RHETORIC IN FIGHTING CORRUPTION
Monitoring report of the treatment of corruption cases in justice system in Kosovo

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ABOUT KLI

Kosovo Law Institute (KLI), is a non-governmental organization and non-profit of public policy, and specialized ideal in the justice sector

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I. EXECUTIVE SUMMARY

The rhetoric on fighting corruption has never been absent from all the institution stakeholders, especially the leaders of the judicial and prosecutorial system. However, corruption is endemic in Kosovo and Kosovo suffers from the lack of will to fight corruption. The will to fight corruption successfully, only have remained on policy in paper. Kosovo Prosecutorial Council (KPC) and the Kosovo Judicial Council (KJC) adopted action plans to treat corruption cases with absolute priority.

However, the findings of the Kosovo Law Institute (KLI) show that KPC and KJC have continued violation of the legal deadlines for the treatment of the corruption cases and fulfilling the obligations of action plans. Established mechanisms to fullfil obligations or monitor the implementation of the Councils action plans have not taken seriously. KJC and KPC Supervising Committee KJC and KPC regarding the treatment of corruption cases by the courts and prosecutor's offices have not fulfilled their obligations to report under the terms defined in the Action Plans.

To enable the monitoring of the activities in fight against corruption, there is an immediate need of the public transparency and accountability, which was proclaimed continously by both Councils. Evenmore, both Councils approved regulations and strategies to increase the transparency and accountability towards the public. KLI during the reporting period (1 January-30 June 2016), submitted 70 requests for access to public documents in regard to the activities in fight against corruption. Judicial system has been addressed 28 requests, from which KLI received 25 positive responses; while in 3 requests did not receive response. Prosecutorial system has been addressed 42 requests, from which KLI received 24 positive responses, in 17 requests did not receive respone, while in one request they refussed to provide the requested data. It’s worth mentioning the cooperation of the KPC Secretariat and KPC Unit for Evaluation of the Prosecutors Performance, regarding the requests for statistical data on corruption cases. KLI appreciates their cooperation.

Implementation of the policies of the prosecutorial system in fighting corruption

Implementation of the policies by the prosecutorial system-KPC Supervising Committee for monitoring the corruption cases, and Prosecution offices did not achieve to fulfill their obligation provided by the action plan. Although, prosecution offices were obliged by 30 June 2016 to solve all old corruption cases registered until 2010, such obligation was not fulfilled. On 30 June 2016, there are still at work 29 corruption cases with 75 individuals involved, which are dated from year 2002 to 2010.
KPC Supervising Committee regarding the treatment of the corruption cases by prosecution offices, was obliged to report before the KPC every three months. While the same Committee during the first six months of 2016, did not report before KPC at all. National Coordinator for fight against economic crimes fulfilled his obligation to report regarding the monitoring of cases related to the economic crimes, including the sequestration and confiscation of the assets benefited through criminal offence. However, National Coordinator failed to provide information before the KPC regarding the sequestration and confiscation of assets benefited through criminal offences of corruption.

KPC failed to implement the KLI recommendation to review the strategic plan and action plan on corruption cases, in order that both action plans to harmonize in accordance with the applicable laws and best international practices and standards. While on 29 April 2016, the Chief State Prosecutor approved Instruction No. A.nr.258/2016, through which obliged all state prosecutors that within three months of the receipt of the criminal reports, to issue decision to initiate criminal investigation, if the same criminal report is not dismissed. The same instruction issued by Chief State Prosecutor was as a result of the collegium meeting held with all prosecution chief prosecutors. KLI evaluates that such Instruction is in violation of the law as violates the guaranteed principles and standards provided within the Kosovo Procedural Code.

KPC until now did not take any action against any one or to make them responsible or accountable relating to their failures in implementing the policies in fight against corruption. KLI evaluates that such approach confirms the impunity culture installed within the justice system.

**Performance of the prosecutorial system in treating corruption cases**—Promotion of the policies to fight corruption and failure to implement them in practice, transformed the fight against corruption in daily rhetoric. Findings of the KLI monitoring, provides that State Prosecutor in first six months of 2016, ended with large number of the unsolved corruption cases than the number of cases that they had at work in the beginning of 2016. However, the State Prosecutor during the reporting period achieved to decrease the number of individuals subject to the corruption criminal offences, in relation to the beginning of the year 2016.

SP in 1 January 2016 had at work 538 unsolved cases with 1640 individuals involved. Number of corruption cases on 30 June 2016 has been increased in 582 cases. While the number of individuals has been decreased to 1511 individuals from 1640 individuals.
Prosecution office that achieved best results in solving corruption cases during the reporting period was PO in Pristina, which office during the reporting period solved 76 cases with 302 individuals involved in corruption cases.

Prosecution offices during the reporting period, received at work 254 new cases with 477 individuals involved. During the same reporting period, prosecution offices solved 222 cases with 627 individuals’ involved. Also during this reporting period the solving manner is characteristic in solving corruption cases by prosecutors.

Corruption cases solved against 627 individuals, prosecutors against 303 individuals dismissed criminal reports, against 143 individuals terminated the investigations, against 180 individuals’ indictments were raised and against 1 individual the case was solved in different manner. The results shows that prosecutors in corruption cases against 374 individuals or 71.13 %, have closed cases, while against 28.87 % individuals the indictments were raised. Additionally, against 23% of individuals investigations were terminated, against 48% of individuals the criminal reports were dismissed. Among the corruption cases against 627 individuals, SP cases against 56 individuals were reported by the criminal reports submitted by the ACA, against 31 individuals were dismissed criminal reports, against 15 individuals cases were terminated and only against 9 individuals indictments were increased.

SP cases against 314 individuals were reported by the criminal reports submitted by the Police, against 101 individuals were dismissed criminal reports, against 158 individuals cases were terminated and only against 55 individuals indictments were increased. The statistics shows that 67% of the criminal reports submitted by Police were closed by SP, while in 33% cases indictments were raised.

KLI continuously raised the issue of the solving manner of the corruption cases in all its periodical reports. So far is missing the willingness of the prosecutorial system to treat the problems that the prosecution offices are dealing and to provide the proper solution. Kosovo Police officials are making responsible State Prosecutor for the dismissal of the criminal reports, as according to them, any investigation or action taken by police officers is taken in full cooperation with prosecutors and the criminal reports submitted by police are raised with the recommendation of the prosecutor.

SP during this reporting period has shown high efficiency in the filing of indictments for corruption, including indictments against high-profile. SP has published information regarding the filing of indictments in 17 cases of corruption against 149 persons charged for commitment of the corruption offenses. Profile positions of the persons against whom indictments were filed, include: Former
President of the Constitutional Court, former MP, former Ministers, Mayor, Chairman and Member of the Regulatory Boards, the Secretary-General, 44 doctors, Director of Procurement, Director of Economic Operators, etc.

According to the indictments raised by the Prosecution offices it appears that the caused damage as a result of the corruption criminal offences is over 825,000.00 euro, while, in the indictment there is no information whether the prosecution have filed for seizure or confiscation of property acquired by criminal offense. Most efficient prosecution offices during this period are, SPRK with five cases, of which two cases against 43 persons, indictments was filed by EULEX prosecutors and three cases against 8 persons indictments were raised by local prosecutors. Characteristic of this six month period is an indictment filed by a prosecutor of the Office of the Chief State Prosecutor against 64 individuals.

Despite the adoption of policies in fighting corruption, the trend of the unsolved corruption cases in the prosecutorial system has increased continuously. In January 2016, Prosecution offices had at work 538 unresolved cases of corruption against 1640 individuals, while on 30 June 2016 remained 582 unresolved cases with 1511 individuals involved. This shows a lack of will and commitment of the prosecutorial system in the implementation of policies for fighting corruption.

Also during this reporting period, it remains a concern phenomenon of statutory limitation of the corruption cases in prosecution offices. KLI within the monitoring analyzed prosecutorial acts involving prosecutors’ decisions to dismiss the criminal reports and the decisions to terminate the investigation. A total of 223 decisions analyzed, the Institute has identified 20 cases which reached statutory limitation and 127 cases in which were violated the legal deadlines when deciding the cases of corruption by prosecutors. Exceptionally, SPRK and Basic Prosecution Office in Ferizaj, did not provide the prosecutorial acts, even though the legal obligation they had, including the fact that the same prosecution offices provided such documents to the KLI in next three years.

The accountability in the prosecutorial system it remains a concern. To date as a result of the KLI findings there are more then 253 cases in which the ODC conducted preliminary investigation. Out of them, in 25 cases the disciplinary investigations were conducted, while 9 cases were send to the KPC Disciplinary Committee.

As a result of this, ODC has been challenged in exercising their functions as a result of the investigations based on KLI findings. The KLI findings continuously are treated with priority by the ODC, which now they are facing problems in practice in having access to the case files and information, as prosecutors and prosecution office do not respond to their requests in time. Also, based on the ODC, after the actions taken based on the KLI reports, the accountability in treating corruption cases based on the deadlines is improved.
Moreover, according to the ODC there are cases in practice when the stakeholders of the institutions which were not happy with the actions taken by ODC, tried to revenge against the ODC personnel, only because the reports were filed to the Disciplinary Committee. KLI is concerned of such approach and considers that also might be considered as a misuse of the official duty and in violation of the code of ethics and professional behavior.

**Implementation of the policies of the judicial system in fighting corruption**

Through the Action Plan, KJC has determined the deadlines regarding the assessment of implementation of the plan by the Supervising Committee of KJC. First assessment of the implementation plan should be carried out in November 2015, whereas a second one in January 2016. As the mandate of the two former KJC members has expired, the Commission for a time was left with only one member. At the meeting held on April 6, 2016, the only member of this Commission, reported to the KJC, whose report was discussed but was not voted on by the KJC. This agenda item was postponed for the next meeting of the Council. On April 27, 2016, the KJC has decided to establish an ad hoc Commission for the implementation of the action plan including: Agim Maliqi, Acting Chairman of KJC, Raima Elezi and Nebojsa Boricic, both members of the KJC. Despite the obligations set forth in this Action Plan, Courts and KJC have failed to fulfill their obligations of assessing according to the deadlines set out in the Action Plan. While the action plan had specified that the first assessment of the implementation of the Action Plan will be implemented in the first meeting with the Presidents of the Courts and the Commission in the first week of November 2015, while the second assessment of the implementation of the Action Plan will be implemented in the second meeting in January 2016. KJC approximately with a delay of six months has approved the second report on implementation of the action plan.

KLI monitors, from July 1, 2015 until September 30, 2016 have monitored 1382 court hearings, including 977 corruption cases with 2500 persons. In focus of this report will be the corruption cases monitored during the first six months of 2016, during which period 749 court hearings have been monitored, including 564 corruption cases with 1386 persons.

Throughout the process of monitoring court hearings by KLI, various irregularities were identified, including the non fulfillment of legal deadlines in treating corruption cases at all levels of the justice system, as delays in police, prosecution office and courts. From 749 court hearings monitored, 590 of them were held, while as a result of the failure to meet the legal conditions for holding the hearings 159 of them were postponed. The reasons for the postponement are different, starting from the absence of the defendant,
failure of prosecutor in delivering case files, the absence of the prosecutor, the absence of the Trial Panel, lawyers, injured parties, and demand of the parties in proceeding.

KLI while monitoring corruption cases in prosecution offices and courts has noticed in practice the delay phenomenon of the delivery of indictments by prosecutors in courts. KLI has identified seven (7) corruption cases when prosecutors have filed indictments, while they are delayed from 13 to 400 days to submit the same to the Court. KLI assesses that this at least constitutes of prosecutors negligence, which fact has to be investigated by the mechanisms of accountability.

Meanwhile, KJC policies oblige judges to treat with priority cases of corruption, in practice this is not being implemented. Out of 17 indictments filed for criminal offences of corruption during the reporting period, 8 cases have been treated by the courts, while 9 cases are still waiting to be treated. In these cases the schedule of hearings was not done in compliance with the legal obligations, but the legal deadlines have been continuously violated.

Out of 749 court hearings monitored by KLI, including 269 cases of corruption, which have been analyzed for this reporting period, Courts have announced 93 verdicts on corruption cases. Almost in each stage of the criminal proceeding, the legal deadlines set by Criminal Procedure Code are not being met. The shortest time of handling a corruption case from the submission of the criminal report until the announcement of the verdict is 68 days, while the one that lasted longer until the announcement of the verdict is 4257 days or over 11 years and a half. Meanwhile the duration from the filing of indictment until the announcement of the verdict, on the best case monitored, took 27 days, while the case that lasted longer has taken 3816 days or over 10 years.

The profile of 630 defendants in these 269 corruption cases monitored by KLI during this reporting period is mainly low and medium and a limited number of defendants belong to the high-profile. 398 persons belong to low profile, 208 persons belong to medium profile and 24 persons belong to high profile.

KLI during the monitoring of 93 verdicts announced at the first instance by the Courts, assesses that the policy of sentences on corruption cases is soft. Judges have announced 93 verdicts against 160 defendants. Of them courts have sentenced with effective imprisonment 25 persons or 15,6 % of defendants, against 28 persons judges have announced suspended sentences or against 17,5%, of defendants, while 95 persona were released (or 59.37%) with acquittal verdict, rejected judgement, or due to the reach of statutory limitation. In these cases of corruption in which courts have announced a verdict, 93 persons belong to the low profile, 61 persons
belong to medium profile and 6 persons belong to high-profile. Of the 6 persons of high profile, 4 of them are released, while 2 of them are sentenced with 3 months effective imprisonment each.

Even in the case of courts, the percentage of persons to whom are announced acquittal verdicts goes to 59.37%. This is and evidence that the quality of prosecution is very low. IKD repeatedly in its reports has reported that a high degree of dismissal of criminal reports and indictments, in practice proves more persecution than combating or punishment the perpetrators of corruption offences. Without prejudging the merits of the judicial decision in corruption cases, KLI assesses that such practice, by imposing soft sentences with prison or suspended sentence and fine, transmits negative message to the citizens and the public. These soft measures imposed cannot reach its goal, the one of the preventive or punitive character.

During the reporting period, KLI has found that prosecutors in very rare cases implement in practice legal provisions with regard to the requests for sequestration and confiscation against the perpetrators of criminal offences of corruption. Prosecutorial system does not possess any data regarding the assets sequestrated or conisctaed as a result of criminal offences of corruption.

These results in prosecution and adjudication of corruption, have contributed to the loss of public trust in the justice system. According to the UNDP Public Pulse, it shows that satisfaction with the work of judicial and prosecutorial system in the month of April 2016 marked the largest decline of almost all times, dropping 18.4% for the judiciary and 16.9% for the prosecution offices. KLI considers that justice which is separated is legitimized through citizen’s trust in the decisions of judges and prosecutors and the lack of confidence and satisfaction with their work reflects the judgment that share these institutions.

II. METHODOLOGY

KLI in order to draft comprehensive and analytical report in relation to the treatment of the corruption cases by the prosecutorial and judicial system, has used a mixed methodology of research. That is as the prosecutorial and judicial system are still facing with the problems in relation to the unified system the information. Therefore, the research dealing with cases of corruption of the prosecutorial and judicial system is based on direct monitoring of the performance of prosecution offices and courts in applying the law, policies and action plans for treatment of corruption cases with priority.

KLI based on legal obligations and action plans has created a clear indicator for measuring progress in implementing them by the prosecutorial system and the judicial system. Research includes monitoring of corruption cases in seven Basic Prosecution offices, Special Prosecution Office of the Republic of Kosovo, seven Basic Courts and their branches. In the focus of monitoring has been the activities of the Supervising Committee of the Council on cases of corruption, State Prosecutor, Kosovo Prosecutorial Council and
Kosovo Judicial Council in the implementation of policies and action plans. KLI also has provided statistical data from the Unit for Evaluation of the Prosecutors Performance and Statistics Department of the Judicial Council and it also gathered information individually during the monitoring process across all prosecution offices and courts.

Reports provided by the KLI are summarized in a database, which included all cases of corruption and those involved in these cases at all stages of criminal proceedings in the prosecutorial system and the judicial system.

The database was used to identify issues of concern relating to the implementation of legal obligations and obligations of action plans, respectively associated with the solution, and how to solve unsolved cases of corruption by prosecutors and judges. Through statistics, the Institute has analyzed some aspects which are presented and commented through tables and graphics, including all the specifics of corruption cases for each prosecution offices and the courts, for each of corruption case applicants, for statutory limitation of corruption cases and how to solve these cases.

