 1 | 12 |  |  |  | 1 | 1 |  | 1 |  |
| KP | 725 |  | 518 | 101 | 11 | 15 | 10 | 11 | 6 | 32 | 3 | 3 | 3 | 4 |  |  | 1 |  | 7 |
| KPI | 38 |  | 29 |  |  | 1 | 3 |  |  | 5 |  |  |  |  |  |  |  |  |  |
| The injured party | 130 |  | 112 |  |  | 6 | 1 |  | 2 | 7 |  | 2 |  |  |  |  |  |  |  |
| TAK | 2 |  | 2 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Forestry Authority | 3 |  | 3 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Kosovo Customs | 14 |  | 4 |  | 1 |  |  |  |  |  |  | 4 | 5 |  |  |  |  |  |  |
| Prosecutor with self-initiative | 49 |  | 49 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| The Citizen | 112 |  | 104 |  | 3 | 1 |  | 1 |  |  | 1 | 2 |  |  |  |  |  |  |  |
| Holder of Property | 66 |  | 58 |  |  |  |  | 2 | 1 | 5 |  |  |  |  |  |  |  |  |  |
| Received by competence | 19 | 4 | 14 |  |  |  |  |  |  | 1 |  |  |  |  |  |  |  |  |  |
| EULEX | 30 |  | 18 |  | 3 |  | 3 |  |  |  |  | 6 |  |  |  |  |  |  |  |
| Municipal Administration | 4 |  | 3 |  |  |  |  |  |  | 1 |  |  |  |  |  |  |  |  |  |
| Unidentified | 6 |  | 6 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| KPA | 5 |  | 5 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Total: | 1,613 | 105 | 1,200 | 101 | 18 | 39 | 17 | 14 | 11 | 52 | 16 | 17 | 8 | 4 | 1 | 1 | 1 | 1 | 7 |

**Table 19 - Unsolved cases according applicants and penal offenses at the end on September 30, 2014**

# V. CORRUPTION CASES IN THE PHASE OF GATHERING INFORMATION– PPN

## UNSOLVED CASES IN THE BEGINNING ON NOVEMBER 4, 2013

Prosecutors continued to be charged with new cases categorized as cases that are at the phase of gathering information or known to the State Prosecution as PPN. The status of these unsolved cases in prosecution continues to be extremely worrying, during the reporting period at July, August and September 2014.

The number of cases of this category has increased in all prosecutions, by overloading their work in increasing the efficiency in solving cases of corruption. At the beginning of the reporting period on July 1, 2014 there were 543 persons against whom cases were not solved, while during these three months were received new cases for 88 persons of this category.

Prosecutors and police officers are responsible for solving these cases, who should have commitment and greater professionalism in the preliminary investigations, to define cases. In initiated cases with elements of criminal offenses, the criminal investigations should be advanced, while in cases which have not such elements the claims to release them should be dismissed, to whom were filed unfounded suspicions, to deprive them of any burden in criminal records of the justice system, in this case the prosecution and the police.

In 2013 KPC had approved the Strategic Plan for Inter-Institutional Cooperation in the Fight against Organized Crime and Corruption 2013-2015.[[55]](#footnote-56) KLI finds that despite this Strategic Plan, the coordination and cooperation between prosecutors and applicants of criminal offenses is not in a good level. For more see table 20, in which are presented cases at the beginning of the reporting period for all prosecutions.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PP  Solved cases in the beginning  (July 1, 2014) | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | 2012 | | 2013 | | 2014 | | Total | |
| Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons |
| SPRK |  |  |  |  |  |  |  |  | 2 | 4 | 1 | 2 | 1 | 6 | 3 | 6 | 10 | 34 | 17 | 52 |
| Pristina | 3 | 3 | 4 | 13 | 10 | 27 | 5 | 5 | 8 | 18 | 18 | 82 | 47 | 102 | 45 | 115 | 9 | 16 | 149 | 381 |
| Prizren |  |  |  |  |  |  |  |  | 1 | 3 |  |  | 3 | 3 | 2 | 6 | 16 | 34 | 22 | 46 |
| Peja |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 14 | 33 | 3 | 6 | 17 | 39 |
| Gjilan |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 7 | 13 | 7 | 13 |
| Mitrovica |  |  |  |  |  |  |  |  | 1 | 1 | 2 | 4 | 5 | 9 | 6 | 11 | 8 | 11 | 22 | 36 |
| Ferizaj | 1 | 1 | 2 | 2 | 1 | 4 | 1 | 1 | 1 | 3 | 2 | 2 | 3 | 3 | 14 | 20 | 7 | 11 | 32 | 47 |
| Gjakova |  |  |  |  |  |  |  |  |  |  |  |  | 1 | 2 | 7 | 13 | 2 | 2 | 10 | 17 |
| Total: | 4 | 4 | 6 | 15 | 11 | 31 | 6 | 6 | 13 | 29 | 23 | 90 | 60 | 125 | 91 | 204 | 62 | 127 | 276 | 631 |

**Table 20 – “Old” unsolved cases in years for each prosecution at the beginning of reporting period on July 1, 2014**

BP in Pristina continues to be one of the prosecutions which has the largest number of cases of PPN category, with a total of 149 unsolved cases with 381 persons. After Pristina, it is BP in Prizren with 22 unsolved cases and 46 persons, BP in Mitrovica with 22 unsolved cases and 36 persons, SPRK with 17 unsolved cases and 52 persons, and BP in Peja with 17 unsolved cases and 39 persons. BP in Gjakova and Gjilan have the lowest number of cases of this category. For more see the table above. KLI considers as concerning the fact that prosecutors continue to have unsolved cases of this category from 2006. Applicants of these cases rightly complain to prosecutors, who have failed to solve these cases of the phase of gathering information for years. In table 21, you may see “old” unsolved cases at the beginning of the reporting period (July 1, 2014) filed by different applicants.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PPN Unsolved cases in years with applicants at the beginning on July 1, 2014 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | Total: |
| ACA |  | 4 | 21 | 3 | 14 | 13 | 10 | 12 |  | 77 |
| TAK |  |  |  |  |  | 4 |  |  | 5 | 9 |
| Kosovo Customs |  |  |  |  |  |  | 3 |  |  | 3 |
| EULEX |  |  |  |  | 3 |  |  | 4 |  | 7 |
| KPI |  |  |  |  |  |  | 1 | 4 | 10 | 15 |
| KP |  | 3 | 2 | 1 | 7 | 54 | 66 | 87 | 50 | 270 |
| The Citizen |  |  | 4 |  | 1 | 2 | 10 | 8 | 34 | 59 |
| The injured party | 4 | 4 |  | 2 | 4 | 4 | 28 | 63 | 21 | 130 |
| Municipal Administration |  |  |  |  |  |  |  |  | 3 | 3 |
| KPA |  |  |  |  |  |  |  | 4 |  | 4 |
| Received by competence |  |  |  |  |  |  |  |  | 2 | 2 |
| Holder of property |  |  |  |  |  | 1 | 5 | 18 | 1 | 25 |
| Forestry Authority |  | 4 |  |  |  | 5 |  |  |  | 9 |
| Prosecutor with self-initiative |  |  |  |  |  |  | 2 | 4 | 1 | 7 |
| General Auditor |  |  | 4 |  |  |  |  |  |  | 4 |
| Unidentified |  |  |  |  |  | 7 |  |  |  | 7 |
| Total: | 4 | 15 | 31 | 6 | 29 | 90 | 125 | 204 | 127 | 631[[56]](#footnote-57) |

**Table 21 – Cases in years with applicants, in the beginning on July 1, 2014**

As it is presented in the table above, the largest number of unsolved cases of corruption from the PPN category are from Kosovo Police with a total of 270 persons. After police, the injured parties are the greatest applicants with a total of 130 unsolved persons, than it is ACA with 77 persons, the citizens with 59 persons, the Holder of Property with 25 persons etc.

## RECEIVED CASES DURING THE ACTION PLAN

During the reporting period (July, August, September, 2014), seven of Basic Prosecutions and SPRK have received 31 cases of corruption with 78 persons from the category of gathering information known as PPN.[[57]](#footnote-58) SPRK, BP in Mitrovica and Pristina, are prosecutions which have received the largest number of cases with persons during this period of 3 months. SPRK has received 5 cases with 39 persons who were at the phase of gathering information, BP in Mitrovica has received 7 cases with 7 persons, while BP in Pristina has received 5 cases with 8 persons. In table 22, you may see the trend of corruption received cases of PPN category during this reporting period.

.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| The trend of received cases | Cases in July | Personas in July | Cases in August | Persons in August | Cases in September | Persons in September | Cases in total | Persons in total |
| SPRK |  |  | 1 | 4 | 4 | 35 | 5 | 39 |
| Pristina | 4 | 6 |  |  | 1 | 2 | 5 | 8 |
| Prizren | 2 | 2 |  |  | 1 | 1 | 3 | 3 |
| Peja | 1 | 1 |  |  | 3 | 5 | 4 | 6 |
| Gjilan | 4 | 4 |  |  | 1 | 1 | 5 | 5 |
| Mitrovica | 2 | 2 | 4 | 4 | 1 | 1 | 7 | 7 |
| Ferizaj |  |  | 1 | 9 | 1 | 1 | 2 | 10 |
| Gjakova |  |  |  |  |  |  |  |  |
| Total: | 13 | 15 | 6 | 17 | 12 | 46 | 31 | 78 |

**Table 23 – The trend of received cases in each prosecution for the period of three months (July-September 2014)**

Table 24 presents corruption cases of PPN category for each applicant of cases. Kosovo Police appears to be the initiator with the largest number of cases, with a total of 12 cases with 26 persons. Than are cases of citizens who have initiated the largest number of persons, with a total of 39 of them, then the injured parties have initiated cases against 6 persons, KPI has initiated cases against 5 persons, Municipal Administration has initiated one case against one person and prosecutor with self-initiative has initiated a case against one person. For more you may see below the trend of received corruption cases from PPN category during this reporting period by each applicant.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PPN – Received cases according applicants  (July - September 2014) | Cases in July | Personas in July | Cases in August | Persons in August | Cases in September | Persons in September | Cases in total | Persons in total |
| KP | 6 | 8 | 1 | 9 | 5 | 9 | 12 | 26 |
| KPI | 1 | 1 | 4 | 4 |  |  | 5 | 5 |
| The injured party | 4 | 4 |  |  | 2 | 2 | 6 | 6 |
| The Citizen | 1 | 1 | 1 | 4 | 4 | 34 | 6 | 39 |
| Municipal Administration |  |  |  |  | 1 | 1 | 1 | 1 |
| Prosecutor with self-initiative | 1 | 1 |  |  |  |  | 1 | 1 |
| Total: | 13 | 15 | 6 | 17 | 12 | 46 | 31 | 78 |

**Table 24 – Received cases for each applicants during each month**

From a total of 78 received persons in corruption cases from PPN category during the period (July, August, September, 2014), against 70 persons were initiated cases for the criminal offense "Abusing Official Position or Authority" against 2 persons for the criminal offense "Accepting bribes", 2 persons for the criminal offense "Money laundering", 1 person for the criminal offense "Falsifying Official Documents ", 1 person for the offense "Issuing Unlawful Judicial Decisions", 1 person for the criminal offense "Misusing Official Information" and 1 person for the criminal offense "Conflict of Interest ".

## SOLVED CASES AND THE METHOD OF SOLVING THEM

Seven Prosecutions and SPRK have solved corruption cases against 90 persons of PPN category. One of the characteristics of solving these cases is that 100% of them were dismissed or terminated. KLI considers as concerning the fact that these cases do not get any adequate response for years from the justice system. It is unconscionable that criminal records provide 90 persons as suspicions for corruption without any basis, by being always based on decisions to dismiss cases, and the same persons were held hostage. In table 25, you may see the solving of these corruption cases and the method of solving them, for each prosecution for the reporting period (July, August, September, 2014).

|  |  |  |  |
| --- | --- | --- | --- |
| The method of solving cases | Dimiss | Termination | Total |
| SPRK | 2 |  | 2 |
| Pristina | 63 |  | 63 |
| Prizren | 4 |  | 4 |
| Peja | 7 |  | 7 |
| Gjilan | 5 | 4 | 9 |
| Mitrovica | 4 |  | 4 |
| Ferizaj |  |  | 0 |
| Gjakova | 1 |  | 1 |
| Total: | 86 | 4 | 90 |

**Table 25 – The method of solving cases   
PPN for each prosecution.**

In the table above you may see that BP in Pristina is the prosecution that has solved the largest number of cases of this category. From a total of 90 persons involved in cases that were solved during the reporting period, 63 of them belonged to BP in Pristina. After Pristina, it is BP in Gjilan which has dismissed and terminated cases against 9 persons etc.

In cases of corruption from PPN category, prosecutors have solved the largest number of cases filed by Kosovo Police. For more see table 26, about solving cases from PPN category, for each applicant and the method of solving these cases for the three-month reporting period.

|  |  |  |  |
| --- | --- | --- | --- |
| The method of solving corruption cases according applicants | Dismiss | Termination | Total: |
| ACA | 10 |  | 10 |
| KP | 52 |  | 52 |
| The injured party | 12 |  | 12 |
| KPI | 3 | 4 | 7 |
| The Citizen | 4 |  | 4 |
| Municipal Administration | 1 |  | 1 |
| Kosovo Customs | 3 |  | 3 |
| Holder of Property | 1 |  | 1 |
| Total: | 90 | 4 | 90 |

Based on the data of the table above, Kosovo Police has been the biggest applicant, which filed 52 persons from the total of 90[[58]](#footnote-59) persons involved in solved cases. After Kosovo Police, the applicant with the largest number of filed persons involved in solved cases during the reporting period has been the injured party with a total of 12 persons, than the Anti-Corruption Agency with 10 persons etc. For more you may see the table above about the method of solving cases of corruption according applicants, for the reporting period from July to September 2014.