IKD has continued monitoring the prosecutorial related to the decisions to dismiss criminal reports and the termination of investigation. The same are analyzed whether are in line with legal obligations was made the identification of legal violations during the treatment of corruption cases in the criminal proceedings, including identification of the cases that reached statutory limitation. It is worth mentioning that for this six month period (January-June 2016) SPRK and BP office in Ferizaj did not offer the prosecutorial acts, by not respecting so the provisions of the Law on Access of Public Documents, according to which these prosecutorial acts are required and provided by all other Prosecution Offices. Moreover, BP in Ferizaj, for the prosecutorial acts required in accordance with the law for the period April, May, June 2016 has offered acts erasures in its entirety, eliminating the number of cases and dates of investigative actions. Thus in this way has make it impossible monitoring and analyzing the legal deadlines by prosecutors. This form of acting, testifies the maximum efforts in BP in Ferizaj, to avoid monitoring, public transparency and accountability over its handling of corruption cases. Alike has remained unanswered also SPRK, which did not provide the acts on the grounds that the documents required are not public documents. KLI assesses that this and effort to avoid monitoring, public transparency and accountability over the handling of corruption cases. KLI states that it is inexplicable how SPRK and BP in Ferizaj, from November 2013 have offered all prosecutorial acts without any problem, and now they hesitate to offer the same ones. It is inexplicable how SPRK after almost three years of cooperation, along which has always provided the required legal acts in accordance with the law, has decided to assess that these legal acts are not public. Meanwhile, all other prosecution offices offer approach the Institute because they have implemented the law, offering required legal acts in accordance with the Law on Access to Public Documents and the Law on Protection of Personal Data. Rights guaranteed by the applicable legislation in order to ensure prosecutorial legal acts, KLI will realize through legal channels.
KLI monitors, from July 1, 2015 until September 30, 2016 have monitored 1382 court hearings, including 977 corruption cases with 2500 persons. Now KLI has created clear indicators to correctly measure the duration of corruption cases in all stages of criminal proceeding, including from the criminal report until the announcement of the verdict by the courts. Only for this reporting period (January-June 2016) KLI researchers have monitored 749 court hearings, including 564 corruption cases with 1386 persons. This reporting period will be the focus of this report. Analyses include all handling trends of these cases and the time spend in the proceedings of corruption cases.

An important aspect of the monitoring has been the performance of accountability mechanisms for prosecutors and judges, which because of their performance in corruption cases were the subject of disciplinary proceedings.

KLI has continuously monitored the activities of the Supervising Committees for corruption cases of KPC and KJC, Basic Prosecution Offices, Special Prosecution Office of the Republic of Kosovo, Basic Courts, Kosovo Prosecutorial and Judicial Council. With all stakeholders of prosecutorial and judicial functions, KLI has conducted thorough interviews, based on the indicators defined in accordance with legal obligations and obligations of action plans. Interviews are codified in the way that the issues and the information extracted from them are included in the report. Except the Chief Prosecutor of the SPRK, Reshat Millaku and the Chief Prosecutor of the BP office in Gjilan, Jetish Maloku, who despite repeated requests in writing to conduct interviews about the handling of corruption cases, they did not respond. KLI beyond this comprehensive research, before the publication of the report, the draft of the report with findings and assessments, has sent it to KJC and KPC, leaving them four days to comment on the report, but neither KJC nor KPC have not return comments.

As well, to be more accurate in identifying problems and making recommendations for the solution of problems in fighting corruption, respectively in the implementation in more efficient and effective of the legal obligations and obligations of the Action Plan, KLI has analyzed the legal basis, and also analyzed in detail the relevant national and international documents, which are related to the fight against corruption in Kosovo.

III. THE POLICIES OF PROSECUTORIAL AND JUDICIAL SYSTEM IN FIGHTING CORRUPTION

The rhetoric on fighting corruption has never been absent from all the leaders of the institutions, including the leadership of the judicial and prosecutorial system. However, corruption in Kosovo is endemic\(^1\) and Kosovo suffers from the lack of will to fight

corruption. The only will to fight corruption successfully, have remained the policies on paper. Kosovo Prosecutorial Council (KPC) and Kosovo Judicial Council (KJC) have adopted Action Plans to treat with absolute priority cases of corruption.

a) Kosovo Prosecutorial Council policies in fighting corruption

Besides legal obligations, KPC on December 1, 2015, has adopted the Strategic Plan (2016-2018) and the Action Plan for Increasing the Effectiveness of the Prosecutorial System in the fight against Corruption and Economic Crimes, including Sequestration and Confiscation of Illegal Assets (hereinafter: Action Plan). This Strategic Plan has set several goals such as reduction of the number of unsolved cases, increasing efficiency in solving new cases, increasing the level of cooperation with institutions, increase capacity through specialized trainings, accountability and transparency.3

Through this Strategic Plan, the prosecutorial system admits the fact that the justice system hasn’t achieved the needed success in combating the perpetrators of the criminal offences of corruption dictated in this plan. Furthermore, it confirms that the performance of the prosecutorial system has imposed a negative effect upon the reputation of judicial organs and the image of Kosovo. Despite the fact that KPC throughout this Strategic Plan has expressed its declarative will to increase the accountability and transparency of the prosecutorial system related with the cases emphasized in this plan, such a thing did not occur in reality. This plan continues to be inaccessible for the public, unlike the past plan, which could be found on the website.4 However, KLI has achieved to ensure a copy of this Strategic Plan and Action Plan.

Failure of KPC on implementing the obligations arising from the Action Plan

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2 Note: On the initiative of KLI for the implementation of the recommendations published in the analytical reports related to the efficient and effective handling of corruption cases by judicial and prosecutorial system, KLI has held meetings with the Chairman of KJC, Mr. Enver Peci, who expressed willingness to cooperate for the drafting of the Action Plan for resolving the cases of corruption. KLI has compiled the draft of this plan, which, with the amendments and supplements of KJC was adopted on September 25, 2015. "Action Plan for resolving corruption cases". Kosovo Judicial Council. September 25, 2015

3 This Strategic Plan contains almost all obligations and responsibilities arising from the Action Plan for Increasing the Effectiveness of the Prosecutorial System in the fight against Corruption adopted on November 4, 2013 by KPC. KPC for the first time has adopted the Action Plan for Increasing the Effectiveness of the Prosecutorial System in the fight against Corruption on November 4, 2013.

4 KLI has requested to the KPC and the Chief Prosecutor’s Office for access on the Strategic Plan adopted by the KPC, but received a negative response for the submitted request complying with the Law on Access to Public Documentation. Response from the KPC’s official for access to public documents: "Kosovo Prosecutorial Council in December 1, 2015 adopted the Strategic Plan (2016-2018) and Action Plan on Increasing Efficiency of the Prosecutorial System in Combating Corruption and Economic Crimes, including Sequestration and Confiscation of Illegal assets, but this plan should be supplemented with the recommendations given by the Council’s members and international representatives that support the Council’s work. After the amendment and supplementation with these recommendations the Plan will be published in the official website of State Prosecutor and Kosovo Prosecutorial Council".
KLI has been monitoring the implementation of the obligations arising from the plans mentioned above by Prosecution Offices, Commissions and KPC. The findings show that KPC has continued to express the will to fight corruption through politics, meanwhile in practice it is proved that the same policies are not being implemented. KLI assesses that mechanisms established to fulfill the obligations or to monitor the implementation of the plans have not taken seriously these plans and their obligations. Until now, KPC has not taken any action against no one to keep responsible or accountable regarding the failures of policies in fighting corruption. In fact, this testifies about the cultivation of a culture of impunity installed since the old Action Plan for dealing with cases of corruption adopted on 4 November 2013.

**Solving corruption cases according to the deadlines of the action plan** – Article 3 of the Action Plan has foreseen that unresolved cases of corruption, economic crimes, including sequestration and confiscation of illegal assets received from 2001 until 2010, to be completed by June 30, 2016. KPC failed to implement this obligation in practice. SP until June 30, 2016, continues to have still in work 75 unresolved cases of corruption dated from 2002 to 2010. SPRK has still in work 3 unresolved corruption cases with 7 persons, BP in Mitrovica 2 unresolved corruption cases with 4 persons, BP in Ferizaj 1 unresolved case with 1 person and BP in Pristina has still in work 23 unresolved corruption cases with 63 persons before 2010.

**Reporting every three months in KPC** – Article 4 of the Action Plan had foreseen the establishment of the Supervising Committee regarding the treatment of corruption cases by prosecution offices, monitoring of the implementation of strategies and reporting in KPC in basis of three months. During the first six months of 2016, the same Commission has never reported to KPC. This Commission was obliged to report to the Council at least two times regarding the monitoring of corruption cases treated by Prosecution offices. Such an approach of the Commission and the Council testify in practice the lack of will to fulfill the obligations adopted by KPC.

**Reporting on sequestrated and confiscated assets for criminal offences against corruption** – Action Plan has determined that the National Coordinator for Fighting Economic Crimes (NCFEC) will monitor the cases related to economic crimes, including the sequestration and confiscation of illegal assets. NCFEC has fulfilled its obligations to report to KPC regarding its activity on the sequestration and confiscation of illegal assets. However, NCFEC has failed to offer information to KPC regarding the sequestration

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5 Supervising Committee for the first time reported to KPC during September 2016.
6 Note: KLI has addressed requests for access to public documents to the KPC and the Supervision Commission regarding the treatment of corruption cases, related to the activities under in connection with corruption cases. KPC and the Supervising Committee have not responded positively to any request addressed by KLI.
and confiscation of assets benefited through criminal offences of corruption. His reporting has been generalizen, for which he received a warning from the Head of the KPC. KLI has consistently made this remark on the monitoring reports and recommended to specify results in the field of sequestration and confiscation related to criminal offences against corruption.

**Review of Plans and their harmonization with the law** – In the report published on April 27, 2016, “Corruption in Kosovo: Combating or promotion of corruption”, KLI has found that the provisions of the Strategic Plan and Action Plan were in contradiction with the basic laws that regulate the prosecutorial system in Kosovo. KLI recommended to KPC to urgently change these plans, in order to harmonize in accordance with applicable laws and best international practices. KLI recommended to pay special attention the individual independence of prosecutors and Chief Prosecutors. KPC has informed KLI that KPC will make amendments and supplements to these plans with recommendations made by Council members and international representatives which support the work of the Council and that then they will be published on the website. KPC until the end of September 2016, has not taken any action to avoid the unlawful provisions of these plans and also did not publish them.

**The unlawful instruction of the Chief State Prosecutor for dealing with criminal reports** – Chief State Prosecutor on April 29, 2016, has issued an Instruction with number A.no.258/2016, through which has obliged all state prosecutors to issue a ruling on the initiation of investigation within three (3) months from the date of receipt, if the same criminal report was not dismissed. This Instruction was issued by the Chief Prosecutor from the collegium meeting of all Chief Prosecutors of the all prosecution offices in the Republic of Kosovo.

The above mentioned Instruction is contrary with the principles and standards set by CPCRK. Initially, this instruction is inconsistent with the standard built by Article 82 of the CPCRK, which Article obliges the SP to dismiss the criminal report within thirty (30) days, report received from the police or another source if it is evident from the report that: there is no reasonable suspicion that a criminal offence has been committed; the period of statutory limitation for criminal prosecution has expired; the criminal offence is covered by an amnesty or pardon; the suspect is protected by immunity and a waiver is not possible or not granted by the appropriate authority; or there are other circumstances that preclude prosecution.

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7 Instruction No. 258/2016, issued by Chief State Prosecutor, Aleksandër Lumezi on April 29, 2016. (See link http://www.psh-ks.net/repository/docs/Nr.578.2016-_Udhezim_-_ZKPSH.pdf (Last accessed on October 5, 2016).
Meanwhile Article 82 of the CPCRK stipulates that SP after receiving the criminal report within 30 days should assess its reliability and depending on whether the criteria and conditions defined by the code are met, should dismiss the same one or take a decision to initiate investigations. While, the Instruction issued lasts this deadline in three months, contrary with Article 82 of the CPCRK.

Also, the same Instruction obliges prosecutors that within three months from the receipt of the criminal report, if the same one was not dismissed, SP to take a ruling on the initiation of investigation. Obligation to undertake a ruling on the initiation of investigation is in contradiction with the spirit of Article 104 of the CPCRK. This because Article 104 among others stipulates that the decision to initiate investigative stage shall specify the circumstances and facts warranting the reasonable suspicion of a criminal offence. Also, according to Article 104 of the CPCRK, The result of initial steps by police or gathering of information shall be made part of the file on the investigation and that the investigation shall be conducted only in relation to the criminal offence and the defendant specified in the decision on the initiation of the investigation or in an amended decision.

The manner this Instruction was written allows no space to state prosecutors to implement obligations stipulated with CPCRK. On the contrary, the same instruction obliges prosecutors to partially take the decision to initiate investigation in all cases where prosecutors do not take the decision to dismiss the criminal charge three months after receiving the same.

This Instruction is in contradiction also with Article 83 of the CPCRK, which clearly stipulates that if from the criminal report itself the state prosecutor is unable to conclude whether the allegations contained in it are probable, or if information in the report does not provide a sufficient basis for an investigation to be initiated or if the state prosecutor has only heard a rumor that a criminal offence was committed, the state prosecutor, if he or she is unable to do so on his own, shall request that the police gather the necessary information. The police are bound to follow the state prosecutor’s lawful requests.

Paragraph 5 of Article 83, obliges the SP to dismiss the criminal report within thirty (30) days if even after the actions under the code have been undertaken and if the circumstances that there is and if the circumstances continue to exist that there are no sufficient basis to initiate an investigation.

In the reasoning of the Instruction adopted by the Chief State Prosecutor is noted that the same Instruction aims to increase the efficiency of the prosecutorial system in the prosecution of all criminal cases which are assigned to all prosecution offices of the Republic of Kosovo and the strict implementation of 156 of the CPCRK.
KLI assess that the issuance of such a Decision by the Chief State Prosecutor as a result of the positions adopted by the Collegium of all prosecutors, is inconsistent with the principles and internationally accepted standards on human rights and freedoms, respectively of persons who can be subject to criminal proceedings. This Instruction is inconsistent with fundamental principles of CPCRK, where required by the Court, the State Prosecutor and the Police, who participate in criminal proceedings that are forced to truthfully and completely prove the facts which are important for obtaining a lawful decision. Under the provisions of the present Code, the court, the state prosecutor and the police participating in criminal proceedings are obliged to examine carefully and with maximum professional devotion and with equal attention to prove the facts against the defendant as well as those in its favor, and before the procedure and during its development to enable to the defendant and his lawyer to use of all the facts and evidences that are in favor of the defendant.

b) Kosovo Judicial Council policies in fighting corruption

Besides legal obligations, KJC in cooperation with KLI have drafted the Action Plan for KJC to treat with priority the cases of corruption. This plan was adopted by KJC on September 25, 2015. 

Failure of Kosovo Judicial Council on implementing the obligations arising from the Action Plan

KLI has been monitoring the implementation of the obligations arising from the plans mentioned above by Courts, Commissions and KJC. The findings show that KJC has continued to express the will to fight corruption through politics, meanwhile in practice it is proved that the same policies are not being implemented. KLI assesses that mechanisms established to fulfill the obligations or to monitor the implementation of the plans have not taken seriously these plans and their obligations. Until now, KJC has not taken any action to keep responsible or accountable no one regarding the failures of policies in fighting corruption.

Reporting according to the deadlines under the Action Plan

Through the Action Plan, KJC has set concrete activities and practical deadlines for increasing the activity of handling corruption cases. Through this plan is foreseen the establishment of the Commission for Supervising the Implementation of the Plan. The plan also has foreseen the deadlines regarding the assessment of the implementation of the plan. First assessment of the implementation plan should be carried out in November 2015, whereas a second one in January 2016. Because that for the two former members of the KJC the mandate in the Council has expired, the Commission for a time was left with only one member. At the meeting held on April 6, 2016, the only member of this Commission, reported to the

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8 KLI has supported KJC in drafting the Action Plan in Increasing Efficiency of Judicial System in the treatment of corruption cases. KLI drafted the draft of Action Plan for KJC, which plan with some amendments was adopted by KJC on September 25, 2015.
KJC, whose report was discussed but was not voted on by the KJC. This agenda item was postponed for the next meeting of the Council. On April 27, 2016, the KJC has decided to establish an ad hoc Commission for the implementation of the action plan including: Agim Maliqi, Acting Chairman of KJC, Raima Elezi and Nebojsa Boricic, both members of the KJC. Despite the obligations set forth in this Action Plan, Courts and KJC have failed to fulfill their obligations of assessing according to the deadlines set out in the Action Plan. While the action plan had specified that the first assessment of the implementation of the Action Plan will be implemented in the first meeting with the Presidents of the Courts and the Commission in the first week of November 2015, while the second assessment of the implementation of the Action Plan will be implemented in the second meeting in January 2016. KJC approximately with a delay of six months has approved the second report on implementation of the action plan.

c) Public transparency and accountability of prosecutorial and judicial system

KJC and KPC continuously proclaim the increasing of transparency and accountability in relation to the public and media. Both Councils have approved regulations and strategies to increase transparency and accountability and to facilitate cooperation with the public and the media.

KLI in order to measure the readiness and willingness of judicial and prosecutorial system to implement legal obligations on transparency of these institutions, during this reporting period has addressed 70 requests for access to public documents, related to the fulfillment of legal obligations, providing information, statistics and other available data and permissible under the Law on Access to Public Documents.

Of these 70 requests for access to public documents, 28 requests were addressed to judicial system, of which KLI has received 25 positive responses, while for 3 requests the Institute has not received any response. Within the judicial system, it is worth noting the readiness and effectiveness of the Basic Courts, especially BC in Pristina in handling the requests for access to public documents in accordance with the terms and legal obligations. In addition, also KJC has responded to 5 requests for access to public documents, out of 6 requests sent during this reporting period.

Of these 70 requests for access to public documents, 42 requests were addressed to prosecutorial system, of which KLI has received 25 positive responses, for 17 requests the Institute has not received any response, while for 1 request they refused to give the required data. The largest number of positive responses belongs to all Chief Prosecutors of Basic Prosecution Offices, with the exception of the Chief Prosecutor of SPRK and BP in Ferizaj, who did not respond to a legal obligation to provide the data required by the Institute. Of
17 requests for which the Institute has not received any response from prosecutorial system, by not fulfilling its legal obligations, leads the Prosecutorial Council itself with 6 requests, SPRK with 3 requests, Chief State Prosecutor with 2 requests, BP in Ferizaj with 3 requests, BP in Gjilan with 2 requests and the Director of the Secretariat of KPC with 1 request. It is worth mentioning the cooperation of the Secretariat of the Council and the Prosecutors Performance Review Unit, when it comes to requests for statistical data on corruption cases, which are offered in real time. KLI considers this cooperation as priceless.