**Table 26 – The method of solving corruption cases according   
applicants of criminal offenses**

## UNSOLVED CASES AT THE END OF THE ACTION PLAN

The number of cases with unsolved persons in this category remains to be enormous. KLI estimates that this situation is concerning for prosecutors and the police, who must increase their efficiency to solve these cases, to which were submitted information about cases of corruption. In table 27 are presented unsolved cases at the end of this reporting period on September 30, 2014. For more you may see the table below about the unsolved “old” cases.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PPN – Unsolved cases at the end on September 30, 2014 | 2006 | | 2007 | | 2008 | | 2009 | | 2010 | | 2011 | | 2012 | | 2013 | | 2014 | | Total | |
| Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons | Cases | Persons |
| SPRK |  |  |  |  |  |  |  |  | 1 | 1 | 1 | 2 | 2 | 8 | 4 | 8 | 22 | 89 | 30 | 108 |
| Pristina | 3 | 3 | 4 | 13 | 7 | 17 | 4 | 4 | 6 | 16 | 16 | 67 | 38 | 73 | 48 | 128 | 16 | 28 | 142 | 349 |
| Prizren |  |  |  |  |  |  |  |  | 1 | 3 |  |  | 1 | 1 | 1 | 5 | 17 | 34 | 20 | 43 |
| Peja |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 13 | 32 | 3 | 7 | 16 | 39 |
| Gjilan |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 9 | 12 | 9 | 12 |
| Mitrovica |  |  |  |  |  |  |  |  |  |  | 2 | 4 | 5 | 9 | 6 | 11 | 13 | 13 | 26 | 37 |
| Ferizaj | 1 | 1 | 2 | 2 | 1 | 4 | 1 | 1 | 1 | 3 | 2 | 2 | 3 | 3 | 14 | 20 | 10 | 21 | 35 | 57 |
| Gjakova |  |  |  |  |  |  |  |  |  |  |  |  | 1 | 2 | 7 | 12 | 2 | 2 | 10 | 16 |
| Total: | 4 | 4 | 6 | 15 | 8 | 21 | 5 | 5 | 9 | 23 | 21 | 75 | 50 | 96 | 93 | 216 | 92 | 206 | 288 | 661 |

**Table 27 – PPN unsolved cases at the end of  
reporting period on September 30, 2014 for each prosecution**

BP in Pristina continues to be the prosecution with the largest number of corruption cases also from PPN category, with a total of 349 persons. After Pristina, is SPRK, with unsolved cases against 108 persons from this category. The applicants of these unsolved cases will continue to lose their trust in prosecutorial system because of the failure to solve those cases for years. Kosovo Police still remains the applicant with the largest number of cases that are not solved by prosecutors, with a total of 261 persons. After the police, there are injured parties, which have filed cases and against 150 persons and those cases were not solved etc. For more details you may see table 28, in which are presented unsolved cases at the end on September 30, 2014, according to applicants and years.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PPN – Unsolved cases at the end on September 30, 2014 according applicants and years | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | Total: |
| ACA |  | 4 | 12 | 3 | 13 | 13 | 10 | 12 | 5 | 72 |
| TAK |  |  |  |  |  | 4 |  |  | 2 | 6 |
| Kosovo Customs |  |  |  |  |  |  |  | 2 |  | 2 |
| EULEX |  |  |  |  |  |  |  | 4 | 1 | 5 |
| KPI |  |  |  |  |  |  | 1 | 3 | 7 | 11 |
| KP |  | 3 | 1 | 1 | 5 | 29 | 45 | 84 | 93 | 261 |
| The Citizen |  |  | 4 |  | 1 | 2 | 10 | 7 | 68 | 92 |
| The injured party | 4 | 4 |  | 1 | 4 | 14 | 23 | 78 | 22 | 150 |
| Munic. Admin. |  |  |  |  |  |  |  |  | 3 | 3 |
| PAK |  |  |  |  |  |  |  | 4 |  | 4 |
| Received by compt. |  |  |  |  |  |  |  |  | 3 | 3 |
| Holder of property |  |  |  |  |  | 1 | 5 | 18 |  | 24 |
| Forestry Authority |  | 4 |  |  |  | 5 |  |  |  | 9 |
| Pros. with self-int. |  |  |  |  |  |  | 2 | 4 | 2 | 8 |
| General Auditor |  |  | 4 |  |  |  |  |  |  | 4 |
| Unidentified |  |  |  |  |  | 7 |  |  |  | 7 |
| Total: | 4 | 15 | 21 | 5 | 23 | 75 | 96 | 216 | 206 | 661[[59]](#footnote-60) |

**Table 28 – PPN Unsolved cases at the end of reporting period   
on September 30, 2014 with applicants in years**

# VI. COURT SENTENCES ON CASES OF CORRUPTION

The delay of solving corruption cases is not only a phenomenon of prosecutorial system. The judicial system faces with the same problems too. Same as prosecutorial system also the judicial system, should treat with priority cases of corruption, but this is not happening in practice.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Basic Courts | The method of solving cases in Courts | | | | | | | | | | | | Solved Cases | Solved cases with persons | Lëndë të pazgjidhura | Unsolved cases with persons |
| Incriminatory Judgment | | | | | | Acquittal/Rejecting/Other  Judgment | | | | | |
| Sentemced by imprisonment -Cases | Sentemced by imprisonment –persons | Sentemced by fiine- Cases | Sentenced by fine - persons | Conditional sentence - Cases | Conditional sentence - Persona | Acquittal Judgment- Cases | Acquittal Judgment - Persons | Rejecting Judgment- Cases | Rejecting Judgment - Persons | Other Judgments- Cases | Other Judgments- Persons |
| BP in Pristina | 5 | 5 | 4 | 8 | 8 | 17 | 6 | 11 | 3 | 4 | 18 | 25 | 44 | 70 | 166 | 374 |
| BP in Gjilan | 3 | 0 | 6 | 4 | 4 | 3 | 1 | 0 | 2 | 0 | 10 | 9 | 26 | 16 | 69 | 123 |
| BP in Mitrovica | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 52 | 54 |
| BP in Gjakova | 1 | 1 | 1 | 1 | 1 | 1 | 3 | 3 | 0 | 0 | 4 | 4 | 10 | 10 | 55 | 171 |
| BP in Prizren | 6 | 6 | 4 | 4 | 6 | 6 | 2 | 2 | 6 | 11 | 1 | 1 | 25 | 31 | 40 | 135 |
| BP in Ferizaj | 6 | 7 | 2 | 3 | 8 | 11 | 1 | 1 | 3 | 11 | 1 | 1 | 21 | 34 | 25 | 79 |
| BP in Peja | 3 | 4 | 12 | 13 | 3 | 3 | 2 | 4 | 4 | 9 | 1 | 1 | 25 | 34 | 40 | 75 |
| Total: | 24 | 23 | 30 | 34 | 30 | 41 | 15 | 21 | 18 | 35 | 35 | 41 | 152 | 195 | 447 | 1011 |

**Table 29 – Corruption cases solved by Courts during the period January – September 2014**

As you may see in table 29, judges have managed to solve 152 cases with 195 persons, during the period January-September 2014. Whereas, at the end of the reporting period, have remained 447 unsolved cases with 1011persons.[[60]](#footnote-61) These results prove that the treat with priority cases of corruption does not differ from the spirit of the policy and political agendas of the rule of law in Kosovo.

The problematic of prosecutorial system by not respecting Tracking Mechanism it is the same as the problematic issue of judicial system. Courts and all institutions and agencies of law enforcement are obliged to register criminal characteristic cases to Tracking Mechanism. Prosecutions and courts has failed repeatedly to implement this obligation. The table above presents details of the Kosovo Judicial Council, which do not consistent with the data registered in the Tracking Mechanism. In table 31, you may see adjudicated cases during the reporting period (July, August, September, 2014) according filed indictments of each prosecution. As you may see there are major differences in the statistics of the KJC and Tracking Mechanism, which proves about the lack of cooperation and coordination of these justice institutions to the harmonization of statistics on corruption.

According these data, provided by Tracking Mechanism, during this reporting period, courts have solved corruption cases only against 21 personave.[[61]](#footnote-62) From them against 13 persons, judges have dismissed indictments, they have acquitted or found not guilty accused persons, while only against 8 persons were declared rulings for offenses of corruption. For more, see the next table.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Adjudicated cases during this reporting period (July, August, September 2014) filed indictments from each prosecution | Adjudicated persons | Types of Court’s desicions | | | | Appeals of prosecutors | | Aproved appeals from Appellate Court | The responses of prosecutors on appeals of accused party |
| Dismissed indictments | Found guilty | Found not guilty | Refuse of indictment | For the desicion on sentences | For other reasons |
| SPRK | 1 |  |  |  | 1 |  |  |  |  |
| PTh Pristina | 1 |  |  |  | 1 |  |  |  |  |
| PTh Prizren | 14 | 1 | 8 | 2 | 3 | 4 | 4 | 2 |  |
| PTh Peja | 5 | 1 |  | 4 |  |  | 3 |  |  |
| PTh Gjilan |  |  |  |  |  |  |  |  |  |
| PTh Mitrovica |  |  |  |  |  |  |  |  |  |
| PTH Ferizaj |  |  |  |  |  |  |  |  |  |
| PTh Gjakova |  |  |  |  |  |  |  |  |  |
| Total: | 21 | 2 | 8 | 6 | 5 | 4 | 7 | 2 |  |

**Table 30 – Adjucated cases during this reporting period  
(July, August, September 2014) according filed indictments from each prosecution**

During this reporting period, the Basic Court of Prizren has managed to adjudicate the largest number of charged persons with criminal offenses of corruption, by a total of 14 persons. The Basic Court in Peja has solved cases for 2 persons, same as the Basic Court in Pristina.

# VII. FAILURE IN RESPECTING THE TRACKING MECHANISM FOR CORRUPTION CASES

Basic Prosecutions and SPRK for eleven months have failed to strictly respect the rules of Tracking Mechanism for registering corruption cases. These failures were ascertained also by the internal mechanisms of KPC in February, 2014.[[62]](#footnote-63)

KLI assessing as inherent the respect of this mechanism, has paid particular attention to his respect, as one of the obligations of the Action Plan. [[63]](#footnote-64) In this regard, during the monitoring, KLI has found that some of the prosecutions have consistently failed in respecting the Tracking Mechanism.

For the reporting period (July, August, September 2014), KLI has identified unregistered cases or registered with delay, and cases which do not figure at all in the data register in Tracking Mechanism, although the same cases existed in provious registers of this mechanism.[[64]](#footnote-65)

Ongoing, KLI will reveal the findings regarding the number of cases and persons that those responsible have failed to register in the Tracking Mechanism with time. In Table 30, you may see the cases and the persons registered with delay and the cases with the number of persons that do not excist in the data registry for this reporting period.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Prosecutions | Registered with delay | | Do not excist in registers | | TOTAL | |
|
| Cases | Persons | Cases | Persons | Cases | Persons |
| SPRK | 2 | 17 | 2 | 5 | 4 | 22 |
| BP Pristina | 21 | 43 | 5 | 6 | 26 | 49 |
| BP Gjakova | 2 | 2 | 1 | 1 | 3 | 3 |
| BP Gjilan | 1 | 1 | 1 | 1 | 2 | 2 |
| BP Prizren | 1 | 1 |  |  | 1 | 1 |
| TOTAL | 27 | 64 | 9 | 13 | 36 | 77 |

**Table 31 – Cases and persons that have failed to be registered with time  
 in the Tracking Mechanism**

During the reporting period, KLI during the monitoring has identified that BP in Pristina has the largest number of cases that have not been registered according to the rules of the Tracking Mechanism.This prosecution has failed in 26 cases with 49 persons. From them, 21 cases with 43 persons has registered with delay, while 5 cases with 6 persons, who have previously existed in the registers, no longer exist in any register, not even in the register of solved cases, nor in the unsolved one. After Pristina, SPRK[[65]](#footnote-66) is the second prosecution that has the largest number of cases and persons that have failed to register in accordance with the rules of Tracking Mechanism. This prosecution during this reporting period has failed in 4 cases with 22 persons. SPRK has registered with delay 2 cases with 17 persons[[66]](#footnote-67), while 2 cases with 5 persons[[67]](#footnote-68), who have previously existed, no longer exist in any register. The same failures but in smaller number were identified in the BP in Gjakova, Gjilan and Prizren, which you may see in Table 31. In Table 31, KLI has presented 27 cases with 64 persons, registered with delay in the Tracking Mechanism. From them, 13 cases with 31 persons, registered with delay, belong to the cases before November 4, 2013, while 14 cases with 33 persons registered with delay belong to the period after November 4, 2013. For more, to see the failure of each prosecution in registering the cases in the Tracking Mechanism, see the following table.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Prosecutions | IN TOTAL – Registered with delay | | Before November 4, '13 | | After November 4, '13 | |
|
| Cases | Persons | Cases | Persons | Cases | Persons |
| SPRK | 2 | 17 |  |  | 2 | 17 |
| BP Pristina | 21 | 43 | 12 | 30 | 9 | 13 |
| BP Gjakova | 2 | 2 | 1 | 1 | 1 | 1 |
| BP Gjilan | 1 | 1 |  |  | 1 | 1 |
| BP Prizren | 1 | 1 |  |  | 1 | 1 |
| TOTAL | 27 | 64 | 13 | 31 | 14 | 33 |

**Table 32 – Cases and persons that have failed to be registered with time  
 in the Tracking Mechanism, belonging to two periods, before and after November 4, 2013**

The Action Plan in Article 11, has defined the obligation of imposing disciplinary measures for all those who hinder the implementation of the Action Plan. From the entry into power of the Action Plan in November 4, 2013, prosecutions have consistently failed in respecting the rules of the Tracking Mechanism to register corruption cases, but until now the Chief Prosecutors and KPC have not imposed any measures against anyone. KLI has consistently expressed criticism about the impunity culture within the prosecutorial system to bring those responsible persons in front of the responsibility to prevent problems and to avoid the possibility for them to be repeated in the future.

# VIII. FULFILLMENT OF OBLIGATIONS OF THE ACTION PLAN

Beside solving the corruption cases, each prosecution has had a serie of obligations, which are defined in the Action Plan for Increasing the Effectiveness of the prosecutorial system in the fight against corruption.

As in previous reports, also for this reporting period (July, August, September 2014), KLI has set the indicators to do the measurement of the implementation of the Action Plan for each prosecution. The preparation of special reports for each prescribed case, the assignment of cases with absolute priority and the separation according to the quality of the perpetrators, implementation of the provisions relating to the seizure and confiscation of material benefit win with criminal offense, the appointment of experts, regular meetings with the law enforcement agencies and others, have been some of the main obligations and responsibilities of each Basic Prosecution and SPRK.

For this quarterly reporting period, KLI has identified a smaller number of prescription cases. BP in Pristina, BP in Gjakova, BP in Peja and BP in Mitrovica are the prosecutions, which have had prescribed cases of corruption.

The defined obligation in Article 3.2 of the Action Plan has obliged the Chief Prosecutors to complie special reports for each case that has reached the prescription term of the criminal offense for submission to the Anti-Corruption National Coordinator to report back to the KPC. This obligation has not been fulfilled by the Chief Prosecutors, although in their prosecution had prescription of criminal prosecution in several cases of corruption.[[68]](#footnote-69) The Anti-Corruption National Coordinator, has not received any special report justified under the defined obligation in the Action Plan for prescribed cases for this reporting period.[[69]](#footnote-70)

The other obligation defined in Article 5,1 for the identification of cases and their separation according competence, was fulfilled by Basic Prosecutions and SPRK.