Also, KLI addressed requests for access to public documents to other agencies and institutions, which have fulfilled their legal deadlines, such as Kosovo Police, Costums, ACA, Kosovo Bar association, and partly the Office of Disciplinary Counsel.

KPC on May 31, 2016, has adopted the Regulation on Communication with Public. The aim of this regulation is in setting communication ways between the prosecutorial system and the public. KPC through this regulation proclaims the transparency of prosecutorial system in relation to the public, as obliged by KPC and SP to provide information in time on issues that are of interest to the public. Also, this regulation sets out disciplinary responsibility for all officials of the prosecutorial system for noncompliance of the provisions of this regulation.

Failure to implement legal obligations and policies adopted by the Council by the main actors of the prosecutorial system, such as its KPC and Chief State Prosecutor, strengthens the findings KLI and assessments arising from international and local reports regarding the unwillingness of prosecutorial system to be transparent and accountable to the public. Non-fulfillment of obligations proves that the law in Kosovo is not applied the same to all. In cases where senior officials do not fulfill their obligations and responsibilities, impunity culture continues to be developed.

Even the current Chairman of KPC and Chief State Prosecutor, before they were appointed to these positions they have promised to increase transparency, accountability and partnership with the public and media. Chairman of KPC during the declaration of candidacy for this position in the first meeting of the KPC for 2016, had promised to increase transparency in prosecutorial system.

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Meanwhile the Chief State Prosecutor, at the concept paper presented before the KPC during its candidacy for Chief State Prosecutor, had emphasized that "transparency in the State Prosecution should be raised to a higher level, with the aim of promoting the work of prosecutors. Increasing transparency should be done through communication between the Prosecution offices with the media and the public, always respecting the law on protection of personal data and the law on access to public documents, and maintaining the confidentiality of the cases in order not to damage the investigation and rights and freedoms of the defendant in the proceedings.”\textsuperscript{10}

Also, the Chief State Prosecutor, stated that "as civil society, non-governmental organizations and the media are telling the attentive to the prosecutorial system and as such, monitoring and measurement of integrity which the prosecution system reflects itself, KPC has signed memorandum of cooperation with the organization responsible for independent monitoring of the prosecutorial system. These memorandums were signed in accordance with the law on public information disclosure that are held by the State Prosecutor, in order to increase transparency, efficiency and accountability of the State Prosecutor.\textsuperscript{11} KLI considers that these statements and their public words, have remained only on paper.

\textbf{IV. THE INVESTIGATION OF CORRUPTION CASES– PP}

Delays in handling investigative cases in prosecutorial system continue to challenge the fundamental rights and freedoms of citizens of the Republic of Kosovo. The failure of practical implementation of the legal obligations and policies set by the Action Plan and the lack of efficiency of accountability mechanisms has resulted in a continuous increased trend of unsolved corruption cases. These assessments KLI relies in the daily monitoring of the activities of State Prosecutor Office, KPC, and Courts and KJC regarding the implementation of the Action Plan on prioritizing the cases of the corruption domain.\textsuperscript{12}

The promotion of these policies and their failure to be implemented in reality has turned the occurrence of fighting corruption into a daily rhetoric.\textsuperscript{13} KLI findings, prove that random citizens continue to remain subject of investigative proceedings, mostly of low

\textsuperscript{10} Concept document of Chief State Prosecutor, Aleksander Lumezi, page 7. See link in: http://www.psh-ks.net/repository/docs/koncept_dokumenti_janar_2015_7_MAJ.pdf
\textsuperscript{11} Concept Document of the Chief State Prosecutor, Aleksander Lumezi, page 7. See link: http://www.psh-ks.net/repository/docs/koncept_dokumenti_janar_2015_7_MAJ.pdf
\textsuperscript{12} Note: KLI monitors the activities of the Prosecution Offices, KPC, Courts and KJC in handling corruption cases from the year 2013 and so far has published 8 reports referring to the fight against corruption. Kosovo Law Institute. http://www.psh-ks.net/repository/docs/Nr.1285.2013.
\textsuperscript{13} “The fight against corruption has turned into a farce followed by a loud noise tolling everywhere, but in my opinion this enables the real suspects to save themselves by camouflaging and it condemns those that have maybe committed irrelevant offences.” Aleksandër Lumezi, Chief State Prosecutor, October 8, 2015.
profile, eventually of medium profile and rarely of high profile. KLI assesses that the access of justice institutions remains the same and that the vast majority of cases of corruption, found in criminal proceedings, do not represent the real corrupt activity that takes place in different segments of life in Kosovo, especially in public institutions. “The fight against corruption has no progress, has a stihih commitment, only to fulfill the requirements of international mechanisms... Some indictments have been filed but based on the previous experiences, they will only remain free trial indictments”\textsuperscript{14}.

Among the main factors that affect the lack of fight against corruption is related with political influence in the justice system.\textsuperscript{15} Indirect impact on the justice system continues to be exercised through the limited budget’s resource for judicial system and prosecutorial system. Direct impacts are proven through the wiretapping affair "Chiefs File"\textsuperscript{16}, which has brought to the public the actions of political influence with important protagonists of the justice system. These influences have produced a fragile system of the justice system, which has been implementing selective justice through decisions by prosecutors and judges. Lack of an effective system of accountability, lack of professionalism and courage of the prosecutors and judges has led to the loss of public trust in the justice system.

KLI considers that procedural acts of investigation, prosecution and indictment of persons of different profiles for the offense of corruption, including high profile, were not absent from time to time. But, the result at the end has always lacked. The findings of KLI monitoring has shown that the majority of persons accused belong to persons of low profile, eventually medium, but high-profile cases are difficult to be formalized in the indictment. Even when turned to the indictment, fall in court, or if convicted, the sentence given is suspended sentence although concluded that the damages are worth millions.\textsuperscript{17}

Implementation of these standards of justice by prosecutors and judges has led to the loss of public trust in the justice system and the largest decline in satisfaction over the work of the prosecutorial system and the judicial system. According to the UNDP Public Pulse,

\begin{footnotesize}
\begin{enumerate}
\item KLI interview with Mr. Hasan Preteni, Director of the Anti-Corruption Agency. September 2016.
\item “Chiefs File” is the wiretapping affair published by the Online Newspaper Insajderi, which has published a series of wiretapping, showing high exponents of the Democratic Party of Kosovo, by undertaking illegal acts and having an impact for some of protagonists of the justice system in Kosovo. For this case there is already a decision to initiate investigations against some protagonists of this wiretapping affair. Investigations are conducted by a team of three prosecutors of SPRK.
\item Salihi Nj. “Nuhi Uka: Trial that stimulates corruption ”. JNK Paper. Published on September 29, 2014. See link http://gazetajnk.com/?cid=1,979,9145
\end{enumerate}
\end{footnotesize}
it shows that satisfaction with the work of judicial\textsuperscript{18} and prosecutorial \textsuperscript{19} system during April 2016 has marked almost the largest decline of all times, by dropping to 18.4% for the judiciary and to 16.9% for the prosecution offices.

KLI considers that justice which is separated is legitimized through citizen’s trust in the decisions of judges and prosecutors and the lack of confidence and satisfaction with their work reflects the judgment that share these institutions.

\textbf{a) Cases of corruption in the prosecutorial system (01.01.2016 – 30.06.2016)}

State Prosecutor (SP) during the first six months of 2016 (January-June – ongoing the reporting period), has managed to finalize a larger number of unsolved cases as has had at work at the beginning of 2016. However, SP during this reporting period has managed to decrease the number of persons who have been subjects of criminal offences of corruption in relation to the number of persons at the beginning of 2016\textsuperscript{20}. According to Table 1, it is noted that at the beginning of 2016 (01.01.2016), SP had 538 unsolved cases with 1640 persons involved. The number of corruption cases by the end of June 2016, has increased to 582 cases, while the number of persons had decreased to 1511. The BP office that has accomplished better results in solving corruption cases throughout this period is the BP in Pristina, which during this reporting period had solved 76 cases with 302 persons involved in corruption cases. Prosecution offices, during this reporting period, have received 254 new cases with 477 persons involved. During the same period, prosecution offices have managed to resolve 222 cases with 627 persons involved. Characteristic about this reporting period is the fact prosecution offices have worked more cases than have managed to resolve during the same reporting period, meanwhile they have resolved a larger number of persons involved in cases of corruption than then have worked during the same reporting period.

This reporting period is also characterized by the manner the prosecution solved the cases. Out of the cases resolved against 627 persons, prosecutors against 303 persons have dismissed the criminal reports, against 143 persons have terminated investigation, 18 19 20

\begin{footnotesize}
\begin{itemize}
\item Note: The judiciary system since 2007 when UNDP has conducted surveys of citizens’ satisfaction that there has been a low percentage. The highest percentage of satisfaction was recorded in 2013 (16.7%). In subsequent years Satisfaction of citizens with only the judiciary has decreased and increased, while in September 2015, has marked the largest decline only 13.9%. Whereas, in the recently published report shows that during May 2016 the Satisfaction with the judiciary has been 18.4%. "Public Pulse 11" (Pristina: UNDP, May 2016). Page 4.
\item Note: Prosecutorial system since 2007 when UNDP has conducted surveys of citizens’ satisfaction that there has been a low percentage. The highest percentage of satisfaction was recorded in 2012 (15.0%). In subsequent years Satisfaction of citizens with only the State Prosecutor has decreased and increased, while in September 2015, has marked the largest decline only 12.8%. Whereas, in the recently published report shows that during May 2016 the Satisfaction with the Prosecution offices has been 16.9%. "Public Pulse 11" (Pristina: UNDP Kosovo, May 2016). Page 4.
\item KLI has conducted interviews with the heads of Prosecution offices, which have claimed that they are making efforts to treat with priority the corruption cases in order to decrease the number of cases and persons at work. KLI interview with Mr. Imer Beka, Chief Prosecutor of the BP in Pristina, Mr. Agron Galani, Chief Prosecutor of the BP in Peja, Mr. Sylë Hoxha, Chief Prosecutor of the BP in Prizren, Mr. Shyqyri Syla, Chief Prosecutor of the BP in Mitrovica, Mr. Ali Selimaj, Acting Chief Prosecutor of the BP in Gjakova and Mr. Agron Qalaj, Chief Prosecutor of the BP in Ferizaj. Refused to be interviewed Mr. Blerim Isufaj, Head of KPC, Mr. Aleksandr Lumezi, Chief State Prosecutor, Mr. Reshat Millaku, Chief Prosecutor of SPRK and Mr. Jetish Maloku, Chief Prosecutor of the BP in Gjilan.
\end{itemize}
\end{footnotesize}
against 180 persons have filed indictments and against 1 person the case was solved otherwise. The percentage shows that the prosecutors solved the cases of corruption against 374 persons or against 71.13 % of persons by closing the cases, while against 28.87% have filed indictments. Respectively, against 23% of person’s investigation were terminated, while against 48% of persons the criminal reports were dismissed. See the chart below.

On the table below, KLI has presented the state of all cases and persons involved in criminal offences against corruption for the reporting period (January-June 2016).
### CORRUPTION CASES IN THE PROSECUTORIAL SYSTEM IN THE REPORTING PERIOD (01.01.2016 - 30.06.2016)

<table>
<thead>
<tr>
<th>State Prosecutor</th>
<th>Solved in the beginning (01.01.2016)</th>
<th>Received until 30.06.2016</th>
<th>Solved until 30.06.2016</th>
<th>Solving Manner</th>
<th>Unsolved in the end (30.06.2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cases</td>
<td>Persons</td>
<td>Cases</td>
<td>Persona</td>
<td>Cases</td>
</tr>
<tr>
<td>SPRK</td>
<td>43</td>
<td>263</td>
<td>6</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>Pristina</td>
<td>336</td>
<td>1,018</td>
<td>108</td>
<td>204</td>
<td>76</td>
</tr>
<tr>
<td>Prizren</td>
<td>23</td>
<td>64</td>
<td>21</td>
<td>33</td>
<td>16</td>
</tr>
<tr>
<td>Peja</td>
<td>22</td>
<td>45</td>
<td>33</td>
<td>59</td>
<td>40</td>
</tr>
<tr>
<td>Gjilan</td>
<td>10</td>
<td>17</td>
<td>49</td>
<td>103</td>
<td>38</td>
</tr>
<tr>
<td>Mitrovica</td>
<td>71</td>
<td>163</td>
<td>17</td>
<td>30</td>
<td>10</td>
</tr>
<tr>
<td>Ferizaj</td>
<td>19</td>
<td>40</td>
<td>11</td>
<td>21</td>
<td>16</td>
</tr>
<tr>
<td>Gjakova</td>
<td>14</td>
<td>30</td>
<td>9</td>
<td>11</td>
<td>10</td>
</tr>
<tr>
<td>Total</td>
<td>538</td>
<td>1,640</td>
<td>254</td>
<td>477</td>
<td>222</td>
</tr>
</tbody>
</table>

Table 1\(^\text{21}\). Corruption cases in the prosecutorial system for the reporting period (01.01.2016 – 30.06.2016).

Despite an increased performance in resolving cases, by solving 76 cases against 302 persons for six months, BP in Pristina continues to remain the prosecution office with the largest number of unsolved cases of corruption. This prosecution office has 368 unsolved cases with 916 persons involved, from a total of 582 cases with 1511 persons involved in all Prosecution Office in Kosovo. According to this, results that BP in Pristina has at work 34.23% of all corruption cases and 48.16% of all persons involved in corruption cases in all Prosecution offices of Kosovo.

BP in Pristina since February 2016 has created two Anti-Corruption Units. Anti-Corruption Unit of the Serious Crime Department with a total of 6 prosecutors and Anti-Corruption Unit of the General Crimes Department with 3 prosecutors. Based on official statistics of KPC results that for this reporting period BP in Pristina has solved 76 cases of corruption against 302 persons.

KLI has had impassable challenges to harmonize the statistics of these two Units of BP in Pristina. Within the prosecutorial system there are two institutions that offer conflicting data about the performance of these units. BP in Pristina offers other data, while the Supervising Committee of the KPC for the monitoring of the implementation of the Action Plan has provided other data to the Units of BP in Pristina.

These two units, except corruption cases have solved the cases of economic crimes. Based on data from BP in Pristina, it turns out that from February until June 30, 2016, Anti-Corruption Unit of the Department of Serious Crimes where are 6 prosecutors have solved 81 cases with 324 persons, while Anti-Corruption Unit of the Department of General Crimes where are 3 prosecutors have solved 153 cases with 183 persons.

Meanwhile, according to the report of the Supervising Committee\(^\text{22}\), which reported on the meeting of September 16, in KPC shows that Anti-Corruption Unit of the Department of Serious Crimes where are 6 prosecutors have solved 104 cases of which 33 cases were indicted, in 30 cases were dismissed criminal reporting, in 15 cases, investigations were terminated, while in 22 other cases are delegated powers. While the Anti-Corruption Unit in the Department of General Crimes where are 3 prosecutors has solved 165 cases, but it is not made clear how these cases are solved. KLI has requested access to statistical data of the Supervising Committee Report of the KPC, but members of the commission, despite repeated requests, refused to provide such data.

BP in Pristina, as the most loaded prosecution office with the cases of all natures, including cases of corruption have increased the performance of resolving these cases during the second half of 2015.\(^\text{23}\) KLI in cooperation with the Chief State Prosecution and BP in Pristina, had drafted an Action Plan for dealing of corruption cases with the absolute priority. The plan foresaw the creation of two committees in the Serious Crimes Department and the General Department. As a result of these two Committees, BP in Pristina, from

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\(^{22}\) These data are made public by Mr. Lulzim Sylejmani, Head of the Supervising Committee on monitoring the Action Plan for corruption cases, which reported in the meeting of KPC held on September 16, 2016. The reporting did not involve the number of persons against whom cases have been resolved and the manner how they have been resolved.

\(^{23}\) Chief Prosecutor of BP in Pristina, Mr. Imer Beka, on August 2015 has expressed his readiness to cooperate with KLI on drafting the Action Plan, considering the experience of monitoring with the state of corruption cases and continuous recommendations given for this prosecution office in order to increase efficiency and effectiveness in treating corruption cases. The will of the Chief Prosecutor Beka and the collaboration resulted with the drafting of a valuable document, which as noted has brought concrete results in treating old cases of corruption, which cases are making more difficult the work in BP of Pristina. KLI interview with the Chief Prosecutor of BP in Pristina, Mr. Imer Beka. January 2016.
August 25, 2015 to December 31, 2015 had resolved 129 cases of corruption with 269 persons involved. However, from January 1, 2016 until June 30, 2016, this Prosecution Office with two units established by KPC has managed to solve 76 cases with 302 persons.

b) The profile of pursued perpetrators of corruption cases
KLI has monitored and analyzed the profile of the pursued perpetrators of corruption cases based on the information published by SP regarding the indictments that were filed for corruption cases.