The defined obligation in Article 5.2 of the Action Plan has defined the identification of cases that may not be reported in the register of criminal charges. This obligation was not fulfilled by some prosecutors. KLI during the monitoring has found that a number of cases and persons are not reported in the database of Tracking Mechanism, reporting with delay and other cases that have existed in the registers, while at the end of this reporting period, they do not figure. Neither the Chief Prosecutors nor the National Coordinator are not aware about this violation of the rules of the Tracking Mechanism. For this reason there were no reports for such cases, as is defined in the obligations of the Action Plan. For this constant failure, has reacted officially in KPC and publicly in the media, KLI, requesting the implementation of the decisions of KPC to keep responsible the prosecutors and officials that have fail to respect the Tracking Mechanism .[[70]](#footnote-71)

The assignment of cases with absolute priority and divided by the quality of the perpetrators is the other obligation under Article 6.3 of the Action Plan, which results that it is fulfilled. However, BP in Peja continues to make an exception of the unique practice of separation of cases in work for prosecutors. While in all prosecutions, are engaged a large number of prosecutors, in BP in Peja is engaged only one prosecutor for solving the corruption cases.[[71]](#footnote-72)

The other obligation defined in Article 7.3 of the Action Plan about the implementation of legal provisions relating to the sequestration and confiscation of material benefit gained with criminal offense is partially fulfilled. Some of the prosecutions as: SPRK, BP in Peja, BP in Gjilan and BP in Pristina have made requests about the sequestration of supected assets gained through criminal offenses during this reporting period. Anti-Corruption National Coordinator has not received any report for sequestration and confiscation of assets.

The defined obligation in Article 7.1 for holding regular meetings with the Kosovo Police, ACA, institutions and other agencies for law enforcement, is partially realized. While BP in Pristina, BP in Peja, BP in Gjilan, BP in Gjakova and BP in Prizren have had regular meetings with all institutions,[[72]](#footnote-73) SPRK, BP in Ferizaj and BP in Mitrovica, have held meetings on regular basis with all institutions excpet with ACA.[[73]](#footnote-74) On the other side the Anti-Corruption National Coordinator has received informations that the Basic Prosecutions and SPRK have held meetings with ACA through certain contact points with prosecutions.

According the obligation in Article 8.2 to report on the progress of the Action Plan from the Prosecutions for the National Coordinator, KLI finds that it is fulfilled.

The defined obligation in Article 10.1 for engaging experts of SPRK from the Basic Prosecutions is partially fulfilled. BP in Pristina, BP in Peja and BP in Ferizaj have had cases of engagement of experts within the reporting period.[[74]](#footnote-75)

The defined obligation in Article 13.1 of the Action Plan regarding the communication with the public is minimally fulfilled. This Article has defined obligation for the National Coordinator to hold regular press conferences every two weeks to inform the public about the implementation of the Action Plan, which results that from 6 press conferences that were foreseen to be held, the National Coordinator has released only a written press statement.

Tha Action Plan had defined the obligation for disciplinary measures to be pronounced against all the responsible persons that inhibit the implementation of the Action Plan. As in previous reporting periods, The Chief Prosecutors and KPC have not pronounced any disciplinary measures, despite the ongoing problems with the data registration in the Tracking Mechanisms and other problems identified by the KPC. To see in a detailed way the fulfillment of each of these obligations from each prosecution, find attached below the indicators of KLI based on the obligations of the Action Plan.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| OBLIGIMI | AFATI KOHOR | PËRGJEGJËS | | | KOMENT |
| Special report justified for every case that has reached the prescribed term *(Article 3.2 of AP)* | *As soon as possible* | Respective prosecution (The Chief Prosecutor) reports to KPC | | |  |
| SPRK | **National Coordinator**: No special report was submitted for the prescription of cases.  **Deputy Chief Prosecutor:** For the period June – Spetember there were no prescribed cases and no decision of this prosecution for prescription. | | | | |
| BP Pristina | **National Coordinator:** No special report was submitted for the prescription of cases.  **Chief Prosecutor:** As far as we are aware, we did not have cases of prescription, claims Imer Beka. | | | | |
| BP Prizren | **National Coordinator**: No special report was submitted for the prescription of cases.  **Acting Chief Prosecutor:** The Acting Chief Prosecutor declares that according to information he possessed, the Basic Prosecution in Prizren had no prescribed cases in this period. | | | | |
| BP Pejë | **National Coordinator**: No special report was submitted for the prescription of cases.  **Chief Prosecutor:** The Chief Prosecutor declares that the Basic Prosecution in Peja has no prescribed cases and therefore had no special reports for cases that have reached the prescibed term. | | | | |
| BP Gjakova | **National Coordinator**: No special report was submitted for the prescription of cases.  **Chief Prosecutor:** There were no cases of presciption. | | | | |
| BP Ferizaj | **National Coordinator**: No special report was submitted for the prescription of cases.  **Acting Chief Prosecutor:** There were no prescibed cases. | | | | |
| BP Mitrovica | **National Coordinator**: No special report was submitted for the prescription of cases.  **Chief Prosecutor:** As far as the Chief Prosecutor was aware according to him for all the cases that have reached the prescription, the relevant prosecutors prepare special report of prescription, in which reports that include the reasons for the cases that have reached the prescription. | | | | |
| BP Gjilan | **National Coordinator**: No special report was submitted for the prescription of cases.  **Chief Prosecutor:** There has been no case. | | | | |
| The plan of identifying the cases and their separation according to competence *(Article 5.1 of AP)* | *As soon as possible after the entry into power of AP* | Chief Prosecutors of respective prosecutions and SPRK | |  | |
| SPRK | **National Coordinator**: Has been done.  **Deputy Chief Prosecutor:** Has been done. As identification, also the separation according to competence is made by the Deputy Chief Prosecutor. | | | | |
| BP Pristina | **National Coordinator**: Has been done.  **Chief Prosecutor:** Yes, it has been done. | | | | |
| BP Prizren | **National Coordinator**:Has been done.  **Acting Chief Prosecutor:** Identification and separation of cases according to Acting Chief Prosecutor it’s done so that first are identified in the text and then based on the line and number the cases are assigned for prosecutors who treat such cases. | | | | |
| BP Peja | **National Coordinator**: Has been done.  **Chief Prosecutor:** The Chief Prosecutor makes the identification of cases in BP in Peja, where corrupt cases according to competence are assigned for the only prosecutor for cases of corruption. | | | | |
| BP Gjakova | **National Coordinator**: Has been done.  **Chief Prosecutor:** The identification of cases it’s done by the Chief Prosecutor who designes all the necessary measures related with the investigations. Their separation is done according the line for two engaged prosecutors in corruption cases. | | | | |
| BP Ferizaj | **National Coordinator**: Has been done.  **Acting Chief Prosecutor:** Has been done according the Acting Chief Prosecutor, Rasim Maloku. | | | | |
| BP Mitrovica | **National Coordinator**: Has been done.  **Chief Prosecutor:** The Chief Prosecutor makes the identification of cases in BP in Mitrovica, where corrupt cases are assigned for all prosecutors, with numbers according the line. | | | | |
| BP Gjilan | **National Coordinator**: Has been done.  **Chief Prosecutor:** Identification and separation of cases according to the Chief Prosecutor is made under the previous prectice, which firs are identified by the Chief Prosecutor, and then according to the order of number are allocated to each prosecutor charged with corruption cases. | | | | |
| Identification of cases that may not be reported in the register of criminal cherges *(Article 5. 2 of AP)* | *As soon as possible* | The Chief Prosecutors of respective prosecutions and SPRK | |  | |
| SPRK | **National Coordinator**: As far as I know, there are no such cases. As a coordinator I have not received any report from the Chief Prosecutors about such problems.  **Deputy Chief Prosecutor:** In SPRK Në PSRK there were no such cases for the period June – September 2014.  **KLI:** In SPRK were identified cases and persons pre-registered in real time in the Tracking Mechanism. According to the official data of KPC, results that SPRK has registered with delay 2 cases with 17 persona, while 2 cases with 5 persons, which previously have figured in the Tracking Mechanism, now the do not figure nor in the rubric of solved cases. | | | | |
| BP Pristina | **National Coordinator**:As far as I know, there are no such cases. As a coordinator I have not received any report from the Chief Prosecutors about such problems.  **Chief Prosecutor:** There were no such cases for the period June – September.  **KLI:** In BP in Pristina were identified cases and persons pre-registered in real time in the Tracking Mechanism. According to the official data of KPC, results that BP in Pristina has registered with delay 21 cases with 43 persons, while 5 cases with 6 persons, which previously have figured in the Tracking Mechanism, now the do not figure nor in the rubric of solved cases. | | | | |
| BP Prizren | **National Coordinator**: As far as I know, there are no such cases. As a coordinator I have not received any report from the Chief Prosecutors about such problems.  **Acting Chief Prosecutor:** There were no such cases.  **KLI:** In BP in Prizren were identified cases and persons un-registered in real time in the Tracking Mechanism. According to the official data of KPC, results that BP in Prizren has registered with delay 1 case with 1 person. | | | | |
| BP Peja | **National Coordinator**:As far as I know, there are no such cases. As a coordinator I have not received any report from the Chief Prosecutors about such problems.  **Chief Prosecutor:** There were no such cases for the reporting period declares the Chief Prosecutor Galani. | | | | |
| BP Gjakova | **National Coordinator**: As far as I know, there are no such cases. As a coordinator I have not received any report from the Chief Prosecutors about such problems.  **Chief Prosecutor:** There were no such cases.  **KLI:** In BP in Gjakova were identified cases and persons un-registered in real time in the Tracking Mechanism. According to the official data of KPC, results that BP in Gjakova has registered with delay 2 cases with 2 persons, while 1 case with 1 person, which previously have figured in the Tracking Mechanism, now the do not figure nor in the rubric of solved cases. | | | | |
| BP Ferizaj | **National Coordinator**: : As far as I know, there are no such cases. As a coordinator I have not received any report from the Chief Prosecutors about such problems.  **Acting Chief Prosecutor:** There were no such cases during the reporting period June – September 2014. | | | | |
| BP Mitrovica | **National Coordinator**: As far as I know, there are no such cases. As a coordinator I have not received any report from the Chief Prosecutors about such problems.  **Chief Prosecutor:** Such cases have not been identified. | | | | |
| BP Gjilan | **National Coordinator**: : As far as I know, there are no such cases. As a coordinator I have not received any report from the Chief Prosecutors about such problems.  **Chief Prosecutor:** There were no such cases.  **KLI:** In BP in Gjilan were identified cases and persons un-registered in real time in the Tracking Mechanism. According to the official data of KPC, results that BP in Gjilan has registered with delay 1 case with 1 person, while 1 case with 1 person, which previously have figured in the Tracking Mechanism, now the do not figure nor in the rubric of solved cases. | | | | |
| The assignment of cases with absolute priority and devided by the prepetrators quality *Article 6. 3 of AP) (how prosecutors were engaged before and after the AP)* | *As soon as possible* | The Chief Prosecutors and the prosecutors of respective prosecutions | |  | |
| SPRK | **National Coordinator**:Has been done.  **Deputy Chief Prosecutor:** The corruption cases are treated with priority in SPRK, while within the corruptive cases devided by the prepetrators quality and the seriousness of the criminal offense, depends from the prosecutors of cases, who organize and manage their cases. This prosecution continues to have 7 engaged prosecutors for corruption cases. | | | | |
| BP Pristina | **National Coordinator**: Has been done.  **Chief Prosecutor:** Has been done. “All the corruption cases are treated with priority. In the Basic Prosecution of Pristina there are also cases when the cases of the greater serioussnes are treated with priority because of the importance and the serioussnes of the criminal offense BP in Pristina continues to have 12 engaged prosecutors for treating corruption cases. | | | | |
| BP Prizren | **National Coordinator**: Has been done.  **Acting Chief Prosecutor:** According to the Acting Chief Prosecutor Mr. Metush Biraj, all corruption cases are treated with priority and based on the needs, serioussnes and the prepetrators quality, such cases are assigned also with priority.  Although the former Chief Prosecutor had declared that he had 11 prosecutors engaged for corruption cases, the Acting Chief Prosecutor Metush Biral, declares that they had 6 of them. And now according to him, there are 5 prosecutors. | | | | |
| BP Peja | **National Coordinator:** Has been done.  **Chief Prosecutor:** According to the Chief Prosecutor Galani, the corruption cases continue to be treated with priority, while Mr. Galani adds that they have not had serious corruption cases which should be treated with priority in cases of corruption.  The Besic Prosecution in Peja, continues to have only one engaged prosecutor for corruption cases. | | | | |
| BP Gjakova | **National Coordinator**: Has been done.  **Chief Prosecutor:** The corruption cases are treated with priority. As for the allocation of cases with absolute priority according to the importance and the prepetrators quality, Mrs. Bakija declares that they do not have cases with special serioussnes and for that there was no need to assign with priority the cases within corrupt nature. Bp in Gjakova continues to have two engaged prosecutors for corruption cases. | | | | |
| BP Ferizaj | **National Coordinator:** Has been done.  **Acting Chief Prosecutor:** Has been done. Regarding the cases treated with priority according the prepetrators quality and the serioussnes of the criminal offense, the Acting Chief Prosecutor declares that beside one case in which an official of the Ministry of Health was investigated, there were no other cases because of the importance and the same nature of these criminal offenses.  BP in Ferizaj has 2 engaged prosecutors for corruption cases, as many as were before. | | | | |
| BP Mitrovica | **Koordinatorja nacionale:** Has been done.  **Chief Prosecutor:** Beside the cases of detention on remond which should always be treated with priority, the Chief Prosecutor declares that the corruption cases continue to be treated with priority by all the prosecutors engaged on corruption cases.  According to the Chief Prosecutor, first were only 3 prosecutors engaged, as many as are on the Serious Crime Department, and now there are 7 engaged prosecutors in total. “The prosecutors of General Department, will treat the corruption cases by their competence, in which mainly enter the criminal offenses of false declaration of assets”, declares Shyqri Syla. | | | | |
| BP Gjilan | **National Coordinator**: Has been done.  **Chief Prosecutor:** All the corruption cases are treated as cases with priority, while depending from the serioussnes and quality of prepetrators, they are also devided and treated with priority within the cases of corrupt nature. For such sorrupt cases, the Chief Prosecutor declares that first he had engage only one prosecutor, but later engaged 4 prosecutors due to efficient processing for such cases. The 4 prosecutors continue to treat further the corruption cases. | | | | |
| The implementation of legal provisions dealing with the sequestration and confiscation of material benefit gained with criminal offense *(Article 7.3 of AP)* | *During all time* | The Chief Prosecutors and the prosecutors of respective prosecutions | |  | |
| SPRK | **National Coordinator**: I have not received any report.  **Deputy Chief Prosecutor:** Regarding the implementation of legal provisions dealing with the sequestration and confiscation of material benefit gained with criminal offense, Mrs. Morina declares not to be aware if there are such cases for the period from June until now. Regarding this, it should be checked and verified in the register, declares Morina. While the other official int his prosecution, responsible for corruption cases declares that there were complains for sequestration within the same period. | | | | |
| BP Pristina | **National Coordinator**: I have not received any report.  **Chief Prosecutor:** Have begun requests for sequestration and confiscation of material benefit gained with criminal offense, which adds that he does not know for special cases”. | | | | |
| BP Prizren | **National Coordinator**: I have not received any report.  **Acting Chief Prosecutor:** According the Acting Chief Prosecutor and the Chief of Clerks in BP in Prizren, within the reporting period June – Spetember, BP in Prizren had no cases of sequestration and confiscation of material benefit gained with criminal offense. | | | | |
| BP Peja | **National Coordinator**: I have not received any report.  **Chief Prosecutor:** While the Chief Prosecutor Agron Galani declares that there have not been such cases in the Basic Prosecution in Peja, according to who there were only cases of obliged sequestration, or regular ones, in the other hand, the charged prosecutor for corruption cases, declares that there were cases proposing the sequestration of assets or material benefit gained with criminal offense. Regarding this, the Chief Prosecutor adds that he is not aware if there are such cases in BP in Peja. | | | | |
| BP Gjakova | **National Coordinator**: I have not received any report.  **Chief Prosecutor:** For the period June – September, the Basic Prosecution in Gjakova had no cases of sequestration and confiscation of assets or material benefit gained with criminal offense. The Chief Prosecutor adds that they had only cases of obliged sequestration. | | | | |
| BP Ferizaj | **Acting Chief Prosecutor:** They are implemented even though it is a quite complicated procedure based on the conditions under which this prosecution works and the human resources, according to the Acting Chief Prosecutor in Ferizaj. | | | | |
| BP Mitrovica | **National Coordinator**: I have not received any report.  **Chief Prosecutor:** Regarding the confiscation and sequestration of material benefit gained with criminal offense, the Chief Prosecutor Shyqri Syla declares that there have not been such cases in the Basic Prosecution in Mitrovica for the period July – September 2014. | | | | |
| BP Gjilan | **National Coordinator**: I have not received any report.  **Chief Prosecutor:** The Chief Prosecutor and the Chief of Clerks in BP in Gjilan declare that within the reporting period June – September, BP in Gjilan had two cases of sequestration of assets in value of 18,355 Euros. | | | | |
| Regular meetings with KP, ACA and other institutions (Article 7.1) | *During all time* | The Chief Prosecutor of the respective prosecution | | National Coordinator: I han meetings with the Chief Prosecutors, but not with ACA | |
| SPRK | **National Coordinator**: According to the Chief Prosecutors the contacts were held thourgh persons who are placed as contact points with ACA.  **Deputy Chief Prosecutor:** Has been done with insitutions, with the exception of ACA. | | | | |
| BP Pristina | **National Coordinator:** According to the Chief Prosecutors the contacts were held thourgh persons who are placed as contact points with ACA.  **Chief Prosecutor:** Has been done. | | | | |
| BP Prizren | **National Coordinator**: According to the Chief Prosecutors the contacts were held thourgh persons who are placed as contact points with ACA.  **Acting Chief Prosecutor:** There were regular meetings with all institutions. | | | | |
| BP Peja | **National Coordinator:** According to the Chief Prosecutors the contacts were held thourgh persons who are placed as contact points with ACA.  **Chief Prosecutor:** They had regular meetings with all institutions. Here the Chief Prosecutor specifies the last meeting held in Pristina where were participants the Acting Chief Prosecutor, the Chief Prosecutors from all prosecutions, from the Director of ACA, from the General Director of Kosovo Police and from all other units of the Kosovo Police, KPI etc. | | | | |
| BP Gjakova | **National Coordinator:** According to the Chief Prosecutors the contacts were held thourgh persons who are placed as contact points with ACA.  **Chief Prosecutor:** We had regular meetings with all institutions, with the exception of ACA, with whom the BP in Gjilan had no meetings. | | | | |
| BP Ferizaj | **National Coordinator**: According to the Chief Prosecutors the contacts were held thourgh persons who are placed as contact points with ACA.  **Acting Chief Prosecutor:** Not with all. The Acting Chief Prosecutor declares that thet have regular meetings with all institution, except with ACA. | | | | |
| BP Mitrovica | **National Coordinator:** According to the Chief Prosecutors the contacts were held thourgh persons who are placed as contact points with ACA.  **Chief Prosecutor:** They had regular meetings and they still do with Kosovo Police, regional and municipal level, other institutions but not with ACA. | | | | |
| BP Gjilan | **National Coordinator**:According to the Chief Prosecutors the contacts were held thourgh persons who are placed as contact points with ACA.  **Chief Prosecutor:** There were regular meetings with all institutions. | | | | |
| Obliged reporting for the progress of the plan *(Article 8. 2 of AP)* | *Each end of month* | The Chief Prosecutor of the respective prosecution to the KPC Commission for Coordinating corruption cases(National Coordinator) | |  | |
| SPRK | **National Coordinator**: There were for each month through statistical reports for the solution of cases.  **Deputy Chief Prosecutor:** The reporting of Special Prosecution is done on regular monthly basis written and based on the need. | | | | |
| BP Pristina | **National Coordinator**: There were for each month through statistical reports for the solution of cases.  **Chief Prosecutor:** The reporting of Pristina is regular, written, done on weekly basis, monthly and based on the need. | | | | |
| BP Prizren | **National Coordinator**: There were for each month through statistical reports for the solution of cases.  **Acting Chief Prosecutor:** The reporting of the Basic Prosecution of Prizrenit is regular, written and is done on monthly basis. | | | | |
| BP Peja | **National Coordinator**: There were for each month through statistical reports for the solution of cases.  **Chief Prosecutor:** Regarding the raporting of prosecution for KPC, Agron Galani declares that the reporting is done in regular monthly basis, also based on the need. | | | | |
| BP Gjakova | **National Coordinator**: There were for each month through statistical reports for the solution of cases.  **Chief Prosecutor:** The reporting is done in regular monthly basis, also based on the need. | | | | |
| BP Ferizaj | **National Coordinator**: There were for each month through statistical reports for the solution of cases.  **Acting Chief Prosecutor:** The reporting for Kosovo Prosecutorial Council continues to be done written in monthly basis, quarterly, six monthly and annual. | | | | |
| BP Mitrovica | **National Coordinator**: There were for each month through statistical reports for the solution of cases.  **Chief Prosecutor:** The reporting is regular, written and is done in monthly basis and based on the need for KPC. While the prosecutors who treat corruption cases in Mitrovica, every two weeks they report to the Chief Prosecutor for the taken actions while treating the corruption cases. | | | | |
| BP Gjilan | **National Coordinator**: There were for each month through statistical reports for the solution of cases.  **Chief Prosecutor:** The reporting of the Basic Prosecution in Gjilan is regular, written and is done on monthly basis and based on the need. | | | | |
| Two preliminary assessments of AP *(Article 8. 3 and 8.4 of AP)* | *1. In the first week of January, 2014*  *2. In the first week of April, 2014* | Kosovo Prosecutorial Council | | National Coordinator: | |
| Overall assessment of AP*(Article 8.5 of AP )* | *June 30,2014* | Kosovo Prosecutorial Council | | **September 19, 2014** | |
| Five experts against corruption of SPRK will help BP with the foreseen cases in AP *(Article 10. 1 of AP)* | *During the implementation of AP* | The Experts of SPRK will help the Chief Prosecutors and the prosecutors of BP | |  | |
| BP Pristina | **National Coordinator**: I have not received any report that experts are being used.  **Chief Prosecutor:** There have been cases of engaged experts of SPRK for the period June – September 2014, specifically the Chief Prosecutor mentions the fact that from September, the Basic Prosecution in Pristina has in its ranks a prosecutor who had pereviously been an expert in SPRK. According to the Chief Prosecutor, this has helped very much the BP in Pristina and also besides his commitments as a prosecutor, he was also engaged even as an expert, thereby facilitating the work of this prosecution in treating such cases. | | | | |
| BP Prizren | **National Coordinator**: I have not received any report that experts are being used.  **Acting Chief Prosecutor:** Regarding the period June – September, there were no cases when they engaged experts from SPRK, declares Mr. Metush Biraj. | | | | |
| BP Peja | **National Coordinator**:I have not received any report that experts are being used.  **Chief Prosecutor:** According to the **Prosecutor** of corruption cases Sahide Gashi, during the treatment of cases for the period June 1 – September 18, 2014, The Basic Prosecution in Peja had 2 or 3 cases of engaged experts of SPRK. | | | | |
| BP Gjakova | **National Coordinator**:I have not received any report that experts are being used.  **Chief Prosecutor:** There have been no cases. | | | | |
| BP Ferizaj | **National Coordinator**: I have not received any report that experts are being used.  **Acting Chief Prosecutor:** Yes according the Acting Chief Prosecutor. | | | | |
| BP Mitrovica | **National Coordinator:** I have not received any report that experts are being used.  **Chief Prosecutor:** According the Chief Prosecutor, the Basic Prosecution of Mitrovicëa is aware about the experts , but for the period after June 30, 2014, has not engaged such experts. This for the fact that this Prosecution had no cases that needed the expertise of respective experts and for this reason, it has not been considered the need for their engagement, adds the Chief Prosecutor. | | | | |
| BP Gjilan | **National Coordinator**: I have not received any report that experts are being used.  **Chief Prosecutor:** For the period June - September, they had no cases when they have engaged experts from SPRK, declares Jetish Maloku, which justifies the fact that there was no need for their sommitment. | | | | |
| Administrative support is obliged for BP and SPRK *(Article 12 of AP)* | *During the implementation of AP* | The Secretariat of KPC | National Coordinator: We had the needed support. | | |
| Administrative support is obliged for BP and SPRK *(Article 12 of AP)* | *During the implementation of AP* | Prosecutors Performance Review Unit | National Coordinator: At the same time I was National Coordinator of Elections and that in the first period of this quarterly I was engaged in the activities of election cases that prosecutors had in work, and also were holiday times. | | |
| The communication with public *(Article 13. 1 of AP)* | *Every two weeks* | Kosovo Prosecutorial Council | National Coordinator:  KLI: The National Coordinator had to hold 6 press conferences to inform the public about the implementation of the Action Plan. The Coordinator has released only a written press statement in this reporting period. | | |
| Signing of Memorandums of Understanding *(Article 13. 2 of AP)* | *At the beginning of the implementation of Action Plan* | KPC with interested NGO |  | | |
| Disciplinary measures for non-implementation of AP | *During all time* | KPC | National Coordinator: | | |
| SPRK | **National Coordinator**: There is no information whether any measure was pronounced against anyone.  **Deputy Chief Prosecutor:** There were no cases of pronounciation of disciplinary measures. | | | | |
| BP Pristina | **National Coordinator**: There is no information whether any measure was pronounced against anyone.  **Chief Prosecutor:** There were no cases of pronounciation of disciplinary measures. | | | | |
| BP Prizren | **National Coordinator**: There is no information whether any measure was pronounced against anyone.  **Acting Chief Prosecutor:** There were no cases of pronounciation of disciplinary measures. | | | | |
| BP Peja | **National Coordinator**: There is no information whether any measure was pronounced against anyone.  **Chief Prosecutor:** There were no cases of pronounciation of disciplinary measures. | | | | |
| BP Gjakova | **National Coordinator**: There is no information whether any measure was pronounced against anyone.  **Chief Prosecutor:** There were no cases. | | | | |
| BP Ferizaj | **National Coordinator**: There is no information whether any measure was pronounced against anyone.  **Acting Chief Prosecutor:** There were no cases of pronunciation of disciplinary measures. | | | | |
| BP Mitrovica | **National Coordinator**: There is no information whether any measure was pronounced against anyone.  **Chief Prosecutor:** There were no cases of pronunciation of disciplinary measures and there won’t be while we are workingin these conditions, declares the Chief Prosecutor Shyqri Syla. | | | | |
| BP Gjilan | **National Coordinator**: There is no information whether any measure was pronounced against anyone.  **Chief Prosecutor:** There were no cases of pronunciation of disciplinary measures | | | | |

**KLI indicators for assessing the fulfillment of the obligations of the Action Plan**

# IX. COMMENTARY ON LEGAL ACTS

In accordance with the Memorandum of Understanding with KPC, KLI has admitted and analyzed the prosecutorial legal acts (the desicions for dismissal of criminal charges, the desicions for termination of investigations and filed indictments) that includes the period June – September 2014.[[75]](#footnote-76) The acceptance and submission of legal acts from the prosecutors to the monitors of KLI was done by eliminating all the personal data from them. The analysis of these acts by KLI, is focused on making decisions against legal provisions, always maintaining the highest professional standard and by not commentiong the discretion of prosecutors and their subjective assessment for the placement of cases.[[76]](#footnote-77)

The identified problems in previous months in the prosecutorial legal acts, KLI has continued to face even in the desicions that were issued in this reporting period (July, August, September 2014). Among the main problems in the desicions of the prosecutors in solving the corruption cases are related with the violation of legal terms for placement[[77]](#footnote-78), inadequate reference in the criminal provisions and criminal procedual, non-compliance of the intoductory part, enacting and justification of accusatory acts. While, the number of prescription cases of criminal prosecution for corruption cases remains a concern, as relative and absolute prescription as well [[78]](#footnote-79).

**SPECIAL FINDINGS:**

KLI has identified six cases of achievement of prescription of criminal prosecution for curruption cases. BP in Pristina, BP in Mitrovica, BP in Gjakova and BP in Peja, were the prosecutions who had issued desicions for dismissal of criminal charges and termination of investigations because of the achievement of the prescription term of criminal prosecution.

During the monitoring of KLI[[79]](#footnote-80) in each prosecutrion, has conducted inerviews with the Chief Prosecutors. In these inetviews some of the Chief Prosecutors, were not aware that in their prosecutions had cases of prescription of criminal prosecution for corruption cases[[80]](#footnote-81), while others have claimed that for each prescriped case, have compiled special justified reports for the desicions for prescription .[[81]](#footnote-82)

Despite these declarations KLI in analyzing the legal acts has identified that during this time had cases of prescription of criminal prosecution on these prosecutions and that they were not reported to the Anti-Corruption National Coordinator[[82]](#footnote-83), under the obligation defined in the Action Plan for prescribed cases. Ongoing are the findings of KLI, as a result of analyzing the prosecutorial legal acts for each prosecution for corruption cases.