SP during this reporting period has shown higher efficiency in filing indictments for corruption, including indictments against high profile. SP has published information regarding the filing of 17 indictments in corruption cases against 149 persons accused for criminal offences of corruption. The profile of the persons indicted, includes:

- Former President of the Constitutional Court, former Judge of the Municipal Court of Pristina, President of the Court of Appeal, former deputy, former ministers, mayors, chairman and members of regulatory boards, general secretary, director in a Ministry, 44 doctors, procurement director, director of economic operators, etc.

According to the indictments filed by Prosecution offices, it appears that with these criminal offences, the damage caused worth is over 825,000.00 euro, meanwhile, in these indictments there is no information if the prosecution offices have filed requests for sequestration or confiscation of assets acquired by criminal offence.

The most effective prosecution office during this period is, SPRK with 5 cases, of which 2 cases against 43 persons filed by EULEX prosecutors, and 3 cases against 8 persons filed by local prosecutors.

Characteristic about this six months period is an indictment filed by a prosecutor of the Office of the Chief State Prosecutor against 64 individuals.

BP in Prizren has filed 5 indictments against 15 persons, BP in Gjilan has filed 3 indictments against 9 persons, BP in Peja has filed 2 indictments against 3 persons and BP in Pristina has filed 3 indictments against 7 persons. State Prosecutor has not released any information concerning the filing of indictments for corruption by BP in Mitrovica, BP in Gjakova and BP in Feriza. For more see two tables below:

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24 KLI interview with Mr. Imer Beka, Chief Prosecutor of the BP in Pristina. September 2016.
<table>
<thead>
<tr>
<th>Date</th>
<th>The position of the defendants</th>
<th>Value of damage caused</th>
<th>Demand for sequestration / confiscation</th>
<th>Number of persons</th>
<th>Prosecution office</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.01.2016</td>
<td>Former Chairman of the Constitutional Court</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>1</td>
<td>SPRK</td>
</tr>
<tr>
<td>01.02.2016</td>
<td>Official persons in KEDS</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>2</td>
<td>BP in Gjilan</td>
</tr>
<tr>
<td>05.02.2016</td>
<td>Construction Inspector</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>4</td>
<td>BP in Gjilan</td>
</tr>
<tr>
<td>08.02.2016</td>
<td>Official</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>2</td>
<td>BP in Peja</td>
</tr>
<tr>
<td>15.02.2016</td>
<td>Official</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>5</td>
<td>BP in Prizren</td>
</tr>
<tr>
<td>25.02.2016</td>
<td>Official</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>1</td>
<td>BP in Prizren</td>
</tr>
<tr>
<td>01.03.2016</td>
<td>Mayor, Mitrovica</td>
<td></td>
<td>767,940.00 €</td>
<td>3</td>
<td>SPRK</td>
</tr>
<tr>
<td></td>
<td>Procurement Director, Municipality of Mitrovica</td>
<td></td>
<td>There’s no information</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Director of Economic Operator</td>
<td></td>
<td>There’s no information</td>
<td></td>
<td></td>
</tr>
<tr>
<td>03.03.2016</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>23</td>
<td>SPRK/Eulex</td>
</tr>
<tr>
<td>03.03.2016</td>
<td>There’s no information</td>
<td>20,310.56€; 2,958€; 1,607.47€</td>
<td>There’s no information</td>
<td>4</td>
<td>BP in Prizren</td>
</tr>
<tr>
<td>21.03.2016</td>
<td>Official</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>1</td>
<td>BP in Prizren</td>
</tr>
</tbody>
</table>

*Table 2 – Table from monitoring of the SP web page (January 1, - June 30, 2016).*
<table>
<thead>
<tr>
<th>Date</th>
<th>The position of the defendants</th>
<th>Value of damage caused</th>
<th>Demand for sequestration / confiscation</th>
<th>Number of persons</th>
<th>Prosecution office</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.04.2016</td>
<td>Official</td>
<td>150,00</td>
<td>There’s no information</td>
<td>1</td>
<td>BP in Peja</td>
</tr>
<tr>
<td>18.05.2016</td>
<td>1 former Deputy</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>20</td>
<td>SPRK/Eulex</td>
</tr>
<tr>
<td></td>
<td>1 former Minister</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19.05.2016</td>
<td>Doctor</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>3</td>
<td>BP in Gjilan</td>
</tr>
<tr>
<td>20.05.2016</td>
<td>Head of a Divizion, MIA</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>1</td>
<td>BP in Pristina</td>
</tr>
<tr>
<td>27.05.2016</td>
<td>Chairman of the Board – RAT, former member of the Board of RAT</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>2</td>
<td>BP in Pristina</td>
</tr>
<tr>
<td>31.05.2016</td>
<td>Chairman, Court of Appeal</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>4</td>
<td>SPRK</td>
</tr>
<tr>
<td>14.06.2016</td>
<td>Director of Public Services, Emergency – Municipality of Gllogovc</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Certifying officer in the Assembly of the Municipality of Gllogovc</td>
<td>There’s no information</td>
<td>There’s no information</td>
<td>4</td>
<td>BP in Pristina</td>
</tr>
<tr>
<td></td>
<td>Official in the Assembly of the Municipality of Gllogovc, Owner of a private firm</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15.06.2016</td>
<td>The indictment includes 60 individuals and 4 legal entities. They are: a minister, a general secretary of a ministry, 44 doctors, a nurse, 13 health workers in the private sector.</td>
<td>There’s no information</td>
<td></td>
<td>64</td>
<td>OCHSP</td>
</tr>
<tr>
<td>21.06.2016</td>
<td>There’s no information</td>
<td>35,000.00</td>
<td>There’s no information</td>
<td>4</td>
<td>BP in Prizren</td>
</tr>
</tbody>
</table>

Table 3 – Table from monitoring of the SP web page (January 1 - June 30, 2016).

According to the data published by SP, the damage caused as a result of criminal offences of corruption is worth is over 825,000.00 euro. Prosecutors in these cases in indictments, according to the information published on the website of SP, have not filed any request for sequestration or confiscation of assets acquired by criminal offence of corruption.
SPRK as a specialized prosecution office in combating high level of corruption has continued with the same trend during this reporting period. Even during these six months SPRK was challenged by the deficit of the number of prosecutors as well. KPC even during this reporting period has failed to announce the competition for free positions for prosecutors in this prosecution office. Prosecutors in this prosecution office, continue to treat at the same time cases almost of all natures, including cases of corruption, organized crime, war crimes, money laundering and financial of terrorism, etc. The lack of adequate planning from the KPC and SPRK affect the efficiency of this office, resulting into non-delivering the required results in fighting corruption. This prosecuting office in corruption cases where 93 persons were involved, against 93 persons have filed an indictment, while in cases against 54 persons have closed the cases.

During September 2014, the prosecutorial system of Kosovo presented a Strategic Plan for Interagency Cooperation between the State Prosecutor and law enforcement agencies in Kosovo in fighting organized crime and corruption, as well as Standard Operating Procedures (SOP) for the selection Serious Crimes Targets.

The objective of the SOP has been the prevention, detection, investigation and prosecution of the most serious offenses, through coordination and harmonization of activities of the competent authorities.

The purpose of this mechanism was the appointment of 50 more serious cases in the justice system in Kosovo, which will be treated urgently by all law enforcement agencies. One of the criteria for the application of the selection of targets is to require a joint effort of two or more public institutions for other serious alleged offenses and criminal investigations, in order to be able to arrest the suspects, the prohibition of criminal activity, taking, sequestration and confiscation of profits of crime.

By a decision of the Chief State Prosecutor, Mr. Alexander Lumezi, to the position of Coordinator regarding the selection of targets for serious crimes was set Reshat Millaku Chief Prosecutor of SPRK. KLI has addressed a request for access to public documents to the Chief Prosecutor Millaku in order to be informed about the activities and achievements of the prosecutorial system in the implementation of SOPs for the selection of targets for serious crimes. Chief Prosecutor Millaku has not returned any the answer.

KJC has appointed the judge Agim Maliqi as coordinator of the judicial system, in cases processed by the prosecution office as a result of serious crimes targeting. Maliqi has informed that the courts have accepted 21 targeted cases where the SP has filed

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25In SPRK during the reporting period were 9 local prosecutors out of 18 positions allowed for prosecutors. Of these 9 prosecutors, with corruption cases have dealt in total 7 prosecutors.
indictments. So far three of these cases were completed with final judgments, including the case of Prosecutor Badivuku and two cases where two public lawyers of municipalities were sentenced for corruption offenses. In these cases there was no confiscation of property acquired by criminal acts of corruption. Other cases are being processed with priority by the courts.26

c) The performance of criminal reports of corruption submitted by applicants (01.01.2016-30.06.2016)

Through the following table, KLI reflects the trend of number of persons presented through criminal reports initiated by institutions and agencies that enforce the law in Kosovo, citizens, injured party, self-initiative case initiated by the prosecutors etc. The table contains the manner of solving such cases and the number of persons against whom cases of corruption have not been solved. The table depicts the efficiency of SP in treating the criminal reports submitted in progress during the reporting period (January 1-June 30, 2016).

26 KLI interview with Mr. Agim Maliqi, Coordinator of judicial system for targeted cases. October 2016.
### CORRUPTION CASES IN PROSECUTORIAL SYSTEM DURING THE REPORTING PERIOD (01.01.2016 - 30.06.2016)

<table>
<thead>
<tr>
<th>Applicants of criminal reports</th>
<th>Unsolved in the beginning (01.01.2016)</th>
<th>Received (01.01.2016 until 30.06.2016)</th>
<th>Resolved (01.06.2016 until 30.06.2016)</th>
<th>Manner of solving</th>
<th>Unresolved in the end (30.06.2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Persons</td>
<td>Persons</td>
<td>Persons</td>
<td>Persons</td>
<td>Persons</td>
</tr>
<tr>
<td>Anti-Corruption Agency</td>
<td>273</td>
<td>87</td>
<td>56</td>
<td>31</td>
<td>15</td>
</tr>
<tr>
<td>Tax Administration of Kosovo</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Kosovo Customs</td>
<td>25</td>
<td>5</td>
<td>6</td>
<td>6</td>
<td>38</td>
</tr>
<tr>
<td>EULEX</td>
<td>26</td>
<td>11</td>
<td>8</td>
<td>3</td>
<td>14</td>
</tr>
<tr>
<td>Kosovo Police Inspectorate</td>
<td>56</td>
<td>10</td>
<td>17</td>
<td>10</td>
<td>7</td>
</tr>
<tr>
<td>Kosovo Police</td>
<td>634</td>
<td>168</td>
<td>314</td>
<td>158</td>
<td>55</td>
</tr>
<tr>
<td>Citizens</td>
<td>184</td>
<td>73</td>
<td>76</td>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td>Injured Party</td>
<td>219</td>
<td>64</td>
<td>77</td>
<td>69</td>
<td>3</td>
</tr>
<tr>
<td>The Municipality Adm. Body</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Holder of Property</td>
<td>38</td>
<td>9</td>
<td>6</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Forestry Authority of Kosovo</td>
<td>3</td>
<td>2</td>
<td>5</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Prosecutor with Self-initiative</td>
<td>57</td>
<td>14</td>
<td>9</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Unidentified</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Received into competence</td>
<td>119</td>
<td>45</td>
<td>46</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td>Total</td>
<td>1,640</td>
<td>477</td>
<td>627</td>
<td>303</td>
<td>143</td>
</tr>
</tbody>
</table>

Table 4\(^{27}\) – Trends of corruption cases according to applicants from 01.01.2016 until 30.06.2016.

Based on the table above, results that the biggest applicant of criminal reports in SP continues to remain KP\textsuperscript{28} with criminal reports against 168 persons, citizens have filed criminal reports against 73 persons, injured parties against 64 persons, ACA against 87 persons, Customs\textsuperscript{29} against 5 persons, KPI against 10 persons and prosecutors with self-initiative have filed criminal reports against only 14 persons.

During this reporting period of 2016, SP has solved cases against 627 persons. Of these cases with 627 persons, SP cases against 56 persons presented with a criminal report filed by ACA, where against 31 persons criminal reports have been dismissed, against 15 persons investigation have been terminated and only against 9 persons indictments have been filed. One case including one person was solved otherwise. From the table is noted that 82\% of criminal reports solved in cases of ACA have been closed by SP, while only 18\% have been completed with an accusatory act. Directors of ACA, assess that the performance of SP in cases of ACA, has not been satisfactory due to the closure of a large number of cases. ACA's contribution continues to be great for SP in the filing of cases also against high profile.\textsuperscript{30}

SP has solved cases against 314 persons based on the criminal reports presented by KP, where against 101 persons indictments were filed, against 158 persons criminal reports were dismissed and against 55 persons investigation were terminated. From the table above is noted that 67\% of criminal reports solved in cases of KP have been closed by SP, while only 33\% have been completed with an accusatory act. KLI has raised this problematic in all its periodical reports on monitoring of corruption cases. So far there has been a lack of will of prosecutorial system to deal with this problem and find the right solution. KLI has interviewed the officials of KP, who

\textsuperscript{28} Note: Despite the fact that there is Tracking Mechanism, in which report all independent institutions and agencies about characteristic criminal offences, there still remains a challenge the unification of data among institutions. KLI has provided official data about the Kosovo Police regarding the corruption offenses for the first six months of 2016, which does not correspond with the data of Tracking Mechanism of Prosecutorial Council. While, according to the S Tracking Mechanism for this six month period, shows that the Kosovo Police has filed cases against 168 persons for corruption offenses, according to the Kosovo Police, results that are filed 90 criminal reports against 190 persons. See the response of the Kosovo Police: "The Directorate for Investigation of Economic Crimes and Corruption (DECC) during the period January - June 2016 are presented 87 cases from the previous year which remained under investigation have been 31 cases of criminal offenses of corruption which in total there are 118 cases that are dealt with and where are filed 90 criminal reports against 195 suspects." Information Office of the Kosovo Police. September 2016

\textsuperscript{29} "In the first six months of this year Kosovo Customs (Investigation Units) have cooperated with the Prosecution office and so far have sent 3 cases with 8 officers to competent prosecution offices. Customs work ends with sending the case to the Prosecution office, for more ask the Prosecution, Kosovo Customs has the investigation unit which deals with the investigation of offenses related to customs and this unit works in cooperation with the prosecution office, and the collaboration with the prosecution office is in high levels.". IKD interview with Mr. Adriatic Stavileci, Kosovo Custom’s spokesperson. September 2016

\textsuperscript{30} KLI interview with Mr.Hasan Preteni, Director of the Anti-Corruption Agency. September 2016. “In the first six months of 2016, ACA submitted cases in SP against Former Ministers, Permanent secretaries, Mayors, Head of the Executive Agency within the Ministries, Advisor to the Minister, Assembly Member, Director of a Department at the Ministry, Board Member at the Public Enterprises, Member of the Managing Board - Public University etc.”.
find it responsible SP for the dismissal of criminal reports. According to officials of KP, every investigative action of KP is undertaken in cooperation with the prosecutors and the criminal reports of KP, are filed based on a recommendation of prosecutors. See the correct answer of KP officials regarding the manner how the police officials act and the responsibility for the dismissal of criminal report or termination of investigation.

“Regarding preliminary police investigations, after the management of KP- DIECC charges the investigator with a case (document, information, etc.) to conduct a preliminary investigation, the investigator examines the case, informs the prosecutor of competent Prosecution office and conducts investigations. During preliminary investigations, the investigator always consults with the competent prosecutor even by the end of the case in the last consultation before the submission of the case to the Competent Prosecution office (whether with a criminal report based on CPCRK Article 81, paragraph 1, and 2, or with Special Report based on CPCRK Article 81, paragraph 4), takes the recommendation of the competent prosecutor, and if the case is sent to the competent prosecutor with the criminal report (meaning that there is also the prosecutor's recommendation that the investigator has been continuously in consultation with him, you can prove to the criminal report of the police where is also specified the recommendation of the prosecutor), how can the same Criminal Report to be dismissed by the Prosecution office. I suggest to be investigated the date when the Criminal Report is submitted to the Competent Prosecutor, and make a comparison which prosecutor has had initially the notification of the police for the case for which preliminary investigation are being conducted and the investigator has been continuously in consultation with the prosecutor until the submission of the Criminal Report in Prosecution offices and now after submission of the Criminal Report in Prosecution offices which prosecutor is loaded with the case: Is it the same one or another one, etc.”. 31

Also characteristic of these six months, is the large number of criminal reports dismissed and rulings on termination of investigations in cases of corruption. In general of cases addressed by SP against 627 persons, SP against 180 of them has filed indictments, against 446 persons cases were closed either for dismissal of criminal reports or through the termination of the investigation. The table shows that 71.13% of criminal reports filed by the applicants of criminal reports were closed by SP, while only 29% have been completed with an accusatory act.

The table above shows that the negative trend of solving cases of corruption continues in relation to the number of persons against whom indictments were filed with the number of persons against whom cases were closed through the dismissal of criminal reports or termination of investigations. The high percentage of closure of cases of 71.13%, shows that in practice there are serious problems in handling cases of corruption or by applicants of criminal reports or by the SP.

31 KLI interview through electronic mail with the Officials of the Office for Information in Kosovo Police. September 2016.
Filing of criminal reports by citizens and injured parties from corruption offenses can be taken as an indication regarding the reliability of the public in the judiciary bodies in Kosovo, to report on the perpetrators of criminal acts of corruption in Kosovo. In the six month period, the number of cases initiated by citizens or injured parties involve 137 suspects. While the SP during the same reporting period, solved cases against 153 persons reported by citizens or the injured parties, where over 19 persons were filed indictments, as against 142 persons cases were closed.


KPC on November 4, 2013, adopted the Action Plan on increasing efficiency of prosecutorial system in fighting corruption. At the time when the Action Plan (November 4, 2013) entered into force, SP had in process 516 old unresolved cases of corruption against 1632 persons involved. From the time when this plan entered into force until June 30, 2016, Prosecutor offices have solved old cases against 1324 persons, cases that were registered in the SP office until November 4, 2013, respectively have managed to solve 81% of them. Despite KPC objectives to treat with priority old corruption cases through this action plan, even three years after, until June 30, 2016, SP has still at work cases of corruption dated from 2002.

In corruption cases resolved against 1324 persons, SP against 392 has dismissed the criminal reports (or against 29.06% of them), against 422 persons has terminated investigation (or against 31.8% of them), against 35 persons has filed indictments with punitive order (or against 2% of them), against 45 persons has filed direct indictments (or against 3.3% of them) and against 427 persons have filed indictment after investigation (or against 32.2% of them).

Regarding the fulfillment of obligations deriving from the Action Plan, namely the resolution of corruption cases registered until November 4, 2013 up until now BP in Peja, Gjilan and Ferizaj have finalized old cases by completing the norm 100%. BP in Prizren has resolved 91.4% of the cases, BP in Gjakova 98% of cases and BP in Mitrovica 95% of cases. A weaker performance in corruption case resolution has been conducted by SPRK with only 73.7% of solved cases and BP in Pristina with 63.5% of solved cases.

Regarding the solving manner of corruption cases, SPRK has dismissed criminal reports or terminated the investigation against 130 suspects (75.9%). While indicting 41 persons (26%). BP in Pristina has indicted 132 persons in total (26.8%) and has terminated the
investigation or dismissed the criminal report against 361 persons (73.2%). BP in Peja has indicted 22 persons (23.91%), has dismissed the criminal report against 6 persons and terminated the investigation against 65 persons (76.09%).

BP in Gjilan has lead an unsatisfying performance of filing indictments in comparison with the dismissal/termination of cases for persons involved in corruption cases. This prosecution office has indicted 36 persons (45%), while termination the investigation or dismissing the criminal report for 45 persons (55%). A similar performance is portrayed by BP in Prizren. This Prosecution offices has indicted 72 persons (44.5%), while terminating the investigation against 50 persons and dismissing the criminal reports against 39 persons (total 55.5%).

| PP – The manner of resolution of old cases according to prosecution offices (04.11.2013 - 30.06.2016) | The total of persons involved in unsolved cases in November 4, 2013 | The total of persons involved in solved cases from (04.11.2013 - 30.06.2016) | The fulfillment of the Action Plan | Dismissal | Termination | Punitive order | Direct Indictment | Indictment after the conduction of investigation |
|---|---|---|---|---|---|---|---|---|---|
| | Persons | Percentage | Persons | Percentage | Persons | Percentage | Persons | Percentage | Persons | Percentage |
| SPRK | 232 | 73,7% | 171 | 63,5% | 14 | 8,1% | 116 | 67,8% | 41 | 26% |
| Pristina | 777 | 82,6% | 494 | 91,1% | 246 | 49,7% | 115 | 23,2% | 9 | 2% |
| Prizren | 175 | 91,4% | 160 | 91,1% | 39 | 24% | 50 | 31% | 4 | 2,5% |
| Peja | 86 | 90,1% | 93 | 91% | 6 | 6% | 65 | 69% | 22 | 23% |
| Gjilan | 81 | 100% | 81 | 100% | 18 | 22,2% | 27 | 33,3% | 20 | 24,7% |
| Mitrovica | 141 | 95% | 134 | 95% | 49 | 36,5% | 16 | 11,9% | 10 | 8% |
| Ferizaj | 126 | 100% | 128 | 100% | 10 | 10% | 23 | 17% | 35 | 27% |
| Gjakova | 64 | 98,4% | 63 | 98,4% | 10 | 15,8% | 10 | 15,8% | 43 | 71% |
| Total | 1,632 | 81,1% | 1,324 | 392 | 29,6% | 422 | 31,8% | 45 | 3,3% |

Table 5[32] The resolution and manner of solving of cases registered according to the Action Plan in 04.11.2013.

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Table above proves that despite the shown will of prosecutorial system for corruption cases to be treated with priority through policies and strategies, their implementation in practice is lacking. As it’s the lack of KPC will to exercise its mandate and competences, to require accountability and responsibility from prosecutors of these prosecution offices in handling these cases with priority. KLI reiterates as a serious concern the large number of old and unsolved corruption cases in SPRK and BP in Pristina. All corruption cases registered under the Action Plan are completed cases dating before November 4, 2013, and still remain the same in the drawers of prosecution offices.


SP during the first six months period of 2015 has had in work 733 cases with 1943 persons involved in corruption cases. Of this number, SP during this year has solved 130 cases with 278 persons.

SP during the second six months period of 2015 has had in work 846 cases with 2168 persons involved in corruption cases. Of this number, SP during this year has solved 256 cases with 533 persons.

SP during the first six months period of 2016 has had in work 792 cases with 2117 persons involved in corruption cases. Of this number, SP during this year has solved 222 cases with 627 persons.

Meanwhile, SP during the first six months period of 2015, has had in work 733 cases, during the second six months period this number was increased in 846 cases, while during the first six months period of 2016, this number decreased to 792 cases. SP during the first six months period of 2015 has had work with 1943 persons, while during the second six months period this number was increased in 2168 persons, meanwhile during the first six months period of 2016, this number remained to 2117 persons.

SP during the first six months period of 2015 has managed to solve 130 cases with 278 persons, during the second six months period of 2015 has managed to solve 256 cases with 533 persons, while during the first six months period of 2016 has managed to solve 222 cases with 627 persons.
Chart 1 – Comparison of the trend of solving corruption cases during three periods of time.
On the chart below, you may notice the trend of the manner of solving corruption cases January 1, 2015-June 30, 2016.

Chart 2 – Comparison of the trend of solving corruption cases manner during three periods of time.

Chart 2 shows the trend of solving corruption cases during three periods of time, divided from January 1 until June 30, 2015, July 1 until December 31, 2015 and January 1 until June 30, 2016, including the comparison analysis regarding the efficiency of SP in treating corruption cases during these reporting periods.
**JANUARY 1 - JUNE 30, 2015:** SP during the first six months of 2015, has treated in total cases against 266 persons, where against 38 persons criminal reports have been dismissed, against 74 person’s investigation have been terminated and against 154 persons, SP has filed indictment. In percentage it turns out that SP during this reporting period against 57.89% persons involved in corruption cases has filed indictment, while against 42.11% of persons has closed the cases.

**JULY 1- DECEMBER 31, 2015:** SP during the second six months of 2015, has treated in total cases against 533 persons, where against 135 persons criminal reports have been dismissed, against 177 person’s investigation have been terminated and against 218 persons, SP has filed indictment. SP during the second six months of 2015, has increased efficiency in treating corruption cases in regard with the first six months for 100%. Meanwhile on the first six months SP has treated corruption cases against 266 persons, during the second six months this number is increased in 532 persons. In percentage it turns out that SP during this reporting period against 40.90 persons involved in corruption cases has filed indictment, while against 59.10% of persons has closed the cases. Characteristic of this second six months period presents the large number of the closure of cases against persons by terminating investigation and dismissing criminal reports, where this percentage goes to 59.10%, meanwhile during the first six months period this percentage was 42.11%.

**JANUARY 1 - JUNE 30, 2016:** SP during the first six months of 2016, has treated in total cases against 627 persons, where against 303 persons criminal reports have been dismissed, against 143 person’s investigation have been terminated, against 180 persons have filed indictment and against 1 person is solved otherwise. In percentage it turns out that SP during this reporting period against 28.87% persons involved in corruption cases has filed indictment, while against 71.25% of persons has closed the cases. SP during the first six months of 2016 has increased efficiency in treating corruption cases in regard with the second six months of 2015, for 17%. Meanwhile during the second six months period of 2015, SP has treated corruption cases against 532 persons, during the first six months of 2016 this number is increased in 626 persons. Characteristic of this first six months period of 2016, presents the large number of the closure of cases against persons by terminating investigation and dismissing criminal reports, where this percentage goes to 71.13% meanwhile during the second six months period of 2015 it was 59.10%, and during the first six months period this percentage it was only 42.11%.
VII. UNSOLVED CORRUPTION CASES IN PROSECUTORIAL SYSTEM ON JUNE 30, 2016

Prosecutorial system continues to have in process unsolved corruption cases dating from 2002. Prosecutions until June 30, 2016, have had in work 582 corruption cases with 1511 persons involved. Out of this number, at the end of this reporting period (June 30, 2016) BP Office in Pristina continues to lead with the largest number of unsolved cases, by a total of 368 cases with 916 persons SPRK has in process a total of 39 cases with 199 persons, BP in Mitrovica a total of 80 cases with 167 persons, BP in Ferizaj a total of 15 cases with 45 persons, BP in Prizren a total of 27 unsolved cases with 61 persons, BP in Peja a total of 18 cases with 37 persons, BP in Gjakova a total of 14 cases with 29 persons and BP in Gjilan a total of 21 unsolved cases with 57 persons.

KLI considers that the large number of unsolved cases from the prosecution system remains to be a concern due to the fact that almost after 14 years from the committed corruption offenses, Prosecution Offices have not yet managed to handle these cases. The large number of old cases at BP Offices and SPRK, shows that the relevant mechanisms of control in prosecutorial system are not functioning.

Omission of prosecution offices and KPC, in solving these cases directly affects to the violation of fundamental rights of defendants who are subjects of corruption criminal proceedings, violation of legal and constitutional deadlines for a fair trial in a reasonable term. This omission puts in question the independence, impartiality and effectiveness of the prosecutorial system in treating all citizens equally under the law. Further, see in the table below on the state of unsolved corruption cases, at each prosecution office, at the end of the reporting period (June 30, 2016).
In the table below are presented corruption cases with persons, according applicants of criminal reports, which have remained unsolved at June 30, 2016. Amongst unsolved cases to 1511 persons, the largest number belong to cases filed by KP with 499 persons, followed by ACA with 291 persons, the injured party with 223 persons and the citizens with 178 persons. Until June 30, 2016, Prosecution Offices have delegated in competence 87 persons involved in corruption cases.

![Table 6](image)

VIII. PRELIMINARY INVESTIGATION IN CORRUPTION CASES – PPN (01.01.2016-30.06.2016)

From January 1, 2016 until June 30, 2016, according to the table, results that BPs and SPRK has received in total 199 corruption cases categorized in the register as PPN, with 283 persons involved. The largest number of cases received are in BP in Pristina, with a total of 103 cases with 138 persons involved, followed by SPRK with 13 cases with 34 persons involved. Meanwhile BP in Mitrovica has received 6 cases with 7 persons, BP in Gjakova has received 12 new cases with 15 persons involved, BP in Prizren 27 cases with 32 persons, BP in Peja 22 cases with 32 persons and BP in Gjilan 2 cases with 2 persons. SPRK during this reporting period of 2016, has

solved cases against 62 persons, all by dismissing the criminal reports, followed by BP in Pristina by solving cases against 85 persons out of which against 79 persons has dismissed the criminal reports.

<table>
<thead>
<tr>
<th>State Prosecutor – PPN</th>
<th>Unsolved in the beginning (01.01.2016)</th>
<th>Received (01.01.2016 until 30.06.2016)</th>
<th>Solved cases with persons (01.01.2016 until 30.06.2016)</th>
<th>Solving manner</th>
<th>Unsolved at the end (30.06.2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cases</td>
<td>Persons</td>
<td>Cases</td>
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<td>Persons</td>
</tr>
<tr>
<td>SPRK</td>
<td>53</td>
<td>158</td>
<td>13</td>
<td>34</td>
<td>62</td>
</tr>
<tr>
<td>Prisatina</td>
<td>168</td>
<td>391</td>
<td>103</td>
<td>138</td>
<td>85</td>
</tr>
<tr>
<td>Prizren</td>
<td>25</td>
<td>47</td>
<td>27</td>
<td>32</td>
<td>33</td>
</tr>
<tr>
<td>Peja</td>
<td>39</td>
<td>79</td>
<td>22</td>
<td>32</td>
<td>25</td>
</tr>
<tr>
<td>Gjilan</td>
<td>11</td>
<td>18</td>
<td>2</td>
<td>2</td>
<td>15</td>
</tr>
<tr>
<td>Mitrovica</td>
<td>45</td>
<td>66</td>
<td>6</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>Ferizaj</td>
<td>43</td>
<td>73</td>
<td>14</td>
<td>23</td>
<td>15</td>
</tr>
<tr>
<td>Gjakova</td>
<td>14</td>
<td>16</td>
<td>12</td>
<td>15</td>
<td>8</td>
</tr>
<tr>
<td>TOTAL</td>
<td>398</td>
<td>850</td>
<td>199</td>
<td>283</td>
<td>244</td>
</tr>
</tbody>
</table>

Table 8\textsuperscript{35} – PPN corruption cases in prosecutorial system (01.01.2016 deri më 30.06.2016).

According to the applicants of the criminal reports for criminal offences of corruption, continues to lead KP with 168 persons, followed by ACA with 87 persons, citizens with 73 persons, the injured parties with 64 persons etc. In this reporting period, Prosecution offices were more efficient in treating cases filed by KP, ACA, citizens and the injured parties. Prosecution offices during this reporting period have solved cases against 314 persons filed by KP, against 56 persons filed by ACA, against 76 persons filed by citizens, against 77 persons filed by the injured parties etc. For a more detailed manner, see the table presented below:

<table>
<thead>
<tr>
<th>Applicants of criminal reports</th>
<th>Unsolved in the beginning (01.01.2016)</th>
<th>Received (01.01.2016 until 30.06.2016)</th>
<th>Solved (01.06.2016 until 30.06.2016)</th>
<th>Solving manner</th>
<th>Dismissal</th>
<th>Termination</th>
<th>Indictment</th>
<th>Otherwise</th>
<th>Unresolved at the end (30.06.2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anti-Corruption Agency</td>
<td>273</td>
<td>87</td>
<td>56</td>
<td>Persons</td>
<td>31</td>
<td>15</td>
<td>9</td>
<td>1</td>
<td>291</td>
</tr>
<tr>
<td>Tax Administration</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>Persons</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Kosovo Costums</td>
<td>25</td>
<td>5</td>
<td>6</td>
<td>Persons</td>
<td>6</td>
<td>3</td>
<td></td>
<td></td>
<td>38</td>
</tr>
<tr>
<td>EULEX</td>
<td>26</td>
<td>11</td>
<td>8</td>
<td>Persons</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
<td>14</td>
</tr>
<tr>
<td>Kosovo Police Inspectorate</td>
<td>56</td>
<td>10</td>
<td>17</td>
<td>Persons</td>
<td>10</td>
<td>7</td>
<td></td>
<td></td>
<td>49</td>
</tr>
<tr>
<td>Kosovo Police</td>
<td>634</td>
<td>168</td>
<td>314</td>
<td>Persons</td>
<td>158</td>
<td>55</td>
<td>101</td>
<td></td>
<td>499</td>
</tr>
<tr>
<td>Citizen</td>
<td>184</td>
<td>73</td>
<td>76</td>
<td>Persons</td>
<td>31</td>
<td>31</td>
<td>14</td>
<td></td>
<td>178</td>
</tr>
<tr>
<td>The injured party</td>
<td>219</td>
<td>64</td>
<td>77</td>
<td>Persons</td>
<td>69</td>
<td>3</td>
<td>5</td>
<td></td>
<td>223</td>
</tr>
<tr>
<td>Received by competence</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>Persons</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Holder of property- OP</td>
<td>38</td>
<td>9</td>
<td>6</td>
<td>Persons</td>
<td>2</td>
<td>4</td>
<td></td>
<td></td>
<td>69</td>
</tr>
<tr>
<td>Forestry Authority</td>
<td>3</td>
<td>2</td>
<td>5</td>
<td>Persons</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Prosecutor with Self-initiative</td>
<td>57</td>
<td>14</td>
<td>9</td>
<td>Persons</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td></td>
<td>59</td>
</tr>
<tr>
<td>Unidentified</td>
<td>1</td>
<td></td>
<td></td>
<td>Persons</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Received in competence</td>
<td>119</td>
<td>45</td>
<td>46</td>
<td>Persons</td>
<td>3</td>
<td>15</td>
<td>28</td>
<td></td>
<td>87</td>
</tr>
<tr>
<td>Total:</td>
<td>1,640</td>
<td>477</td>
<td>627</td>
<td>Persons</td>
<td>303</td>
<td>143</td>
<td>180</td>
<td>1</td>
<td>1,511</td>
</tr>
</tbody>
</table>

Table 9\textsuperscript{36} – PPN cases of corruption according to applicants in prosecutorial system (01.01.2016 until 30.06.2016).

a) Corruption cases initiated by reports of media and civil society

Even during this reporting period of 2016 (January-June 2016), journalists from various media in Kosovo and representatives of civil society have initiated debates and reported on allegations of abuses by senior public officials and politicization of public enterprises. Among these reports on violations of the law, in most of cases are reported actions that enter the incriminating sphere, introducing criminal elements of criminal offences entering the chapter of corruption. The work of reporting these representatives of civil society and the media, in most cases end with the publication of their reports, due to negligence of the prosecuting authorities, which do not follow the detection of corruption.