. **I – CASES OF PRESCRIPTION OF CRIMINAL PROSECUTION**

**BASIC PROSECUTION IN MITROVICA**

1. Case PPN-II. with number 02/2010 on August 1, 2014. Dismissal of the report, Basic Prosecution in Mitrovica. Criminal offense “Accepting Bribes”.[[83]](#footnote-84)

***IKD:*** *No special report was prepared for this case of prescription for KPC according to the obligations arising from the Action Plan.*

**BASIC PROSECUTION IN PRISTINA**

1. Case PP with number 396/2014 on June 17, 2014. Partial termination of investigations, Basic Prosecution in Pristina. Criminal offenses “Abuse of Official Duty and Falsifying Official Documents”.[[84]](#footnote-85)

***IKD:*** *No special report was prepared for this case of prescription for KPC according to the obligations arising from the Action Plan..*

1. Case PP. with number 1003-2/2008, on September 23, 2014. Partial termination of investigations, Basic Prosecution in Pristina. Criminal offense “Abuse of Official Duty”. [[85]](#footnote-86)

***IKD:*** *No special report was prepared for this case of prescription for KPC according to the obligations arising from the Action Plan.*

**BASIC PROSECUTION IN GJAKOVA**

1. Case PP/I. with number 174/2014 on September 8, 2014. Dismissal of the criminal charge, Basic Prosecution in Gjakova. Criminal offense “Abusing Official Position or Authority” [[86]](#footnote-87)

***IKD:*** *No special report was prepared for this case of prescription for KPC according to the obligations arising from the Action Plan.*

**BASIC PROSECUTION IN PEJA**

1. Case PP-I. with number 106/14 on May 13, 2014. Dismissal of the criminal charge, Basic Prosecution in Peja. Criminal offenses “Abuse of Official Duty” and “Falsification of official documents”.[[87]](#footnote-88)

***IKD:*** *No special report was prepared for this case of prescription for KPC according to the obligations arising from the Action Plan.*

**II – VIOLATION CASES OF LEGAL TERMS FOR PLACEMENT**

During the analyzes of prosecutorial legal acts, KLI has identified cases of disrespect of legal term of 30 days for the dismissal of the criminal charge. Ongoing are presented the identified cases for each prosecution.

**BASIC PROSECUTION IN MITROVICA**

1. Case PP-I with number 126/2013 on July 16, 2014. Dismissal of the criminal charge, Basic Prosecution in Mitrovica. Criminal offenses “Abusing Official Position or Authority” and “Keeping in ownership, control, possession or unauthorized use of weapons”.[[88]](#footnote-89)

**KLI:** Based on the documents in the Decision of the Prosecution, it appears that the criminal charge has been accepted in BP in Mitrovica on July 4, 2013, while the Prosecution has decided on July 16, 2014. In this case, the Basic Prosecution in Mitrovica had made a decision after more than a year, although the Procedure Code foresees the 30-day deadline.[[89]](#footnote-90)

**BASIC PROSECUTION IN PEJA**

1. Case PP-I. with number119/2014 on July 31, 2014. Dismissal of the criminal charge, Basic Prosecution in Peja. Criminal offense “Abusing Official Position or Authority”.[[90]](#footnote-91)

**IKD:** Based on the documents in the Decision of the Prosecution, it appears that the criminal charge has been accepted in BP in Peja on March 18, 2014, while the Prosecution has decided on July 31, 2014. In this case, results that the prosecution did not respect the procedural provisions on the occasion of their application, violating so the Criminal Procedure Code, by taking a decision after more than 4 months.[[91]](#footnote-92)

**BASIC PROSECUTION IN PRISTINA**

1. Case PP with number 670/2013 on June 12, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”.[[92]](#footnote-93)

**KLI:** Based on the documents in the Decision of the Prosecution, it appears that the criminal charge has been accepted in BP in Pristina on July, 2013, while the Prosecution has decided on June 12, 2014. The prosecution did not respect the procedural provisions on the occasion of their application, for which case had taken a decision almost after a year, although the Procedure Code foresees the 30-day deadline.

1. Case PP with number 749/2013 on July 22, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”; etc”.[[93]](#footnote-94)

**KLI**: Based on the documents in the Decision of the Prosecution, it appears that the criminal charge has been accepted in BP in Pristina on August 15, 2013, while the Prosecution has decided on July 22, 2014. The prosecution did not respect the procedural provisions on the occasion of their application, by violating so the Article 82 of the Criminal Procedure Code, for which case had taken a decision almost after 11 months, despite the 30-day deadline foreseen with the criminal procedural provisions.

1. Case PP. I with number 596/2013 on September 15, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”, “Insult and Defamation”.[[94]](#footnote-95)

**KLI:** Based on the documents in the Decision of the Prosecution, it appears that the criminal charge has been accepted in the Basic Prosecution in Pristina on April 23, 2013, while the Prosecution has decided on September 15, 2014. For this case had taken a decision after 1 year and more than 4 months, although the Procedure Code foresees the 30-day deadline, by violating the Article 82 of the Criminal Procedure Code.

1. Case PP. I with number 819/2014 on September 19, 2014. Dismissal of the criminal charge. Criminal offense “Giving Bribes”.[[95]](#footnote-96)

**KLI:** Based on the documents in the Decision of the Prosecution, it appears that the criminal charge has been accepted in BP in Pristina on July 31, 2014, while the Prosecution has decided on September 19, 2014. The Prosecution had taken a decision almost after 50 days, although the Procedure Code foresees the 30-day deadline.

1. Case PP with number 1070/13 on September23, 2014. Hudhje e kallëzimit penal. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”.[[96]](#footnote-97)

**KLI**: Based on the documents in the Decision of the Prosecution, it appears that the criminal charge has been accepted in BP in Pristina on October 30, 2013, while the Prosecution has decided on September 23, 2014. Also for this case, the Prosecution had taken a decision almost after 11 months, although the Procedure Code foresees the 30-day deadline.

1. Case PP. with number 650/14 on September 17, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”.[[97]](#footnote-98)

**KLI:** Based on the documents in the Decision of the Prosecution, it appears that the criminal charge has been accepted on June 11, 2013, while the Prosecution has decided on September 17, 2014, after more than 1 year and a half from the day that was supposed to decide, in accordance with the provisions of PCCK for the 30-day deadline.

1. Case PP. I with number 8836/13 on June 6, 2014. Dismissal of the criminal charge. Criminal offense “Non declaration or false declaration of assets, incomes, gifts, and other material benefits or financial liabilities”.

**KLI:** Based on the documents in the Decision of the Prosecution, it appears that the criminal charge has been accepted in BP in Pristina on December 17, 2014, while the Prosecution has decided on June 6, 2014, almost after 6 months from the acceptance of the Criminal Charge, although the PCCK foresees the 30-day deadline.

1. Case PP. I with number 1065/2013 on June 6, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”.

**KLI:** Also based in the Decision of the Prosecution, criminal charge has been accepted in BP in Pristina on October 29, 2013, while the Prosecution has decided on September 3, 2014, after more than 10 months from the the acceptance of the Criminal Charge, although the PCCK foresees the 30-day deadline.

1. Case PP. I with number 726/2014 on September 17, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”.

**KLI:** As in previous cases, according to the decision of the Prosecution the criminal charge has been accepted in BP in Pristina on April 8, 2014, while the Prosecution has decided on September 19, 2014, after more than 5 months from the the acceptance of the Criminal Charge, although the PCCK foresees the 30-day deadline for such cases.

1. Case PP. I with number 338/2013 on September 17, 2014. Dismissal of the criminal charge. Criminal offense “Giving Bribes”.

**KLI:** As in previous cases, according to the decision of the Prosecution the criminal charge has been accepted in BP in Pristina on April 25, 2013, while the Prosecution has decided on September 22, 2014, after almost 1 year and a half from the acceptance of the Criminal Charge, although the PCCK foresees the 30-day deadline for such cases.

1. Case PP. I with number 268/2014 on September 19, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”.

**KLI:** As in previous cases, according to the decision of the Prosecution the criminal charge has been accepted in BP in Pristina on March 20, 2014, while the Prosecution has decided on September 19, 2014, after almost 6 months from the date of the acceptance of the Criminal Charge, although the PCCK foresees the 30-day deadline for such cases.

1. Case PP. I with number 392/2014 on September 9, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority and Trading in Influence”.

**KLI:** According to the decision of the Prosecution the criminal charge has been accepted in BP in Pristina on April 14, 2014, while the Prosecution has decided on September 9, 2014, after almost 5 months from the date of the acceptance of the Criminal Charge, although the PCCK foresees the 30-day deadline for such cases.

**BASIC PROSECUTION IN PRIZREN**

1. Case PP with number 114/2014 on June 23, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority, etc”.[[98]](#footnote-99)

**KLI**: Based in the decision it appears that the criminal charge has been accepted in BP in Prizren on March 21, 2014, while the Prosecution has decided on June 23, 2014. Although with the Criminal Procedure Code for such cases was foreseen to take decision wihtin 30 days from the acceptance of the criminal charge, the Basic Prosecution in Prizren has taken a decision almost after 3 months from the data of the acceptance of the criminal charge.

1. Case PP with number 121/2013 on June 27, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority etc”.[[99]](#footnote-100)

**KLI:** Based on the documents in the Decision of the Prosecution, the criminal charge has been accepted in BP in Prizren on July 2, 2013, while the Prosecution has decided on June 27, 2014. In this case, the Basic Prosecution in Prizren did not respect the procedural provisions on the occasion of their application, violating so the Criminal Procedure Code, Article 82, for which case had taken a decision almost after 1 year, although the Procedure Code foresees the 30-day deadline.

1. Case PP. with number 192/2013 on June 30, 2014. Dismissal of the criminal charge. Criminal offense “Issuing unlawful decisions” and “False declarations”.

**KLI:** In the Decision of the Prosecution it is written that the criminal charge has been accepted on September 11, 2013, while the Prosecution has decided on June 30, 2014. In this case, the Basic Prosecution in Prizren has taken the decision after more than 9 months and dod not respect the 30-day deadline according to the criminal procedural provisions.

1. Case HP. with number 184/2013 on June 30, 2014. Dismissal of the criminal charge. Criminal offense “Falsifying Official Document”.

**KLI:** Even in this case, based in the Decision of the Prosecution, the criminal charge has been accepted on June 27, 2013, while was decided on June 30, 2014 by dismissing the criminal charge with the justification that there is no reasonable doubt. In this case, the Basic Prosecution in Prizren has taken the decision after more than 10 months, by violating so the Criminal Procedure Code, precisely Article 82.

1. Case HP. with number 208/2014 on July 30, 2014. Dismissal of the criminal charge. Criminal offense “Issuing unlawful judicial decdisions”.

**KLI:** The Basic Prosecution in Prizren has accepted the criminal charge on February 26, 2014, while has decided on July 30, 2014 with the justification that there is no reasonable doubt for the case. In this case, the Prosecution has decided after more than 10 months.

1. Case PP. with number 65/2014 on September 9, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority , Trading in Influence”.[[100]](#footnote-101)

**KLI:** The Criminal Cherge has been accepted on March 11, 2014, while the Prosecution has decided on September 9, 2014. The Basic Prosecution in Prizren has decided after more than 6 months, in which case did not respect the procedural provisions for the 30-day deadline, violating so the Criminal Procedure Code, precisely Article 82 of PCCK.

**BASIC PROSECUTION IN GJAKOVA**

1. Case PP/I. with number 250/2013 on February 13, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority” from the Article 339 par 1 of KPC and “Violation of employment rights”.

**KLI:** The Criminal Charge has been accepted by the Anti-Corruption Agency on February 6, 2013, while the Prosecution has decided on January 28, 2014. The Basic Prosecution in Gjakova had decided after almost one year from the day they had to decide in which case did not respect the procedural provisions violating so the Criminal Procedure Code, precisely Article 82 of PCCK.

**BASIC PROSECUTION IN GJILAN**

1. Case PP/I. with number 250/2013 on Feburary 13, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”.

**KLI:** The Criminal Charge has been accepted on August 23, 2013, while the Prosecution has decided on February 13, 2014. The Basic Prosecution in Gjilan had decided after more than five months from the last day they had to decide in which case did not respect the procedural provisions violating so the Criminal Procedure Code, precisely Article 82 and 83.5 of PCCK.

1. Case PP/I. with number 100/2014 on August 8, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”.

**KLI:** The Criminal Charge has been accepted on April 17, 2014, while the Prosecution has decided on August 8, 2014. The Basic Prosecution in Gjilan had decided after more than 3 months.

1. Case PP/I with number 64/2014 on April 6, 2014. Dismissal of the criminal charge. Criminal offense “Abusing Official Position or Authority”.

**KLI:** The Criminal Charge has been accepted on February 27, 2014, while the Prosecution has decided on April 6, 2014. The Basic Prosecution in Gjilan had decided after the 30-day deadline, which deadline is foresswn in PCCK.

# X. RECOMMENDATIONS

Kosovo Law Institute based on the findings during the process of monitoring and assessment of implementation of the Action Plan, as in previous reports issues the following recommendations for Kosovo Prosecutorial Council :

**I - Kosovo Prosecutorial Council should implement the obligations, which has approved in the Action Plan itself, including:**

1. Assessing the performance of the Chief Prosecutors of Basic Prosecutions and SPRK and prosecutors of these prosecutions for the implementation of the Action Plan until in this reporting period.
2. The responsibility of Chief Prosecutors that have not pronounced any disciplinary measures against employees, for whom defalcations were concluded by the Commission in charge of overseeing and verification of the data for corruption cases. The evidenced violations must e sanctioned in order to increase the responsibility of supporting staff to respect the positive legislation and Tracking Mechanism. Otherwise, the violations of the Tracking Mechanism, will continue, as they have in this reporting period.
3. The responsibility of Chief Prosecutors who have not created special reports with justification for each case that has reached the deadline of prescription. The same reports should continue to be prepared separately for each case for KPC.
4. KPC should require greater account from the Chief Prosecutors for non-implementation of legal provisions for sequestration and confiscation of material benefits. The prosecutors in each case when there is legal space shall apply these provisions.
5. KPC should create internal mechanisms to analyze the solution of corruption cases , with a focus on analyzing the dismissed cases of criminal charges and the termination of investigations by the applicants of these acts. In this direction it should be analyzed, especially the cases prescribed by Kosovo Police and ACA because of the large number of dismissal and termination of them. This is the only way to enable the creation of criminal adequate policies in fighting corruption.
6. KPC should continue to support in solving problems in BP in Pristina because of the load and quality of prepetrators of criminal acts of corruption.
7. KPC should take urgent steps and very concrete to improve the working conditions for the BP in Mitrovica. Without the insurance of the elementary working conditions, it is hard for the prosecutors and the support staff in this prosecution to prove positive results.
8. KPC should oblige the prosecutions to put the data for corruption cases on daily basis, by updating the data in the Tracking Mechanism to be accessible at any time.
9. KPC should invest in profilization and specialization of prosecutors dealing with corruption cases.
10. Prosecutors should testify self-initiative in initiating corruption cases.
11. **II - National Coordinator against Corruption should:**
12. Report on regular basis in KPC for all the obstacles that faces during the implementation of the Action Plan.
13. Respect the internal mechanisms of gathering informations from Prosecutors Performance Review Unit, respectively from the database by Tracking Mechanism.
14. Respect the foreseen deadlines in the Action Plan for communication with the public on two weeks regular basis, fulfilling one of the obligations of the plan to keep the public informed, increasing the transparency and being accountable to the public for each prosecution.
15. The progress of implementation of the Action Plan where are included the informations about the status of corruption cases that should be published in two weeks regular basis on the website of the State Prosecutor in order for the public and media to have easy access.