With the decision of the Chief State Prosecutor, Aleksander Lumezi, on June 17, 2015, was established the Commission for monitoring and supervising n daily basis and verification of claims in cases of alleged organized crime and corruption, published by electronic means of the press, complaints of citizens and public appearances of officials state and public bodies, and non-governmental organizations.

KLI has monitored the work of this commission in terms of actions taken by submitting a request for access to information about the work of the Commission, in compliance with the Law on Access to Public Documents and Law on Protection of Personal Data.37 On the response received from the contact person in the KPC for access to public documents38 KLI has received very limited information, which is informed that from January 1, 2016 until June 30, 2016, AP has not registered 15 cases related to organized crime and corruption. KLI has raised a series of questions on the activities and functioning of the Commission, which have remained unanswered. KLI has addressed three requests to the Commission, for which did not take any response from the Commission. Lack of transparency of this Commission, is extremely worrying and creates doubts about the functioning of the Commission, by the decision of the Chief State Prosecutor. Furthermore, the closure of this Commission, without giving information about his work, raises doubts that this Commission was established only on paper, while the reality is that this Commission is not fulfilling the obligations arising from the decision of the Chief State Prosecutor.

37 KLI has made a “Request for access in public documents”, on August 31, 2016, by addressing request to all members of the Commission, responsible individuals for communication with the public and the assigned officer in the KPC for access to public documents. KLI had not received any response from the Commission. KLI on September 13, 2016, has resent the official request to members of Commission.
38 Response from Mr. Arbër Zariqi, contact person for access to public documents in KPC, received on September 15, 2016. KLI's questions remained unanswered, while the official answer is this: "In reference to your request that has to do with access to information of media monitoring and the result of this monitoring for the period from 01.01.2016 until now, from the database that we possess, the commission has identified 15 cases related to organized crime and corruption. We can not give you further information on these cases, considering the fact that these cases are under investigation and that any disclosure of information more detailed in any of these cases are likely to damage prevention, investigation or prosecution. All this in accordance with Article 12, paragraph 1.3 of the Law on Access to Public Documents (Law No. 03 / L-215)."
IKD also considers that the aim of this decision is precisely to increase transparency and accountability of the SP to the public and citizens, while access and lack of transparency of this Commission, affects the negative ratings for SP for not implementing the decisions and authority of the Chief State Prosecutor and his subordinates.

IX. FAILURES OF PROSECUTORS IN TREATING CORRUPTION CASES DURING THE REPORTING PERIOD (01.01.2016-30.06.2016)

KLI throughout the monitoring performance in compliance with the Law on Access to Public Documents and Law on Protection of Personal Data has requested prosecutorial acts from every prosecution office of the country related to the rulings on dismissing the criminal reports and on terminating the investigation. The main purpose of securing such acts consists on identifying whether the prescribed legal periods of time affiliated with corruption cases have been breached. KLI while analyzing the legal prosecutorial acts, from 223 analyzed decisions, has identified 20 corruption cases of statutory limitation in prosecution offices and 127 cases of violation of the legal deadlines when deciding on the corruption cases by prosecutors. Here are excluded SPRK and BP in Ferizaj, which have not collaborated to offer the prosecutorial acts in order to monitor and analyze the respecting of the legal deadlines by prosecutors in corruption cases.
KLI has identified 127 cases of violation of legal deadlines by prosecutors on corruption cases.

KLI has identified 20 corruption cases that have reached statutory limitation.

233 prosecutorial acts analyzed by KLI.

266 prosecutorial acts required by Prosecution offices according to the law.

233 prosecutorial acts ensured by all prosecution offices, excluding SPRK and BP office in Ferizaj.
Ongoing KLI presents all cases for which has provided the legal acts by all prosecution offices in accordance with the positive legislation. Here is excluded SPRK and BP in Ferizaj, which despite the three years of cooperation with KLI, have not offered the legal acts. KLI assesses that the non-offering of these acts is a proof of these Prosecution offices lack of will to be independently monitored by non-governmental organizations and specialized on monitoring of justice system. Obviously, this proved the lack of will to be transparent and accountable to civil society and citizens about the activities of prosecutors in fighting corruption criminal offences.

a) STATUTORY LIMITATION OF CRIMINAL PROSECUTION

BASIC PROSECUTION IN PRISTINA


2. Case PP with number 869/08 determined on 05.05.2016. Termination of investigation ruling set forth by Unit in charge of fighting economic crimes in Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 3 of the CCK.

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39 Ensuring prosecutorial legal acts by KLI was done through special requests for each prosecution office in accordance with the Law on Access of Public Documents and Law on Personal Data Protection. Acts are provided for the reporting period (January-June 2016). Here are excluded SPRK and BP in Ferizaj, which have cooperated with KLI on offering these legal acts, despite the fact that the request for ensuring these legal acts KLI has made on time and in full accordance with Law on Access of Public Documents and Law on Personal Data Protection.

40 Chief Prosecutor of BP in Mr. Agron Qalaj on a response for KLI has said that he will answer regarding KLI’s request to ensure these legal acts after he will take a form KPC, to which he made a request if he should give these documents or not. March, April, May, June, July, September, October 2016.

KLI’s COMMENT: It is paradoxical the response of the Chief Prosecutor Qalaj and his request addressed to KPC to require permission to offer these legal acts, which are required in full accordance with Law on Access of Public Documents and Law on Personal Data Protection. The same prosecutorial acts, from the end of 2013, Chief Prosecutor Qalaj offered them without any obstacle to KLI, and now it’s unclear which is the reason why BP in Ferizaj does not allow monitoring in accordance with the law. KLI considers that this is a lack of will or fear of Chief Prosecutor Qalaj to be transparent and accountable to the public regarding the handling of corruption cases by the prosecution office that he leads.

41 Note: Based on the ruling issued on 14.06.2016, BP in Pristina concordant with Article 82 paragraph 1 and 2 point 1.2 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 3 of the CPCRK, in view of the fact that the period of absolute statutory of limitation for the criminal prosecution has expired.
3. Case PP/I with number 1010/2015 determined on 19.05.2016. **Partial dismissal of criminal report ruling** set forth by Kosovo Police. Criminal offences “Falsifying official documents” pursuant with Article 332 of the CCK, “Abusing official position or authority” pursuant with Article 339, paragraph 1 of the CCK, “Trading in influence” pursuant with Article 345, paragraph 1 of the CCK.  

4. Case PP/I with number 478/2015 determined on 22.03.2016. **Dismissal of criminal report ruling** set forth by N.N citizen. Criminal offences “Falsifying official documents” pursuant with Article 434 of the CCK, “Falsifying documents” pursuant with Article 398 of the CCK, “Legalization of false content” pursuant with Article 403 of the CCK, “Fraud” pursuant with Article 355 of the CCK and “Abusing official position or authority” pursuant with Article 422 of the CCK.  

5. Case PP with number 412/2008 determined on 24.02.2016. **Termination of investigation ruling.** Criminal offence “Misappropriation in office” pursuant with Article 340, paragraph 3 of the CCK.  

6. Case PP with number 17/2013 determined on 24.06.2016. **Dismissal of criminal report ruling** set forth by Kosovo Anti-Corruption Agency. Criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCK.

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42**Note:** Based on the ruling issued on 05.05.2016, BP in Pristina concordant with Article 158, paragraph 1, under paragraph 1.3 and 1.3 of the CPCRK, had decided to terminate investigation for the criminal offence “Abusing official position or authority” pursuant with Article 339, paragraph 3 of the CCK, on the grounds that against one defendant has reached the relative statutory of limitation, while for the other defendant there were not found any elements of the criminal offence.  

43**Note:** Based on the ruling issued on 19.05.2016, BP in Pristina concordant with Article 82, paragraph 1, point 1.2 of the CPCRK, had decided to partially dismiss the criminal report for the criminal offence “Falsifying official document” pursuant with Article 332 of the CCK, “Abusing official position or authority” pursuant with Article 339, paragraph 1 of the CCK, “Trading in influence” pursuant with Article 345, paragraph 1 of the CCK, in view of the fact that the period of absolute statutory of limitation for the criminal prosecution has not expired, since before the submission of the criminal report in the Prosecution.  

44**Note:** Based on the ruling issued on 22.03.2016, BP in Pristina concordant with Article 82, paragraph 1, point 1.2 of the CPCRK, had decided to dismiss the criminal report for the criminal offences “Falsifying official document” pursuant with Article 434 of the CPCRK, “Falsifying documents” pursuant with Article 398 of the CPCRK, “Legalization of false content” pursuant with Article 403 of the CCK, “Fraud” pursuant with Article 355 of the CCK and “Abusing official position or authority” pursuant with Article 422 of the CCK, in view of the fact that the period of absolute statutory of limitation for the criminal offences has expired.  

45**Note:** Based on the ruling issued on 24.02.2016, BP in Pristina concordant with Article 158, paragraph 1, point 1.1 of the CPCRK, had decided to terminate investigation for the criminal offence “Misappropriation in office” pursuant with Article 340, paragraph 3 of the CCK, in view of the fact that the period of absolute statutory of limitation for the criminal offences was reached.
7. Case PP with number 31/2013 determined on 28.06.2016. **Dismissal of criminal report ruling** set forth by Anti-Corruption Agency in Pristina. Criminal offences “Falsifying official documents” pursuant with Article 348 paragraph 1 and paragraph 2 of the CCK and “Abusing official position or authority” pursuant with Article 339 paragraph 2 related to paragraph 1 of the CCRK.47


10. Case PP with number 66/2015 determined on 09.06.2016. **Dismissal of criminal report ruling** set forth by N.N citizen. Criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 related to Article 31 of the CCRK.50

46 Note: Based on the ruling issued on 24.06.2016, BP in Pristina, concordant with Article 82 paragraph 1 sub paragraph 1.2 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CPCRK, in view of the fact that the period of absolute statutory of limitation for the criminal offences was reached.

47 Note: Based on the ruling issued on 28.06.2016 BP in Pristina, concordant with Article 82 paragraph 1 sub paragraph 1.2 of the CPCRK as well as Article 106 paragraph 1 sub paragraph 1.4 of the CPCRK, had decided to dismiss the criminal report for the criminal offences “Falsifying official document” pursuant with Article 348 paragraph 1 and paragraph 2 of the CCRK and “Abusing official position or authority” pursuant with Article 339 paragraph 2 related to paragraph 1 of the CCRK in view of the fact that the period of absolute statutory of limitation for the criminal offences was reached.

48 Note: Based on the ruling issued on 26.04.2016 BP in Pristina, concordant with Article 82 paragraph 1 sub paragraph 1.2 of the CPCRK as well as Article 106 paragraph 1 sub paragraph 1.4 of the CPCRK and “Abusing official position or authority” pursuant with Article 339 paragraph 3 of the CCRK, in view of the fact that the period of absolute statutory of limitation for the criminal offences was reached.

49 Note: Based on the ruling issued on 26.04.2016 BP in Pristina, concordant with Article 82 paragraph 1 sub paragraph 1.2 of the CPCRK as well as Article 106 paragraph 1 sub paragraph 1.4 of the CPCRK had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK, in view of the fact that the period of absolute statutory of limitation for the criminal offences was reached.

50 Note: Based on the ruling issued on 09.06.2016 BP in Pristina concordant with Article 82 paragraph 1 sub paragraph 1.2 of the CPCRK as well as the Article 106 paragraph 1 sub paragraph 1.4 of the CPCRK had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 related to Article 31 of the CPCRK, in view of the fact that the period of statutory of limitation for the criminal offence was reached.
11. Case PP with number 668/2015 determined on 06.04.2016. **Dismissal of criminal report ruling** set forth by N.N citizen. Criminal offences “Falsifying official documents” pursuant with Article 348 of the CCRK; “Legalization of false content” pursuant with Article 334 paragraph 1 of the CCRK and “Abusing official position or authority” pursuant with Article 339 paragraph 1 of the CCRK.  

12. Case PP with number 696/14 determined on 11.02.2016. **Dismissal of criminal report ruling** set forth by Police General Directorate – Unit in charge of fighting economic crimes and corruption in Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 1 of the CCRK.  

13. Case PP with number 584-11/2013 determined on 13.06.2016. **Report on closure of the case** regarding an email from NN journalist of “Daily Time”. Criminal offence “Abusing official position or authority” pursuant with Article 339 par.3 related to par.1 of the CCK.  

BASIC PROSECUTION IN PRIZREN  


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51 **Note:** Based on the ruling issued on 06.04.2016, BP in Pristina concordant with Article 82, paragraph 1 sub paragraph 1.2 of the CPCRK as well as the Article 106 paragraph 1 sub paragraph 1.4 of the CPCRK had decided to dismiss the criminal report for the criminal offences “Special cases of Falsifying documents” pursuant with Article 399 of the CPCRK; “Legalization of false content” pursuant with Article 403 of the CPCRK; “Taking or destroying official stamps or official documents” pursuant with Article 415 of the CPCRK and “Abusing official position or authority” pursuant with Article 422 of the CPCRK, in view of the fact that the period of statutory of limitation for the criminal offence was reached.  

52 **Note:** Based on the ruling issued on 11.02.2016, BP in Pristina concordant with Article 208, paragraph 1 sub paragraph 3 of the Provisional Criminal Procedure Code, as well as the paragraph 1 sub paragraph 1.2 of the CPCRK has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 1 of the CPCRK, in view of the fact that the period of statutory of limitation for the criminal prosecution was reached.  

53 **Note:** Based on the Report issued on 13.06.2016 BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” pursuant with Article 339 par.3 related to par.1 of the CPC on the reasoning that against this case the period of relative statutory of limitation for the criminal offence was reached since have passed 6 years without undertaking any action.  

54 **Note:** Based on the ruling issued on 14.01.2016 BP in Prizren has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 339 of the CCK, based on Article 82 par.1 point 1.2 of the CPCRK in view of the fact that the period of statutory of limitation for the criminal prosecution was reached.
2. Case PP with number 112/2016 determined on 06.05.2016. Dismissal of criminal report ruling set forth by Directorate for Investigation of Economic Crimes and Corruption in Pristina – DIECC in Prizren. Criminal offence “Abusing official position or authority” pursuant with Article 422 par.2 of the CCRK.

BASIC PROSECUTION IN MITROVICA

1. Case PP with number 360/2015 determined on 19.02.2016. Dismissal of criminal report ruling set forth by Kosovo Police - Unit in charge of fighting economic crimes and corruption in Mitrovica. Criminal offences “Abusing official position or authority” pursuant with Article 339 paragraph 1 of the CCK and “Trading in influence” pursuant with Article 345 paragraph 1 of the CCK.

2. Case PP with number 196/2012 determined on 29.02.2016. Termination of investigation ruling was taken by BP in Mitrovica. Criminal offences “Abusing official position or authority” pursuant with Article 339 paragraph 3 related to par. 1 of the CCK, “Fraud in office” pursuant with Article 341 par.3 related to par.1 of the CCK and “Falsifying official documents” pursuant with Article 348 par.1 of the CCK, “Misappropriation in office”

3. Case PP with number 360/2015 determined on 19.02.2016. Report regarding the case files by BP in Mitrovica. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK, ”Trading in influence” pursuant with Article 431 of the CCRK.

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55 Note: Based on the ruling issued on 06.05.2016, BP in Prizren has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.2 of the CCRK, when the Prosecution office based on Article 82 par.1 point 1.2 of the CCRK in view of the fact that the period of statutory of limitation for the criminal prosecution was reached.

56 Note: Based on the ruling issued on 19.02.2016 BP in Mitrovica based on Article 82 paragraph 1 point 1.1 of the CCRK has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 1 of the CCRK and “Trading in influence” pursuant with Article 345 paragraph 1 of the CCK in view of the fact that the period of absolute statutory of limitation for the criminal prosecution was reached.

57 Note: Based on the ruling issued on 29.02.2016 BP in Mitrovica based on Article 158 par.3 of the CCRK has terminated investigation for the criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 3 related to par. 1 of the CCK, “Fraud in office” pursuant with Article 341 par.3 related to par.1 of the CCK and “Falsifying official document” pursuant with Article 348 par.1 of the CCK, “Misappropriation in office” in view of the fact that the period of statutory of limitation for the criminal prosecution was reached.

58 Note: According to the report dated on 19.02.2016 BP in Mitrovica based on Article 82 par.1 sub paragraph 1.2 of the CCRK has terminated investigation for criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK, ”Trading in influence” pursuant with Article 431 of the CCRK in view of the fact that the period of statutory of limitation for the criminal prosecution was reached.
BASIC PROSECUTION IN GJAKOVA

1. Case PP/I with number 49/2016 determined on 04.05.2016. **Official note on terminating the special report** set forth by Directorate for Investigation of Economic Crimes and Corruption in Pristina– Unit in charge of fighting economic crimes and corruption in Gjakova. Criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK and “Special cases of falsifying documents” pursuant with Article 399 of the CCRK.59

BASIC PROSECUTION IN PEJA

1. Case PP/I with number 84/16 determined on 04.05.2016. **Termination of investigation ruling by criminal report** set forth by Unit in charge of fighting economic crimes and corruption in Peja. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK.60

b) CASES OF BREACHING THE PRESCRIBED PERIODS OF TIME CONCERNING DECISION MAKING

Following are presented the cases of the dismissal of criminal reports in contradiction with the provisions of the New Criminal Procedure Code. Unlike the old criminal procedure, which has been into force until January 1, in the new criminal procedure are specified strict deadlines for treating criminal reports. KLI has analysed all the prosecutorial legal deadlines provided by all prosecution offices *(for the period 01.01.2016 – 30.06.2016)* and has identified the violations of prosecutors regarding the respect of legal deadlines in treating criminal reports. Violation of the provisions of Criminal Procedure Code, results with the violations of human rights, by maintaining the citizens as subjects in criminal evidences of prosecution offices in cases when against them are being conducted criminal investigations without any basis. KLI while analysing the prosecutorial legal acts, from a total of 223 analysed decisions, has identified 20 cases that have reached statutory limitation and 127 cases where prosecutors have violated the legal declines to decide on corruption cases. Here are excluded SPRK and BP in Ferizaj, which prosecution offices did not collaborate to

59*Note:* Based on the official note dated on 04.05.2016, BP in Gjakova has decided to close the case for criminal offences “Abusing official position or authority” and “Special cases of falsifying documents”, CCRK in view of the fact that the offence occurred on 2008, while from that time the period of statutory of limitation for the criminal prosecution was reached.

60*Note:* Based on the ruling issued on 04.05.2016, BP in Peja based on Article 158, paragraph 2 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK, in view of the fact that the offence occurred on 06.06.2011, while the criminal report was filed on 16.03.2016, so while from that time the period of statutory of limitation for the criminal prosecution was reached.
provide the prosecutorial acts in order to monitor and analyse the respecting of legal deadlines by prosecutors in cases of corruption. Through this closure of Prosecution offices, their heads have proved the lack of will to increase public transparency and accountability through the monitoring by outside actors of civil society. For more, this form of professional monitoring and analysing of findings by KLI, has directly affected in increasing the transparency of prosecutors.\textsuperscript{61}

**BASIC PROSECUTION IN PRISTINA**

1. Case PP.I with number 404 – 8/2013 determined on 26.01.2016. *Dismissal of criminal report ruling* set forth by N.N person. Criminal offences “Falsifying documents” pursuant with Article 398 of the CCRK; “Special cases of falsifying documents” pursuant with Article 399 of the CCRK; “Legalization of false content” pursuant with Article 403 of the CCRK; “Taking or destroying official stamps or official documents” pursuant with Article 415 of the CCRK and “Abusing official position or authority” pursuant with Article 422 of the CCRK.\textsuperscript{62}

   \textit{KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 14.05.2013, meanwhile the Prosecution had decided to dismiss the criminal report on 26.01.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 970 days, or 940 days after the legal deadline.}

2. Case PP.I with number 94 – /2015 determined on 10.05.2016. *Dismissal of criminal report ruling* set forth by N.N person. Criminal offences “Abusing official position or authority” pursuant with Article 422 paragraph 2.2 related to paragraph 1 of the CCRK; “Conflict of interest” pursuant with Article 424 paragraph 3.2 related to paragraph 1 of the CCRK; “Accepting bribes” pursuant with Article 428 paragraph 2 related to paragraph 1 of the CCRK; “Trading in influence” pursuant with Article 431 paragraph 1 of the CCRK; “Issuing unlawful judicial decisions” pursuant with Article 432 paragraph 1 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\textsuperscript{61} KLI interview with Mr. Zef Prendrecaj, Director of the Office of Disciplinary Counsel.

\textsuperscript{62} Note: Based on the ruling issued on 26.01.2016, BP in Pristina based on Article 82 paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report, for criminal offences “Falsifying official document” pursuant with Article 398 of the CCRK, “Special cases of Falsifying documents” pursuant with Article 399 of the CCRK; “Legalization of false content” pursuant with Article 403 of the CCRK, “Taking or destroying official stamps or official documents” pursuant with Article 415 of the CCRK and “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.
CCRK; “Falsifying official document” pursuant with Article 434 paragraph 1 of the CCRK; “False report or charge” pursuant with Article 390 paragraph 2 related to paragraph 1 of the CCRK; “Intimidation during criminal proceedings” pursuant with Article 395 of the CCRK; “Tampering with evidence” pursuant with Article 397 paragraph 2 related to paragraph 1 of the CCRK; “Legalization of false content” pursuant with Article 403 paragraph 2 related to paragraph 1 of the CCRK; “Obstructing official persons in performing official duties” pursuant with Article 409 paragraph 3 related to paragraph 1 of the CCRK.63

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 06.02.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 10.05.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 459 days, or 429 days after the legal deadline.

3. Case PP.nr with number 802/2007 determined on 27.06.2016. Dismissal of criminal report ruling for the criminal offence “Misappropriation in office” pursuant with Article 340 paragraph 3 of the CCRK”64

KLI: Based on the ruling, it is confirmed that BP in Pristina investigation on 23.04.2014 meanwhile the Prosecution had decided to terminate investigation on 27.06.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning investigation has been limited to two (2) years (Article 159), results that the BP in Pristina has violated this legal prescribed period of time, since the investigation had to be finished within

63 Note: Based on the ruling issued on 10.05.2016 BP in Pristina, based on Article 82 paragraph 1 subparagraph of 1.1 of the CPCRK, has dismissed the criminal report for criminal offences of “Abusing official position or authority” pursuant with Article 422 paragraph 2.2 related to paragraph 1 of the CCRK; “Conflict of interest” pursuant with Article 424 paragraph 3.2 related to paragraph 1 of the CCRK; “Accepting bribes” pursuant with Article 428 paragraph 2 related to paragraph 1 of the CCRK; “Trading in influence” pursuant with Article 431 paragraph 1 of the CCRK, “Issuing unlawful judicial decisions” pursuant with Article 431 paragraph 1 of the CCRK; “Falsifying official document” pursuant with Article 434 paragraph 1 of the CCRK; “Registration or false charges” pursuant with Article 390 paragraph 2 related to paragraph 1 of the CCRK; “Obstruction of evidence or criminal proceedings” pursuant with Article 395 of the CCRK; “Manipulation of evidence” pursuant with Article 397 paragraph 2 related to paragraph 1 of the CCRK; “Legalization of false content” pursuant with Article 403 paragraph 2 related to paragraph 1 of the CCRK; “Obstructing official persons in performing official duties” pursuant with Article 409 paragraph 3 related to paragraph 1 of the CCRK.

64 Note: Based on the ruling issued on 27.06.2016 BP in Pristina, based on Article 158 paragraph 1, point 1.1 of the CPCRK, has terminated investigation for the criminal offence “Misappropriation in office” pursuant with Article 340 paragraph 3 of CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed by the concrete person.
two (2) years, while the same one terminated after 64 days after the legal deadline. Characteristic about this ruling is that it does not show the time when the criminal report was submitted, while the criminal offence was committed in 2007.

4. Case PP with number 1198/2013 determined on 27.05.2016. **Dismissal of criminal report ruling** set forth by Police Regional Border Directorate “North”. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.\(^{65}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 18.11.2013, meanwhile the Prosecution had decided to dismiss the criminal report on 27.05.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 921 days, or 891 days after the legal deadline.

5. Case PP with number 100/2016 determined on 05.05.2016. **Dismissal of criminal report ruling** set forth by N.N person. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.\(^{66}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 29.12.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 05.05.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 129 days, or 99 days after the legal deadline.

6. Case PP with number 463 determined on 13.06.2016. **Dismissal of criminal report ruling** set forth by DIECC in Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK.\(^{67}\)

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\(^{65}\) **Note:** Based on the ruling issued on 27.05.2016 BP in Pristina, based on Article 82 paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{66}\) **Note:** Based on the ruling issued on 05.05.2016 BP in Pristina, based on Article 82 paragraph 1 point 1.1 of the CPCRK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that there are no elements of this criminal offence.
Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 23.06.2011, meanwhile the Prosecution had decided to dismiss the criminal report on 13.06.2016. The treatment related to this criminal report had lasted for 1815 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 1231 days after the legal deadline set on CPCK, after January 1, 2013.

7. Case PP with number 405 – 5/12 determined on 25.05.2016. Dismissal of criminal report ruling set forth by Anti-Corruption Agency (ACA). Criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 3 related to paragraph 1 and related to Article 23 of the former CCK.

Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 01.06.2012, meanwhile the Prosecution had decided to dismiss the criminal report on 13.06.2016. The treatment related to this criminal report had lasted for 1473 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 1260 days, or 1230 days after the legal deadline set on CPCK.

8. Case PP with number 505 – 5/10 determined on 30.05.2016. Dismissal of criminal report ruling set forth by N.N person. Criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 3 related to paragraph 1 and related to Article 23 of the former CCRK.

Note: Based on the ruling issued on 13.06.2016 BP in Pristina, based on Article 82 paragraph 1 point 1.1 of the CPCRK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that there are no elements of this criminal offence.

Note: Based on the ruling issued on 25.05.2016 BP in Pristina, based on Article 82 paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 3 related to paragraph 1 and related to Article 23 of the previously CPCK, in view of the fact that there is no reasonable doubt that the criminal offence was committed by the concrete person.

Note: Based on the ruling issued on 30.05.2016 BP in Pristina, referring by mistake to Article 165 (1) of the Criminal Procedure Code, which regulates the requests for setting measures to ensure the presence of the defendant, dismisses the criminal report for the offence “Abusing official position or authority” pursuant with Article 339 par.3 related to par.1 related to Article 23 of the previously CPCK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.
KLI: Based on the ruling, it is confirmed that the criminal offence was committed during 2009. The ruling contains no information regarding the date of the submission of criminal report in Prosecution. BP has taken the dismissal of criminal report ruling on 30.05.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that from the time when the criminal offence was committed until the dismissal of the criminal report have passed nearly 7 years. The characteristic of this decision is that it does not indicate the time when the criminal report was submitted, since the dismissal of criminal report refers incorrectly to Article 165 (1) of the Criminal Procedure Code, which article regulates the requirements for setting measures to ensure the presence of the defendant. However, based on Article 82 of the CPCK, results that the BP in Pristina has violated the legal deadline specified in Article 82 of the CPCK, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 1248 after the entry into force of the CPCK, respectively 1218 after the deadline set by the CPCK.

9. Case PP with number 314/14 determined on 2.04.2016. Dismissal of criminal report ruling set forth by Police Station in Lipjan. Criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK.70

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 30.03.2014, meanwhile the Prosecution had decided to dismiss the criminal report on 12.04.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 744 days, or 714 days after the legal deadline.

10. Case PP with number 122/2014 determined on 26.01.2016. Dismissal of criminal report ruling set forth by N.N person. Criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK.71

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70 Note: Based on the ruling issued on 12.04.2016 BP in Pristina concordant with Article 82 paragraph 1 sub paragraph 1.1 of the CPCK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

71 Note: Based on the ruling issued on 26.01.2016 BP in Pristina concordant with Article 82 paragraph 1 sub paragraph 1.1 of the CPCK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.
KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 05.02.2014, meanwhile the Prosecution had decided to dismiss the criminal report on 26.01.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 720 days, or 690 days after the legal deadline.

11. Case PP with number 682/2014 determined on 22.02.2016. Dismissal of criminal report ruling set forth by N.N person. Criminal offence “Falsifying official documents” pursuant with Article 434 paragraph 1 and 2 of the CCRK; “Legalization of false content” pursuant with Article 403 paragraph 1 and 2 of the CCRK; “Trading in influence” pursuant with Article 431 of the CCRK; “Fraud” pursuant with Article 335 paragraph 1 of the CCRK as well as “Abusing official position or authority” pursuant with Article 423 of the CCRK.

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 24.06.2014, meanwhile the Prosecution had decided to dismiss the criminal report on 22.02.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 603 days, or 573 days after the legal deadline.

12. Case PP with number 9020/13 determined on 25.04.2016. Dismissal of criminal report ruling set forth by the Anti-Corruption Agency. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437 paragraph 2 of the CCRK.

Note: Based on the ruling issued on 22.02.2016 BP in Pristina concordant with Article 82 paragraph 1 sub paragraph 1.1 of the CPCK, has dismissed the criminal report for the criminal offences “Falsifying official document” pursuant with Article 434 paragraph 1 and 2 of CCRK; “Legalization of false content” pursuant with Article 403 paragraph 1 and 2 of the CCRK; “Trading in influence” pursuant with Article 431 of the CCRK; “Fraud” pursuant with Article 335 paragraph 1 of the CCRK as well as the “Abusing official position or authority” pursuant with Article 423 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

Note: Based on the ruling issued on 25.04.2016 BP in Pristina concordant with Article 82 paragraph 1 point 1 of the CPCRK, has dismissed the criminal report for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437 paragraph 2 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.
Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 20.12.2013, meanwhile the Prosecution had decided to dismiss the criminal report on 25.04.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 857 days, or 827 days after the legal deadline.

13. Case PP with number 227/14 determined on 12.04.2016. Dismissal of criminal report ruling set forth by ACA. Vepra penale Criminal offence “Abusing official position or authority” pursuant with Article 433 paragraph 1 related to paragraph 2.2 of the CCRK.

14. Case PP with number 1288/13 determined on 07.03.2016. Dismissal of criminal report ruling set forth by ACA. Criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 related to Article 31 of the CCRK.

Note: Based on the ruling issued on 12.04.2016 BP in Pristina concordant with Article 82 paragraph 1 point 1 of the CPCRK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 433 paragraph 1 related to paragraph 2.2 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

Note: Based on the ruling issued on 07.03.2016 BP in Pristina concordant with Article 82 paragraph 1 point 1 of the CPCRK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 433 paragraph 1 related to Article 31 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.
report had to be dismissed within 30 days, while the criminal report was dismissed after 822 days, or 792 days after the legal deadline.

15. Case PP with number 964/2013 determined on 04.02.2016. **Dismissal of criminal report ruling** set forth by Kosovo Police – Sector of investigation of economic crimes in Pristina. Criminal offence “Unlawful Collection and Disbursement” pursuant with Article 435 related to Article 28 of the CCRK.\(^{76}\)

**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP on 30.09.2013, meanwhile the Prosecution had decided to dismiss the criminal report on 04.02.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 857 days, or 827 days after the legal deadline. Meanwhile based on the same ruling it appears that BP in Pristina on 28.01.2014 has received an extra criminal report against 3 other persons. In accordance with Article 82 of the New Criminal Procedure Code, results that BP in Pristina even against there three persons had violated the deadline of 30 days for the treatment of the criminal report, since the same one was dismissed after 917 days or 887 days after the legal deadline.


**KLI**: Based on the official note, it is confirmed that the report was submitted in the BP on 30.07.2013, meanwhile the same official note was closed with a report on 24.03.2016. The treatment related to this report has lasted for 968 days. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case. However, based on Article 82 of the CPCK, it results that BP in Pristina had dismissed the report 938 days after the legal deadline.

\(^{76}\) **Note**: Based on the ruling issued on 04.02.2016 BP in Pristina based on Article 82 paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for the criminal offence “Collection and disbursement attempted” pursuant with Article 435 related to Article 28 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{77}\) **Note**: Based on the official note dated 24.03.2016 BP in Pristina has closed and archived the case, in view of the fact that there is no reasonable doubt that there are no elements of criminal offence that need to be prosecuted according to ex officio.
17. Case PPN with number 186/2015 determined on 23.03.2016. **Official note on closure of the case.** Criminal offence related to abusing official position and falsifying.\(^{78}\)

**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 03.04.2015, meanwhile the same official note was closed with a report on 23.03.2016. The treatment related to this report has lasted for 354 days. Based on Article 82 of the CCRK, results that BP in Pristina has dismissed the report 324 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with CPCK.

18. Case PPN with number 1201/2012 determined on 14.03.2016. **Official note on closure of the case.** Criminal offence related to abusing official position.\(^{79}\)

**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 01.11.2013, meanwhile the same one decided to close the report on 14.03.2016. The treatment related to this report has lasted for 865 days. Based on Article 82 of the CCRK, results that BP in Pristina has dismissed the report 835 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.

19. Case PPN with number 14/15 determined on 13.06.2016. **Official note on closure of the case.** Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.\(^{80}\)

**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 03.09.2014, meanwhile the same one decided to close the report on 13.06.2016. The treatment related to this report has lasted for 648 days. Based on Article 82 of the CCRK, results that BP in Pristina has dismissed the report 618 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

\(^{78}\)Note: Based on the official note dated 23.03.2016 BP in Pristina has closed the case, since there are not found evidences that there are any elements of the criminal offence and was not proved no element based on the suspect on corruptive violation or abuse of official duty.

\(^{79}\)Note: Based on the official note dated 14.03.2015 BP in Pristina did not started investigation, since there are not found evidences that there are any elements of the criminal offence or based on the suspect on corruptive violation or abuse of official duty

\(^{80}\)Note: Based on the official note dated 13.06.2016 BP in Pristina has closed the case, since after analyzing circumstances specified in this report, have considered that there is no element of any criminal activity.
20. Case PP.II with number 4563 determined on 20.04.2016. **Dismissal of criminal report ruling** for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437 paragraph 1 of the CCRK.\(^{81}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 10.08.2015 meanwhile the Prosecution had decided to dismiss the criminal report on 07.12.2015. On 20.04.2016. The Prosecution has taken a ruling on terminating investigations. With the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal deadline, since the investigations had to be initiated within 30 days, while investigations have started after 119 days after the submission of the criminal report, or 89 days after the legal deadline.

21. Case PPN with number 67/2016 determined on 03.05.2016. **Official note on closure of the case.** Criminal offence related to abusing official position.\(^{82}\)

**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 04.02.2016, meanwhile the same one decided to close the report on 03.05.2016. The treatment related to this report has lasted for 89 days. Based on Article 82 of the CCRK, results that BP in Pristina has dismissed the report 59 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.