**III – KPC and ODC should cooperate closely in taking desciplinary measures regarding:**

1. Corruption cases placed in contradiction with the legal provisions (the cases identified by KLI and others)
2. Cases of the prosecutors who for years have not treated at all corruption cases submitted by the applicants
3. Basic Prosecution of Peja should engage all the prosecutors of Serious Crimes Department in solving the corruption cases.

1. Kosovo Prosecutorial Council in the implementation of the *Strategic Plan for inter-institutional cooperation in combating organized crime and corruption on* November 4, 2013 issued the "*Action Plan to Increase the Efficiency of Prosecutorial System in Fighting Corruption*". [↑](#footnote-ref-2)
2. Kosovo Prosecutorial Council has signed a Memorandum of Cooperation with the Kosovo Law Insitute *"Regarding the monitoring and evaluation of the implementation of the Action Plan for Increasing the Efficiency of Prosecutorial System in Fighting Corruption"*. December 27, 2013 [↑](#footnote-ref-3)
3. *Note:* The two reports published by the KLI are presented in Kosovo Prosecutorial Council. The first report was presented at the meeting of Kosovo Prosecutorial Council held on 25 April 2014, in which KPC have discussed and approved KLI’s report published on "Corruption in Kosovo: Evaluation report on the effectiveness of prosecutorial system in the implementation of the action plan for corruption cases ", which in addition to the findings and assessments made concrete recommendations for effective implementation of the Action Plan to Increase the Efficiency of Prosecutorial System in Fighting Corruption. (see - http://psh-ks.net/?page=1,8,557). While, the second report was presented at the meeting held on 16 October 2014, in which it presented its report "Corruption in Kosovo 2: Comprehensive Assessment Report on the effectiveness of prosecutorial system in the implementation of the action plan for cases of corruption" with the findings evaluations and recommendations on the implementation of the Action Plan. (see - http://www.psh-ks.net/?page=1,8,635). [↑](#footnote-ref-4)
4. Action Plan for Increasing Efficiency of Prosecutorial System for Fighting Corruption has defined offenses against corruption, which are listed, based on the old Code (2003) and the new Criminal Code (2012). The plan contains term 13 offenses old Criminal Code offenses involving Chapter XVIX (19): Section 339 - "*Abuse of official position or authority"*, Article 340 - "*Misappropriation of duty*", Article 341- "*Fraud on duty* ", Article 342-" *Unauthorized use of property* ", Article 343**-"**Accepting Bribes ", Article 344*-" Giving bribes* ", Article 345-" *Influence "*, Article 346-" *Issuing unlawful judicial decisions* ", Article 347 -" *The discovery of official secrecy* ", Article 348 -" *Falsification of official documents* ", Article 349 -" The *collection and illegal payments* ", Article 350 -" The release of a person unlawfully deprived of liberty "as and Article 351 "*Unlawful Appropriation of property in case of search or judicial execution*". Action Plan of the new Penal Code included offenses against corruption 19 chapters XXXIV (34) and XXV (15). Acts of Chapter XXXIV (34) include: Article 422 - "*Abuse of power or official authority",* Article 423 - "*Misuse of official information"*, Article 424 - *"Conflict of Interest*", Article 425 - "The acquisition of duty", article 426- "Fraud on duty", article 427 - *"unauthorized use of property*", Article 428 - *"Accepting Bribes*", Article 429 - *"Giving bribes*", Article 430 - "*bribery of foreign public official"* Article 431 - "*influence*", Article 432- "issuing unlawful judicial decisions", Article 433 - "the discovery of official secrecy", Article 434 - "forging official documents", article 435 - "unlawful Collection and Disbursement "Article 436 -" Unlawful Appropriation of property in case of search or execution of a judicial decision ", article 437 -" Do not reporting or false reporting of assets, income, gifts, and other material benefit or financial liabilities "and works by chapter XXV (15) include: Article 290 -" the misuse of economic authorizations, "Section 291 -" contract of harmful "and Article 316 -" Giving the Gift unreasonable ". [↑](#footnote-ref-5)
5. *Note: National Coordinator has promised to inform the public about the positions of officials against whom corruption cases are solved. Such notifications are made only two press conferences. See the announcement for these cases issued May 8, 2014: "In relation to persons who prosecutors have indicted, prosecutors inform you that within the period of the action plan (November 4, 2013 until April 30, 2014) filed indictments against: 3 deputies, 12 policemen, two customs officers, 7 lawyers, one mayor, one prosecutors; 1 judge, 4 doctors, 2 municipal directors, three municipal councilors, one private university manager, 5 municipal officials, 12 administration officials, agency officials 9, 6 employee health institutions, 4 tax administration officials, 114 charge / official private companies etc. "(see - http://psh-ks.net/?page=1,8,559).*

   [↑](#footnote-ref-6)
6. Kosovo Prosecutorial Council and the Kosovo Law Institute on December 27, 2013 signed a Memorandum of Cooperation "Regarding the monitoring and evaluation of the implementation of the Action Plan related to increasing the efficiency of Prosecutorial System in Fighting Corruption". Kosovo Prosecutorial Council. December 27, 2013.. [↑](#footnote-ref-7)
7. Note: KLI considers necessary to make this clarification because of numerous uncertainties generated by continuing reports either by the prosecutorial system or various reports of civil society and organizations about corruption in Kosovo. Therefore, KLI has conducted its analysis based on official data on cases of corruption, which are provided in the prosecutorial system [↑](#footnote-ref-8)
8. Note: The number of cases and persons in cases of corruption may vary, depending on the method of solving. It happens that in one case (criminal) to be involved 20 unsolved persons at the beginning of the reporting period, while the following solution for persons to be in various ways, including dismissal, termination or indictment against certain persons in the same case. Therefore, the Institute explains that the number of persons in each section matches 99%, while the number of cases may change for the aforementioned reason. To be precise in analyzing the statistics, KLI has referred cases separately and persons who are registered in the records of the Kosovo Prosecutorial Council. [↑](#footnote-ref-9)
9. Basic Prosecution in Pristina is the largest in the prosecutorial system, both the prosecution charged with all natures of criminal cases, including cases of corruption. In this prosecution at the beginning of the reporting period ( July 1, 2014) has unsolved cases registered in 2008. There are 2 cases with 8 persons, which have failed to be solved even after eight months of the entry into force of the Action Plan , despite the fact that the treatment of these cases has been an absolute priority. [↑](#footnote-ref-10)
10. Note: Kosovo has built a number of institutions, which in their mandate in different ways deal with coordination, prevention and combating of corruption in Kosovo. All these state institutions, which have a mandate to enforce the law, have developed strategic documents and action plans to combat corruption. This fact by no means confined to the fight against corruption to succeed, as has consistently been a lack of concrete results. In this regard see also assessing "the second progress report on Kosovo in meeting the requirements of the roadmap for visa liberalization". European Commission. Brussels. July 24, 2014. [↑](#footnote-ref-11)
11. Delay of solving corruption cases remains the main concern of all applicants. Kosovo Customs as you may notice from above, it appears that cases filed since 2004, which failed to be solved during this period. Director General of Customs of Kosovo, Mr. Lulzim Rafuna, states that procrastination of these cases through the judicial, has an extremely negative impact and creates problems for Kosovo Customs, which constantly there are such cases, makes official denunciations. Rafuna main complaints addressed to the inefficiencies of the courts which are not yet resolved a number of cases brought after complaints by KC. The same concerns also follow the Tax Administration of Kosovo, where, according to its director, Mr. Behxhet Haliti, TAK has filed a number of corruption cases many years ago, which still have not been solved by prosecutors and courts. KLI interview with Mr. Lulzim Rafuna, Director General of Customs of Kosovo and Mr. Behxhet Haliti, Director General of Tax Administration of Kosovo. December 2014. [↑](#footnote-ref-12)
12. Note: Office of disciplinary prosecutor internal mechanism of discipline of the Judicial Council and Prosecutorial Council of Kosovo, constantly receives complaints from citizens who submit their cases to judges and prosecutors to delay of the resolution of cases. [↑](#footnote-ref-13)
13. Kosovo Progress Report of the European Commission for 2013. p.13.. [↑](#footnote-ref-14)
14. Note: prosecutorial system in April - November 2014 marked the lowest point of all time citizens' trust in the work of the prosecution of only 21% (compared with 38% in April 2014). State Prosecutor has decreased by about 17 percentage points, reducing the level of citizen satisfaction with the work of the Prosecution. "Public Pulse 8" (Pristina: UNDP, November 2014), p.2. [↑](#footnote-ref-15)
15. Note: prosecutorial system in April - November 2014 marked the lowest point of all time citizens' trust in the work of the prosecution of only 21% (compared with 38% in April 2014). State Prosecutor has decreased by about 17 percentage points, reducing the level of citizen satisfaction with the work of the Prosecution. "Public Pulse 8" (Pristina: UNDP, November 2014),. [↑](#footnote-ref-16)
16. Note: The judiciary also makes no exception to the decreasing level of satisfaction with his work. Percentage of Kosovars who are satisfied with the work of Kosovo's courts has fallen from 38% to 23% between April and November 2014. "Public Pulse 8" (Pristina: UNDP, November 2014), p.2., f.2. [↑](#footnote-ref-17)
17. Out of 83 cases of corruption, including 175 persons, applicants have charged 141 persons for the crime of "Abuse of position or official authority", 15 persons for the criminal offense "Non reporting of assets", 12 persons for the criminal offense "Giving Bribes" 3 persona for the crime of "Acquisition of duty", 2 persons for the crime of "Issuing unlawful judicial decisions" and the first person offenses "Falsification of official documents" and "Accepting bribe”. [↑](#footnote-ref-18)
18. Note: Kosovo Law Institute (KLI), on September 5, 2014, held a comprehensive conference with the participation of all stakeholders of the highest state institutions and leaders of all the institutions of justice and law enforcement agencies in combating corruption. At this conference entitled: "Evaluation of the implementation of the Action Plan for Increasing Efficiency of Prosecutorial System for Fighting Corruption", was published a voluminous 180-page report "Corruption in Kosovo 2: Comprehensive Assessment Report on the effectiveness of prosecutorial system implementation of Action Plan for cases of corruption", which included findings, assessments and recommendations for the implementation of the Action Plan. In this report, the Institute has found that it's Office in Pristina has failed most in resolving corruption cases, where only 13% of cases has managed to solve, or of corruption cases involving 777 persons, has reached solve cases only against 98 persons, who were registered to 4 November 2013. While in total (including cases received by 30 June 2014), the prosecution's Office in Pristina, from 4 November 2013 to 30 June 2014 have solved 54 cases against 123 persons.

    Because of this failure, the Institute as a result of continuous monitoring and evaluation of the work of this office, has recommended that urgent steps be taken to ensure efficiency in solving corruption cases. See the Institute's recommendation h). "GCC should take urgent steps and very concrete in solving problems in Office, Pristina due to load and quality of criminal acts of corruption. The prosecution needs efficient management and additional resources with prosecutors and support staff. "In the Institute's conference held on 5 September 2014, the National Anti-Corruption Coordinator, Ms. Laura Pula, and Chief Prosecutor's Office in Pristina, Mr. Imer Beka, have given public commitments to implement this recommendation. After the conference, dated September 11, 2014, the National Coordinator and Chief Prosecutor's Office in Pristina, held a collegium meeting, which lasted for hours, with all prosecutors in Pristina's Office to discuss the results of the weaknesses of this prosecution in solving corruption cases. At this meeting, the Chief and National Coordinator have taken concrete actions in the reorganization of work and the manner of reporting to increase efficiency of prosecutors to resolve cases of corruption, which has given results. [↑](#footnote-ref-19)
19. BP in Pristina with the entry into force of the Action Plan on November 4, 2013, had 224 unsolved cases with 777 persons. While, of November 4, 2013 to June 30, 2014 had 173 new cases with 287 persons, in total there were 397 cases of occupational 1064 persons. From this total, BP in Pristina has managed to solve only 54 cases against 123 persons. While only in the reporting period (July, August, September, 2014), this prosecution has solved 34 cases against 65 persons, respectively, after the implementation of the recommendation of the Institute for the reorganization of work to increase the efficiency in solving the cases of corruption, September 11, 2014, the prosecutors of the prosecution have solved 26 cases against 47 persons. [↑](#footnote-ref-20)
20. KLI interview with the National Anti-Corruption Coordinator, Ms. Laura Pula. October 2014. [↑](#footnote-ref-21)
21. In a comprehensive report just published by the Kosovo Law Institute as a result of monitoring and evaluating the implementation of the Action Plan for Increasing Efficiency System for Fighting Corruption Prosecution, shows that seven Fundamental Prosecutions and Special Prosecution of the Republic of Kosovo from the effective date of the Plan of Action (4 November 2013) until June 30, 2014, resolved 325 cases against 839 persons. From these results it against more than half of persons, namely to 456 persons are thrown or been dismissed cases, while less than half against them, or against 383 persons were indicted. According to the Institute's report, it appears that over 183 people have been thrown criminal investigation against 273 persons have terminated investigations against 41 persons were imposed punitive order, against 51 indicted persons are direct and to 291 persons were indicted after development investigations. Musliu. B. "Corruption in Kosovo 2: Comprehensive Assessment Report on Prosecutorial system efficiency in the implementation of the action plan for cases of corruption - Betim Musliu-". Pristina, September 2014. p.28. [↑](#footnote-ref-22)
22. Chapter III. "The duties and powers of the State Prosecutor", "Article 7 - Duties and powers of prosecutors". Law No. 03 / L-255 on State Prosecutor. Kosovo Assembly. October 29, 2014. [↑](#footnote-ref-23)
23. Out of 137 persons against whom cases of corruption have been resolved, against 85 persons were filed criminal charges for the crime of "abuse of position or official authority", against 16 persons for the criminal offense "Acquisition on duty" to 11 individuals criminal offense "Giving bribes" to 4 persons for the crime of "issuing unlawful judicial decisions", to 3 persons offense "influence", to 3 persons for the crime "Taking bribe" to 2 persons crime "Fraud on duty", and to one person for the crime of "illegal collection of payments". [↑](#footnote-ref-24)
24. Note: Prosecutors have solved cases against 579 persons against whom criminal charges filed Kosovo Police. Prosecutors against 100 persons have dismissed criminal charges, against 161 persons have terminated investigations, 38 persons proposed imposition of punitive order, against 41 persons direct indictment has been filed, and to 239 persons indictment has been filed after investigation. [↑](#footnote-ref-25)
25. Note: Out of 100 persons against whom cases were solved, only to prosecutors have indicted 15 persons, where to 3 persons are direct indictment, while over 12 people have been indicted after investigation.. [↑](#footnote-ref-26)
26. Note: The statistical analysis shows that Kosovo police corruption cases filed against 579 persons, has managed to argue only criminal charges against 318 persons, while over 261 people had dumped prosecutors have dismissed criminal charges or investigations for lack of argument of cases. More worrying is the situation with cases brought by ACA, against 130 persons who filed criminal charges of corruption, prosecutors against 79 persons threw criminal charges or investigations ceased, while only against 51 persons have filed accusing acts in the which is estimated that criminal charges are sustained.. [↑](#footnote-ref-27)
27. Section 4, "Giving priority to cases", "*Action Plan to Increase the Efficiency of Prosecutorial System in Combating Corruption*", Kosovo Prosecutorial Council. November 4, 2013. [↑](#footnote-ref-28)
28. *Note:* While, from November 4, 2013 until June 20, 2014, prosecutors had managed to solve 41% of cases registered until November 4, 2013, for the reporting period during three months (July, August, September, 2014), prosecutors have managed to solve only 4% of these cases. During these three months prosecutors have solved cases against 66 persons or 4% of cases registered until November 4, 2013. [↑](#footnote-ref-29)
29. *Note:* For eight months (from the entry into force of the Plan on November 4, 2013 until June 30, 2014) BP in Pristina has managed to solve 13% of cases registered until November 4, 2013, of which from 777 unsolved persons BP in Pristina has managed to solve cases against 98 persons. [↑](#footnote-ref-30)
30. *Note:* For eight months (from the entry into force of the Action Plan on November 4, 2013 until June 30, 2014) BP in Mitrovica has managed to solve 26% of cases registered until November 4, 2013 of which from 141 unsolved persons, this prosecution has solved cases against 36 persons. [↑](#footnote-ref-31)
31. *Note:* For eight months (from the entry into force of the Action Plan on November 4, 2013 until June 30, 2014) KSRP has managed to solve 46% of cases registered until November 4, 2013 of which from 232 unsolved persons, this prosecution has solved cases against 107 persons. [↑](#footnote-ref-32)
32. *Note:* For eight months (from the entry into force of the Action Plan on November 4, 2013 until June 30, 2014) BP in Ferizaj has managed to solve 64% of registered cases until November 4, 2013, of which from 126 unsolved persons, this prosecution has solved cases against 81 persons. [↑](#footnote-ref-33)
33. *Note:* For eight months (from the entry into force of the Action Plan on November 4, 2013 until June 30, 2014) BP in Gjakova has managed to solve 81% of registered cases until November 4, 2013, of which from 64 unsolved persons, this prosecution has solved cases against 52 persons. [↑](#footnote-ref-34)
34. *Note:* For eight months (from the entry into force of the Action Plan on November 4, 2013 until June 30, 2014) BP in Prizren has managed to solve 85% of registered cases until November 4, 2013, of which from 175 unsolved persons, this prosecution has solved cases against 149 persons. [↑](#footnote-ref-35)
35. *Note*: For eight months (from the entry into fotce of the Action Plan on November 4, 2013 until June 30, 2014) BP in Peja has managed to solve 94% of cases registered until November 4, 2013, of which from 86 unsolved persons has solved cases against 81 persons [↑](#footnote-ref-36)
36. See footnote 14. And, KLI interview with Mr. Imer Beka, the Chief Prosecutor in the Basic Prosecution in Pristina, October 2014. [↑](#footnote-ref-37)
37. *Note:* During this reporting period for the months of July, August and September 2014, BP in Pristina have solved cases against 65 persons. Prosecutors of this prosecution in July have solved cases against 15 persons, in August to 3 persons, while only in September they have solved cases against 47 persons. From all these cases, 51 persons belong at cases registered until November 4, 2013 in the Action Plan, by increasing the percentage of implementation of the Action Plan to 19%, for solving “old” cases. [↑](#footnote-ref-38)
38. KLI interview with Mr. Imer Beka, Chief Prosecutor in the Basic Prosecution of Pristina, October 2014. [↑](#footnote-ref-39)
39. “Among the major obstacles in the implementation of the Action Plan, which are also consider as challenges were: the small number of prosecutors and recording clerks in the Serious Crimes Prosecution Department, the large number of cases in this Department, complicated cases which require time for investigation and discovery of offenses of official persons from different levels, who are suspected. The number of prosecutors and staff should be increased in order to increase the efficiency of our work". KLI interview with Mr. Imer Beka, Chief Prosecutor in the Basic Prosecution of Pristina, September 24, 2014. [↑](#footnote-ref-40)
40. KLI interview with Mr. Shyqri Syla, Chief Prosecutor at the Basic Prosecution in Mitrovica. September 2014. [↑](#footnote-ref-41)
41. *Note:* Prosecutors of the Special Prosecution of the Republic of Kosovo, despite their base salary they also get an additional compensation of 800 euros every month, because of the risk during their job and sensitive cases that they treat base on legal competences. [↑](#footnote-ref-42)
42. KLI interview with Mrs. Sevdije Morina, Deputy Chief Prosecutor in SPRK. September, December 2014 [↑](#footnote-ref-43)
43. KLI estimates again that working conditions and stimulation of prosecutors in SPRK are much better than to the prosecutors of other prosecutions so in this aspect, this state investment has been made to have better results in fighting crime, which is in the competences of SPRK. Just to compare, KLI shows to you the results of fighting corruption of the prosecution alike which operates in Croatia. Unlike SPRK, the Bureau for Combating Corruption and Organized Crime in Croatia (USKOK) has an excellent performance in fighting crime. In 2012, from 283 indictments and represented by Croatian courts, USKOK has managed to protect 95 of them, by announcing 252 conviction judgments for these indictments. This proves the efficiency and quality of the function of USKOK-for investigating and prosecuting high level profiles. (see the raport at the page 7 <http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4%282013%297_Croatia_EN.pdf>). While, SPRK was founded and functionalized based in the Law On The Special Persecution Office Of The Republic Of Kosovo in 2008. (Last checked on July 30, 2014) <http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L052_al.pdf>) [↑](#footnote-ref-44)
44. BP in Pristina is the most failed prosecution in solving corruption cases registered in the Action Plan with only 19%, then it is PB in Mitrovica with 31% and SPRK which has failed to solve even the half of cases or 47% them [↑](#footnote-ref-45)
45. BP in Ferizaj BP has inherited a large number of cases from former District Prosecution of Pristina, with 200 cases which are under investigations stage and about 200 other cases that were referred to proceedings. KLI interview with Mr. Rasim Maloku, Acting Chief Prosecutor, in BP of Ferizaj. September 2014. [↑](#footnote-ref-46)
46. Currently, BP in Ferizaj has engaged of 9 prosecutors, while to solve cases of corruption has engaged 2 prosecutors. This number of prosecutors is insufficient to solve all of the cases, so in order to maximize its effectiveness in work, BP in Ferizaj should engage 15 prosecutors. KLI interview with Mr. Rasim Maloku, Acting Chief Prosecutor, in BP of Ferizaj. September 2014. [↑](#footnote-ref-47)
47. BP in Gjakova has engaged 2 prosecutors in solving corruption cases. Chief Prosecutor of BP in Gjakova, Shpresa Bakija, has applied to KPC to engage an additional prosecutor to solve cases of corruption. KLI interview with Mrs. Shpresa Bakija, Chief Prosecutor in BP of Gjakova. September 2014. [↑](#footnote-ref-48)
48. BP in Gjakova has no information on what is happening with the requirements of this prosecution to increase the number of support staff and legal officers. These requirements are included also in reports Gjakova’s BP for KPC. KLI interview with Mrs. Shpresa Bakija, Chief Prosecutor in BP of Gjakova. September 2014 [↑](#footnote-ref-49)
49. KLI interview with Mr. Agron Galani, Chief Prosecutor in BP of Peja. September 2014. [↑](#footnote-ref-50)
50. KLI interview with Mr. Agron Galani, Chief Prosecutor in BP of Peja. September 2014. [↑](#footnote-ref-51)
51. Currently, BP in Prizren has engaged five prosecutors in the implementation of the Action Plan to solve corruption cases, while there were 6 prosecutors for these cases. The prosecution has requested to KPC to increase the number of prosecutors, support staff, professional collaborators and legal officers, but due to lack of assets this request was not accomplished. KLI interview with Mr. Metush Biraj, Acting Chief Prosecutor in BP of Prizren. September 2014. [↑](#footnote-ref-52)
52. KLI interview with Mr. Metush Biraj, Acting Chief Prosecutor in BP of Prizren. September 2014 [↑](#footnote-ref-53)
53. *Note:* For the three-month reporting period (July, August, September, 2014) prosecutors have solved "old" cases to 66 persons, who were registered in the Action Plan until November 4, 2013 [↑](#footnote-ref-54)
54. *Note:* KLI explains that this case was filed on October 10, 2001 by the Holder of Property for the criminal offense "Misappropriation in Office," (case number 424/01-IPR). But this case has not figured in the database earlier. This case was registered in the Tracking Mechanism for the first time in July 2014. KLI has addressed repeatedly the issue of not respecting the Tracking Mechanism as one of the achievements of the KPC for the identification and management of statistics on characteristic criminal offenses, which includes also cases of corruption. [↑](#footnote-ref-55)
55. “*Strategic Plan – For Inter-Institutional Cooperation in the Fight against Organized Crime and Corruption 2013-2015”*Kosovo Prosecutorial Council. September 19, 2012 [↑](#footnote-ref-56)
56. *Note*: From these unsolved cases with 631 persons of PPN category, 582 persons were filed for the criminal offense of "Abusing Official Position or Authority", 14 persons for the criminal offense "Accepting bribes", 6 persons for the criminal offense "Falsifying Official Documents ", 5 persons for the criminal offense "Giving bribes", 4 persons for the offense “Misuse of Economic Authorizations", 3 persons were filed for the criminal offense "Unlawful Collection and Disbursement", 3 persons for the offense "Issuing Unlawful Judicial Decisions", 3 persons for the criminal offense "Fraud in Office", 3 persons for the offense "Unauthorized use of Property", 2 persons for the criminal offense "Misappropriation in Office", 2 persons for the crime "Entering into a harmful contract", 2 persons for the criminal offense "Misusing Official Information" and by 1 person for criminal offenses "Money Laundering” and " Unlawful release of persons deprived of liberty". [↑](#footnote-ref-57)
57. *Note*: During the reporting period (July, August, September, 2014) BP in Gjakova has not received any of corruption cases of PPN category or cases of gathering information phase [↑](#footnote-ref-58)
58. *Note:* From a total of 90 persons involved in corruption cases from PPN category, to 78 persons were filed for the criminal offense "Abusing Official Position or Authority", 6 persons for the criminal offense "Accepting Bribes", 3 persons for the offense "Misusing Official Information”, 2 persons for the criminal offense "Unlawful Collection and Disbursement" and 1 person for the criminal offense n"Unlawful release of persons deprived of liberty ". [↑](#footnote-ref-59)
59. *Note*: From unsolved cases at the end on September 30, 2014, 608 persons were filed for the criminal offense "Abusing Power or Official authority", 17 persons for the criminal offense "Accepting Bribes", 10 persons for the criminal offense of "Falsifying Official Documents ", 6 persons for the offense “Misuse of Economic Authorizations", 4 persons for the criminal offense “Issuing Unlawful Judicial Decisions ", 4 persons for the criminal offense "Fraud in Office", 2 persons for the criminal offense "Giving Bribes", 2 persons for the criminal offense "Entering into a harmful contract", 2 persons for the criminal offense "Money Laundering ", 2 persons for the offense "Misusing Official Information ", 1 person for the criminal offense "Conflict of Interest", 1 person for the offense "Unauthorized use of Property", 1 person for the offense "Acquisition of duty" and 1 person for the crime "Unlawful Collection and Disbursement". [↑](#footnote-ref-60)
60. *Note:* These data are insured by Kosovo Judicial Council. October 2014. [↑](#footnote-ref-61)
61. *Note:* According to the data of Tracking Mechanism insured by the Prosecutor Performance Review Unit in Kosovo Prosecutorial Council, results that from the entry into force of the Action Plan on Novemvber 4, 2013 until June 30, 2014 the courts have regitered as solved cases of corruption only the cases against 13 persons. These data are presented even in the report of KLI published on September 2014. Musliu. B. “Corruption in Kosovo 2: Comprehensive assessment report on the effectiveness of the prosecutorial system in implementing the Action Plan in corruption cases – Betim Musliu – “. Pristina, September 2014. [↑](#footnote-ref-62)
62. “Commission Report: Commission for Overseeing and Veryfing the Statistical data, sent by Basic Prosecutions and by the Sepacial Prosecution of the Republic of Kosova about the implementation of the plan for increasing the effectiveness of Prosecutorial System int he fight abainst corruption”. Kosovo Prosecutorial Council. February, 2014. [↑](#footnote-ref-63)
63. Article 5.2 and 4.1.“Action Plan for Increasing the Effectiveness of the prosecutorial system in the fight against corruption”, Kosovo Prosecutorial Council. November 4, 2013. [↑](#footnote-ref-64)
64. *Note:* KLI has found that some cases with some persons have existed in database in the previous months and at the end of June, 2014. The same cases do not figure in the register of solved cases, and in the register of unsolved cases at the end of September, 2014. This indicates that these cases and these people do not figure in the registers and that there is no explanation for them. [↑](#footnote-ref-65)
65. *Note:* In accordance with the Memorandum of Understanding between KPC and KLI, the findings and assessments of KLI for this report, were submitted to KPC and then the same were sent to each Chief Prosecutor of Basic Prosecutions and SPRK to adress the findings and if they have comments to turn them back and include in the final periodical report of KLI. From all the prosecutions only SPRK has given comments. KLI assesses that the comments of SPRK were supposed to be addressed in the prosecutorial system, respectively to the ones responsible for the Tracking Mechanism because KLI only referred to the data of the Tracking Mechanism. KLI clarifies that failures were identified only based on the data registered in the Tracking Mechanism, where the prosecutors or the officials of this prosecution did not respect the regulation of the Tracking Mechanism for registering the corruption cases. [↑](#footnote-ref-66)
66. *Note:* According to the comments of the Acting Chief Prosecutor of SPRK, Mrs. Sevdije Morina, results that these 2 cases with 17 persons were “verified in the database of SPRK and the database of SP of corruption cases and that these two cases figure registered on the date of their acceptance”. KLI explains that the claim of Mrs. Morina does not stand if we refer to the data of the Tracking Mechanism provided by Prosecutors Performance Review Unit. KLI in accordance with the Memorandum of Understanding possesses all these registers of registered cases, solved and unsolved at the end of the reporting period. According to these registers, results that SPRK these 2 cases with 17 persons `has received in May, 2014 (the first case is the case with number 64/14-pps, which was received on   
    May 8, 2014, while this case was regestered with delay and figures only in the register of unsolved cases at the end of July, 2014, and the second case is the case with number 59/14-pps, which was received May 12, 2014, while this case was also registered with delay and figures only in the register of unsolved cases at the end of July, 2014), while they only figure in the register of unsolved cases at the end of July, 2014. [↑](#footnote-ref-67)
67. *Nota:* According to the comments of the Acting Chief Prosecutor of SPRK, Mrs. Sevdije Morina, results that “2 cases with 5 persons, which previously have figured in the Tracking Mechanism, now they do not figure nor in the solved cases rubric, SPRK has made their verification and results that the case with number PPS 28/14, received on April 1, 2014, for the same one an indictment was filed on May 28, 2014 and the same one figures in the two databases mentioned above and the other case, with number PPS 17/14, on May 19, 2014, was delegated to the competence of the Basic Prosecution, which according to the recommendations of SP should be deleted from the database of the SP, while the same one continues to figure in the database of SPRK”  
    *KLI clarification:* The case with number PPS 28/14 , including 1 person and the case with number PPS 17/14, including 4 persons according to the KLI research in the registers of the Tracking Mechanism, results that they have figured in the register of unsolved cases at the beginning of July, while the same cases ongoing have not figured even in the register of solved cases, nor in the register of unsolved cases at the end of July. [↑](#footnote-ref-68)
68. *Note:* During the monitoring and reporting in previous periods, some of the prosecutions, have not fulfill one of the obligations in relation with KLI, that has to do with the submission of legal acts, in accordance with the Memorandum of Understanding between KPC and KLI. KLI after verifying the received cases of legal acts and cases that figure in tha database of the Prosecutors Performance Review Unit has found that a number of legal acts were not submitted by the prosecutions. The notes for the legal acts which were not submitted, KLI has reported to each prosecution, to request the physical copies, as was done from the

    entry into power of the Action Plan. After identifying and the possession with delay of these legal acts, KLI has found that in BP in Pristina, BP in Mitrovica and BP in Peja has had prescription cases of criminal prosecution in this prosecutions, but that KLI could not report them earlier because of the lack of legal acts and their analyzing. [↑](#footnote-ref-69)
69. KLI interview with Anti-Corruption National Coordinator, Ms. Laura Pula. October, 2014. [↑](#footnote-ref-70)
70. KLI has officially reacted to the members of KPC and publicly in the media for the failure of Prosecutorial Council to keep the prosecutors responsible and officials of prosecutions that have failed to respect the rules of the Tracking Mechanism for registering corruption cases. “Reaction against Kosovo Prosecutorial Council for inadequate criminal policies in fighting corruption”, reaction of KLI published on November 3, 2014. [↑](#footnote-ref-71)
71. *Note:* KLI finds that inside the prosecutorial system does not exist any unique practice of separation of cases for prosecutors. In all prosecutions are engaged 41 prosecutors in solving the corruption cases. Exept, BP in Peja, which makes an exception to the appointment of prosecutors in solving the corruption cases, by assignin all cases exclusively to only one prosecutor, the other prosecutions have engaged all prosecutors of Serious Crimes Department, and some of them even the prosecutors of General Department. BP in Pristina has engaged all prosecutors of Serious Crimes Department and of the General one where are included twelve (12) prosecutors in total. BP in Prizren has engaged all prosecutors of Serious Crimes Department and of the General, 10 prosecutors in total. BP in Gjilan has engaged four (4) prosecutors. BP in Gjakova has engaged two (2) prosecutors, BP in Ferizaj has engaged two (2) prosecutors, BP in Mitrovica has engaged three (3) prosecutors and SPRK has engaged seven (7) prosecutors. [↑](#footnote-ref-72)
72. KLI interview with Chief Prosecutors of respective prosecutions, interviewed in September, 2014. [↑](#footnote-ref-73)
73. KLI interview with Deputy Chief Prosecutor of SPRK Mrs. Sevdije Morina, Acting Chief Prosecutor of BP in Ferizaj Mr. Rasim Maloku and the Chief Prosecutor of BP in Mitrovica Mr. Shyqri Syla, interviewed in September, 2014. [↑](#footnote-ref-74)
74. KLI interview with the Chief Prosecutor of BP in Pristina Mr. Imer Beka, Acting Chief Prosecutor of BP in Ferizaj Mr. Rasim Maloku and the prosecutor of corruption cases in Bp in Peja Mrs. Sahide Gashi. September, 2014. [↑](#footnote-ref-75)
75. *Clarification:* Exclusively int his part of the analysis of legal acts are included also the prosecutorial acts of the period January – May 2014, which previously were not submitted to the monitors of KLI. After KLI request, made in October 2014, for each prosecution, they have ofered these acts of previous months, and the same ones KLI has included in this report. [↑](#footnote-ref-76)
76. *Note:* KLI respects all legal provisions and professional and ethical standards for the analysis of prosecutorial legal acts and in no way comments the discretion of prosecutors in making desicions. KLI appreciates the independence of prosecutors in decisions making and in this direction has had special attention in analyzing legal acts in order to be respected the highest proffessional standards and not to be created even the perception of interference in decision making. KLI clarifies that analyzing of these legal acts is made only against the violation of legal provisions but in no way is issued in the subjective assessments of prosecutors in decision making. [↑](#footnote-ref-77)
77. *Note:* KLI in analyzing prosecutorial legal acts has identified many cases of disrespecting the 30 days deadline for the dismissal of the criminal charge as it is foreseen in Article 82 of the Criminal Procedure Code of Kosovo. Prosecutors in these cases have violated this provision of the criminal procedure by issuing the ruling on dismissal of the criminal charges, by deciding after this legal deadline. [↑](#footnote-ref-78)
78. *Note:* Prescribed cases identified in previous reports of KLI are the subject of investigation by the Office of Disciplinary Prosecutor. The Director of this Office, Mr. Zef Prendrecaj, had informed KLI that there are 44 cases presented in KLI reports which are being investigated by the inspectors of the Office of Disciplinary Prosecutor. So far in two cases were found improper behavior of prosecutors by the inspectors and their cases were submitted to the Disciplinary Commission of KPC for placement. [↑](#footnote-ref-79)
79. *Note:* The identified problems in previous reports of KLI for corruption cases were identified also by the internal mechanisms of KPC. KPC through the decision with number 298/2014 on October 16, 2014 authorized the Chief Prosecutor of the Appellate Prosecution Mr. Aleksandër Lumezi, to prepare a report about the analysis of prosecutorial legal acts of decisions for dismissal of the criminal charges and decisions for termination of investigations in corruption cases. This report was presented at the meeting of KPC held on December 24, 2014, in which were identified the failures, problems and challenges that have been identified repeatedly in the previous reports of KLI. Mr. Lumezi had also the competence in analyzing and assessing the cases placement of prosecutors, in which has identified concern findings, which contain sufficient elemtens for sanctioning the prosecutors. The report in a detail way refers to the violation identified previously by KLI and at the end offers concrete recommendations on how to deal with these problems. A part of these recommendations were made consistenly in the reports of KLI from March, 2014. [↑](#footnote-ref-80)
80. *Note:* KLI has interviewed the Chief Prosecutor of BP in Pristina, Mr. Imer Beka and the Chief Prosecutor of BP in Gjakova, Mrs. Shpresa Bakija and both answered that they are not aware that in their prosecutions have of prescription of criminal prosecution for corruption cases. Meanwhile, at the end of September KLI has received all the prosecutorial legal acts and during their analysis has identified two cases of prescription of corruption cases in BP in Pristina and one case of prescription in BP in Gjakova. KLI interview with the Chief Prosecutor of BP in Pristina, Mr. Imer Beka and the Chief Prosecutor of BP in Gjakova, Mrs. Shpresa Bakija. September, 2014. [↑](#footnote-ref-81)
81. KLI interview with the Chief Prosecutor of BP in Mitrovica, Mr. Shyqri Syla. September, 2014. [↑](#footnote-ref-82)
82. KLI interview with Anti-Corruption National Coordinator, Mrs. Laura Pula. October, 2014. [↑](#footnote-ref-83)
83. According the decision of August 1, 2014, BP in Mitrovica has dismissed the criminal charge of the Kosovo Police Inspectorate, for the criminal offense “Accepting Bribes” from Article 343 of CPCK because it has reached the prescribed deadline of the criminal prosecution. [↑](#footnote-ref-84)
84. According the decision of June 17, 2014, BP in Pristina has terminated the investigations for the criminal offenses “Abuse of Official Duty” and Falsifying Official Document: because they have reached the prescribed deadline of the criminal prosecution. [↑](#footnote-ref-85)
85. Based on the decision is ascertained that the criminal prosecution for the suspect criminal offense, has reached the prescribed deadline of the criminal offense because the offense happened in 2007, while the criminal charge has reached in prosecution on April 10, 200-, the expertise was done in November 27, 2008, while the last action in prosecution happened in December 15, 2008. Entry into force of the new Criminal Code, had made the application of the law more favorable in the concrete case, and the qualification of the offense as such accroding to the Article 422 of the new Code, “Abusing Official Position or Authority”, which is punishable up to 5 years. Since the last action of prosecution was conducted on December 15, 2008, results that until December 5, 2013 have passed 5 years, for which it was prescribed the criminal prosecution for this criminal offense. From this we realise that from December 5, 2008 until the moment of decision in September, 2014, the Basic Prosecution in Pristina has not taken any action for the proceeding of such case, which has also allowed the reach of the precribed deadlinf of the criminal prosecution. [↑](#footnote-ref-86)
86. The Basic Prosecution in Gjakova has issued this decision bassed on Article 82, para. 1 subparagraph 1.2 of the CPCK, through which the criminal charge is dismissed with the justification that has reached the prescribed deadline of the criminal rposecution. Based in the decision is ascertained that the criminal prosecution for the suspect criminal offenses, has reached the prescribed deadline because the maximum of penalty for such offense, as the Criminal Code of the Republic of Kosovo foresees, is up to 5 years, while the actions happend in 2008. As a result, because from the time of suspicion of commiting the criminal offense, until the moment of filing the criminal charge, have passed more than 5 years, conform Article 106 para. 1 item 1.4 of CPCK the Court decided based on Article 82 para. 1 subparagraph 1.2 of CPCK. [↑](#footnote-ref-87)
87. The Basic Prosecution in Peja based on the Article 82 para.1 item 1.2 of CPCK, has issued a ruling on March 18, 2014 for dismissing the criminal charge filed by Unit of Investigation of Economic Crimes and Corruption of Kosovo Police, because of the arrival of the prescription of criminal prosecution. [↑](#footnote-ref-88)
88. Basic Prosecution in Mitrovica issues a ruling by which the criminal charge for such offenses is dismissed with the justification that for the criminal offense “Abusing Official Position or Authority” there is no reasonable doubt, while for the criminal offense “Keeping in ownership, control, possession or unauthorized use of weapons” because such case is included in the amnesty, Article 3 para 1.2 point 1.2.5 of the Amnesty Law of Kosovo. [↑](#footnote-ref-89)
89. Article 82 of the Criminal Procedure Code of Kosovo expressly foresees that 1. The State Prosecutor with the ruling dismisses the criminal charge received by the police or other sources within thirty (30) days, if by the report is clear that: 1.1. there is no reasonable doubt that the criminal offense is comitted, 1.2. the prescribed deadline for criminal prosecution has passed, 1.3. the criminal offense is included by amnesty or pardon; 1.4. the suspect has immunity and its removal is not possible or approved by the competent authorityl or 1.5. there are other circumstances that exclude persecution [↑](#footnote-ref-90)
90. The Basic Prosecution in Peja, based on the Article 82 para. 1.1 of CPCK, BP in Peja had issued a ruling whereby dismissed the criminal charge with the justification that there is no reasonable doubt for that criminal offense. [↑](#footnote-ref-91)
91. Article 82 of the Criminal Procedure Code of Kosovo expressly foresees that the State Prosecutor with a ruling desmisses the criminal charge by the police or other sources within thirty (30) days. [↑](#footnote-ref-92)
92. Based on the Article 82 para. 1.1 of CPCK, BP in Pristina issues a ruling whereby dismisses the criminal charge with the justification that there is no reasonable doubt for that criminal offense. [↑](#footnote-ref-93)
93. Ibid. [↑](#footnote-ref-94)
94. Based on the Article 82, para 1 ponit 1.1 and Article 1.5 para 1 of CPCK, Basic Prosecution in Pristina issues a ruling whereby dismisses the criminal charge for such offenses with the justicifaction that there is no reasonable doubt for that criminal offense. [↑](#footnote-ref-95)
95. Based on the Article 82 para. 1.1 point 1.5 of CPCK, Basic Prosecution in Pristina issues a ruling whereby dismisses the criminal charge with the justification that there is no reasonable doubt for that criminal offense. [↑](#footnote-ref-96)
96. Ibid. [↑](#footnote-ref-97)
97. Even in this case, based on Article 82 para 1 point 1.1 of CPCK, BP in Pristina issues a ruling whereby dismisses the criminal charge for such case with the justification that there is no reasonable doubt for ths criminal offense. [↑](#footnote-ref-98)
98. Basic Prosecution in Prizren had decided based in Article 82 para 1, subpara. 1.5 of CPCK, through which the criminal charge for crminal offenses was dismissed with the justification that there is no reasonable doubt. [↑](#footnote-ref-99)
99. Ibid. [↑](#footnote-ref-100)
100. Basic Prosecution in Prizren had issued a ruling based on Article 82 para.1 subpara. 1 of CPCK, by which has dismissed a criminal charge with the justification that fur such offenses there is no reasonable doubt. [↑](#footnote-ref-101)