22. Case PPN with number 384/2015 determined on 27.04.2016. **Official note on closure of the case.** Criminal offence related to abusing official position.\(^{83}\)

**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 19.03.2015, meanwhile the same one decided to close the report on 27.04.2016. The treatment related to this report has lasted for 405 days. Based on Article 82 of the

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\(^{81}\) **Note:** Based on the ruling issued on 20.04.2016 BP in Pristina concordant with Article 158 paragraph 1 sub paragraph 1.1 of the CPCRK, has decided to terminate investigation for criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437 paragraph 1 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{82}\) **Note:** Based on the official note dated 03.05.2016 BP in Pristina has closed the case, in view of the fact that there is no reasonable doubt based for the criminal offence to be prosecuted according to ex officio.

\(^{83}\) **Note:** Based on the official note dated 27.04.2016 BP in Pristina has closed and archived the case, in view of the fact that there is no reasonable doubt that there are no sufficient elements and no place for investigation.
CCRK, results that BP in Pristina has dismissed the report 375 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo. Based on the reasoning of this ruling, results that the report was set forth by Kosovo Police - Unit in charge of fighting economic crimes and corruption 19.03.2015, meanwhile the case elated to the alleged criminal offence in the police report was submitted on 14.08.2016. KLI finds that there is a time discrepancy of the action taken. It may be a technical error or logical regarding the reasoning of this decision.

23. Case PPN with number 364 – 12/2012 determined on 20.05.2016. **Official note on closure of the case.** Criminal offence related to abusing official position.84

**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 03.05.2012, meanwhile the same one decided to close the report on 20.05.2016. The treatment related to this report has lasted for 1478 days. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the report had to be dismissed within 30 days, while report was dismissed after 1206 days after the legal deadline set on CPCK.

24. Case PPN with number 105/2015 determined on 13.05.2016. **Official note on closure of the case.** Criminal offence related to abusing official position.85

**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 27.02.2016, meanwhile the same one decided to close the report on 13.05.2016. The treatment related to this report has lasted for 76 days. Based on Article 82 of the CCRK, results that BP in Pristina has dismissed the report 46 days after the legal deadline. Meanwhile BP in Pristina after analyzing the case has authorized the Police for an additional report which report the Prosecution received on 10.05.2015. The treatment related to this extra report has lasted for 3 days. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.

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84 **Note:** Based on the official note dated 20.05.2016, BP in Pristina has closed the case since there is no basis to initiate investigation and there are no elements of basis of the suspect to abuse official duty.

85 **Note:** Based on the official note dated 13.05.2016, BP in Pristina has closed the case and archived the case since there were not found any elements of the criminal offence.
25. Case PPN with number 545 – 1/2008 determined on 30.05.2016. **Official note.** Criminal offence related to the possible misuse of funds in the Ministry of Communities and return.\(^{86}\)

**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 23.07.2013, meanwhile the same one decided to close the report on 30.05.2016. The treatment related to this report has lasted for 1043 days. Based on Article 82 of the CCRK, results that BP in Pristina has dismissed the report 1013 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.


**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 14.03.2016, meanwhile the same one decided to close the report on 25.04.2016. The treatment related to this report has lasted for 42 days. Based on Article 82 of the CCRK, results that BP in Pristina has dismissed the report 12 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.

27. Case PPN with number 172/2014 determined on 22.06.2016. **Dismissal of criminal report ruling** set forth by Municipality of Pristina. Criminal offences “Abusing official position or authority” pursuant with Article 442 paragraph 1 of the CCRK, Misappropriation in office” pursuant with Article 425 of the CCRK, “Misusing official information” pursuant with Article 423 of the CCRK, “Irresponsible medical treatment” pursuant with Article 260 of the CCRK.\(^{88}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP on 16.05.2014, meanwhile the Prosecution had decided to dismiss the criminal report on 22.06.2016. The treatment related to this criminal report had lasted for 767 days from

\(^{86}\)Note: Based on the note dated 30.05.2016 BP in Pristina has decided that there is no place to undertake following actions, on the terms that this case was judged once by the investigators of EULEX and Kosovo Police.

\(^{87}\)Note: Based on the note dated 25.04.2016, BP in Pristina, has close the case with the reasoning that there are no elements that the criminal offence was committed.

\(^{88}\)Note: Based on the ruling issued on 22.06.2016, BP in Pristina has dismissed the legal notification for criminal offences “Abusing official position or authority” pursuant with Article 442 paragraph 1 of the CCRK, “Misappropriation in office” pursuant with Article 425 of the CCRK, “Misuse of the official information” pursuant with Article 423 of the CCRK, “Irresponsible medical treatment” pursuant with Article 260 of the CCRK, based on Article 82 par.1 point 1.1 in view of the fact that there is no reasonable doubt that the criminal offence was committed.
the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report was dismissed after 737 days after the deadline set with Article 82 of the CPCK.

28. Case PPN with number 149/2014 determined on 24.06.2016. **Dismissal of criminal report ruling** set forth by Civil Initiative for the Protection of the City of Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 442 paragraph 1 of the CCRK.

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP on 07.05.2014, meanwhile the Prosecution had decided to dismiss the criminal report on 24.06.2016. The treatment related to this criminal report had lasted for 770 days from the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report was dismissed after 740 days after the deadline set with Article 82 of the CPCK.

29. Case PPN with number 517-4/2017 determined on 10.06.2016. **Dismissal of criminal report ruling** set forth by NN citizen. Criminal offences “Abusing official position or authority” pursuant with Article 442 paragraph 1 of the CCRK, “Misuse of economic authorizations” pursuant with Article 236 par.1 of the CCRK.

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP on 03.07.2007, meanwhile the Prosecution had decided to dismiss the criminal report on 10.06.2016. The treatment related to this criminal report had lasted nearly 9 years, respectively 3265 days from the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been

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89 Note: Based on the ruling issued on 24.06.2016, BP in Pristina concordant with Article 82 par.1 point 1.1 of the CCRK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

90 Note: Based on the ruling issued on 10.06.2016, BP in Pristina concordant with Article 82 par.1 point 1. of the CCRK has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 442 paragraph 1 of the CCRK, “Misuse of position or authorizations in economy” pursuant with Article 236 par.1 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed.
limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report was dismissed after 1228 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013.

30. Case PPN with number 44/2015 determined on 10.06.2016. Dismissal of criminal report ruling set forth by UIECC. Criminal offence “Abusing official position or authority” pursuant with Article 442 par.1 related to par.2 point 2.2 of the CCRK.\(^{91}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 05.06.2014, meanwhile the Prosecution had decided to dismiss the criminal report on 10.06.2016. The treatment related to this criminal report had lasted for 735 days from the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report was dismissed after 705 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013.

31. Case PPN with number 367-1/2010 determined on 14.06.2016. Dismissal of criminal report ruling set forth by ACA. Criminal offence “Abusing official position or authority” pursuant with Article 442 paragraph 1 of the CCRK.\(^{92}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP on 11.05.2010, meanwhile the BP in Pristina had decided to dismiss the criminal report on 14.06.2016. The treatment related to this criminal report had lasted for 2225 days from the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report was dismissed after 1260 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013.

32. Case PPN with number 762-7/2008 determined on 10.06.2016. Dismissal of criminal report ruling set forth by NN citizen. Criminal offences “Abusing official position or authority” pursuant with Article 339 par.1 related to par.3 of the CCK, “Fraud in office” pursuant with Article 341 par.1 related to par.3 of the CCK.\(^{93}\)

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\(^{91}\) *Note:* Based on the ruling issued on 10.06.2016 BP in Pristina concordant with Article 82 par.1 point 1.1 of the CCRK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 442 par.1 related to par.2 point 2.2 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{92}\) *Note:* Based on the ruling issued on 14.06.2016, BP in Pristina concordant with Article 82 par.1 point 1.1 of the CCRK, has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 442 paragraph 1 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed.
**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP on 14.09.2008, meanwhile the BP in Pristina had decided to dismiss the criminal report on 10.06.2016. The treatment related to this criminal report had lasted for 2825 days from the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report was dismissed after 1226 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013.

33. Case PPN with number 885-9/13 determined on 16.05.2016. *Special report on the closure of the case* for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK.  

**KLI:** Characteristic of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.


**KLI:** Based on the report on the closure of the case, it is proven that the special report was submitted in the BP in Pristina on 05.11.2014, meanwhile the Prosecution had decided to dismiss the criminal report on 27.06.2016. The treatment related to this criminal report had lasted for 600 days from the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report (here the special report) was dismissed after 570 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013.

93 *Note:* Based on the ruling issued on 10.06.2016, BP in Pristina concordant with Article 82, paragraph 1 point 1.1 to KPCK has dismissed the criminal report for the criminal offences “Abusing official position or authority” pursuant with Article 339 par.1 related to par.3 of the CCK, “Fraud in office” pursuant with Article 341 par.1 related to par.3 of the CCK.  

94 *Note:* Based on the report dated on 16.05.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK referring a request for gathering data dated on 24.10.2013.  

95 *Note:* Based on the report dated on 27.06.2016, BP in Pristina has closed the case CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed.
35. Case PPN with number 214/2016 determined on 15.06.2016. **Official note** related to the special report set forth by Kosovo Police –UIECC. Criminal offence “Abusing official position or authority”.96

**KLI:** BP in Pristina has received special report on 09.06.2016. This Prosecution on 15.06.2016 decided to close the report with an official note. **Characteristic of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.**

36. Case PPN with number 606-12/2012 determined on 13.06.2016. **Report on the closure of the case** regarding the Official Note set forth by Kosovo Police-DIECC. Criminal offences “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK, a note related to the information of possible misuse in UCC Kosovo.97

**KLI:** Based on the report on the closure of the case, it is proven that the special report of police was submitted in the BP in Pristina on 16.07.2013, meanwhile the Prosecution had decided to dismiss the same one on 13.06.2016. The treatment related to this criminal report had lasted for 1413 days from the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the special report was dismissed after 1383 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013. **Characteristic of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.**

37. Case PPN with number 536/2015 determined on 17.06.2016. **Official note** related to the on the report notified set forth by Kosovo Police- UIP in Pristina regarding some misuses in the Municipality of Pristina.98

**KLI:** Based on the special note on the closure of the case, it is proven that the special report of the police was submitted in the BP in Pristina on 12.11.2015, meanwhile the Prosecution had decided to dismiss the same one on 17.06.2016. The treatment related to this criminal report had lasted for 217 days from the submission of the same one. However, with the entry into force of the New Criminal

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96 Note: Based on the official note dated on 15.06.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” of the CCRK in view of the fact that there are no elements that the criminal offence was committed.

97 Note: Based on the report dated on 13.06.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK with the reasoning that the same one was investigated by the Special Prosecution office of the Republic of Kosovo and the same case can not be investigated twice.

98 Note: Based on the official note dated on 17.06.2016, BP in Pristina has closed the case for the criminal offences of abusing CCRK in view of the fact that there are no elements that the criminal offence was committed.
Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the special report (here the Special report) was dismissed after 187 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013. Characteristic of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.


**KLI:** Based on the report on the closure of the case it is proven that this case was opened through an electronic mail (email) on 15.07.2013 in BP in Pristina. Meanwhile the Prosecution had decided to close the case on 13.06.2016. The treatment related to this case had lasted for 1063 days from the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 1033 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013. Characteristic of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

39. Case PPN with number 941-10/2013 determined on 24.06.2016. **Official note** regarding the Special Report of the Unit for Investigating Economic Crimes and Corruption in Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.100

**KLI:** Based on the special note, it is proven that the special report of the police was submitted in the BP in Pristina on 31.10.2013 meanwhile the Prosecution had decided to close the case on 24.06.2016. The treatment related to this case had lasted for 966 days from the submission of the same one. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article

99 Note: Based on the Report dated on13.06.2016 BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” pursuant with Article 339 par.3 related to par.1 of the CCK in view of the fact that this case has reached the statutory limitation since there have passed 6 years without undertaking any action.

100 Note: Based on the Note dated on 24.06.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK in view of the fact that there are no indications that the criminal offence exists.
82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 936 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013. Characteristic of this special note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

40. Case PPN with number 846-9/2013 determined on 05.04.2016. Official note on the closure of the case related to the Special report set forth by KPI. Criminal offence “Abusing official position or authority” of the CCRK.

KLI: Based on the special note, it is proven that the special report was submitted in the BP in Pristina on 21.06.2011, meanwhile for the same one the Prosecution had decided to close the case on 05.04.2016. The treatment related to this case had lasted for 1749 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 1161 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013. Characteristic of this special note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.


KLI: Based on the special note, it is proven that the special report was submitted in the BP in Pristina on 22.05.2014, meanwhile for the same one the Prosecution had decided to close the case on 07.04.2016. The treatment related to this case had lasted for 685 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 655 days after the deadline set with Article 82 of the CPCK. Characteristic of this special note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

101 Note: Based on the official note dated on 05.04.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” of the CCRK in view of the fact that there are no elements that the criminal offence was committed.

102 Note: Based on the official note dated on 07.04.2016, BP in Pristina has closed the case for the criminal offences “Accepting bribes” pursuant with Article 428 and “Giving bribes” pursuant with Article 429 of the CCRK in view of the fact that the criminal report was made based on a false testimony.
42. Case PPN with number 555/2015 determined on 29.03.2016. **Official note on the criminal report** set forth by Balkan Investigative Reporting Network BIRN and Internews Kosova. Criminal offence regarding the misuse of finance.\(^{103}\)

**KLI:** Based on the special note, it is proven that the criminal report was submitted in the BP in Pristina on 24.11.2015, meanwhile for the same one the Prosecution had decided to dismiss the case on 29.03.2016. The treatment related to this case had lasted for 127 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 97 days after the deadline set with Article 82 of the CPCK. Characteristic of this special note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

43. Case PPN with number 331/2015 determined on 05.02.2016. **Official note regarding the information** set forth by NN citizen. Criminal offence “Abusing official position or authority”.\(^{104}\)

**KLI:** Characteristic of this is the fact that the Prosecution did not refer to any legal provision related to the closure of the case. In this official note it is not mentioned neither the date of the information by NN citizen, it is impossible to calculate the treatment related to this information. Also it is written only the criminal offence, without referring to any relevant Article of the CCRK.

44. Case PPN with number 957-6/2012 determined on 25.03.2016. **Official note on the special report** set forth by UIECC in Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 422.\(^{105}\)

**KLI:** Based on the special note, it is proven that the special report was submitted in the BP in Pristina on 10.09.2015, meanwhile the Prosecution had decided to dismiss the case on 25.03.2016. The treatment related to this case had lasted for 198 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the

\(^{103}\)Note: Based on the official note dated on 29.03.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” in view of the fact that there are no elements that the criminal offence was committed.

\(^{104}\)Note: Based on the official note dated on 05.02.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” in view of the fact that there are no elements that the criminal offence was committed.

\(^{105}\)Note: Based on the official note dated on 25.03.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” pursuant with Article 422 in view of the fact that there are no elements that the criminal offence was committed.
legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 168 days after the deadline set with Article 82 of the CPCK. Characteristic of this special note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

45. Case PPN with number 598-10/2013 determined on 18.02.2016. Official note on the special report set forth by DIECC in Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.106

KLI: Based on the special note, it is proven that the special report was submitted in the BP in Pristina on 02.10.2013, meanwhile Prosecution had decided to dismiss the same one on 18.02.2016. The treatment related to this case had lasted for 868 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 838 days after the deadline set with Article 82 of the CPCK. Characteristic of this special note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

46. Case PPN with number 234/2015 determined on 05.05.2016. Official note about the note accepted by SPRK. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.107

KLI: Based on the official note, it is proven that the note was submitted in the BP in Pristina on 20.04.2015, meanwhile Prosecution had decided to dismiss the same one on 05.05.2016. The treatment related to this case had lasted for 380 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 350 days after the deadline set with Article 82 of the CPCK. Characteristic of this special note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

106 Note: Based on the official note dated on 18.02.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK in view of the fact that there are no elements that the criminal offence was committed.

107 Note: Based on the official note dated on 05.05.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” pursuant with Article 422 in view of the fact that there are no elements that the criminal offence was committed.

**KLI:** Based on the official note, it is confirmed that the report was submitted in BP in Pristina on 05.09.2013, meanwhile the Prosecution had decided to dismiss the same one on 14.01.2016. The treatment related to this case had lasted for 860 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 830 days after the deadline set with Article 82 of the CPCK. Characteristic of this special note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case. Moreover, in this decision Prosecution did not refer neither to any Article of the criminal offence for which the case was initiated.


**KLI:** Based on the official note, it is confirmed that the report was submitted in BP in Pristina on 03.10.2013, meanwhile the Prosecution had decided to dismiss the same one on 12.05.2016. The treatment related to this case had lasted for 951 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 921 days after the deadline set with Article 82 of the CPCK. Characteristic of this official note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.


**KLI:** Based on the official note, it is confirmed that the report was submitted in BP in Pristina on 15.09.2015, meanwhile the Prosecution had decided to dismiss the same one on 03.06.2016. The treatment related to this case had lasted for 261 days from the

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\(^{108}\) Note: Based on the official note dated on 14.01.2016, BP in Pristina has closed the case for the criminal offence “Accepting bribes” in view of the fact that there is no place for criminal prosecution.

\(^{109}\) Note: Based on the official note dated on 12.05.2013, BP in Pristina has closed the case in view of the fact that there are no elements that the criminal offence was committed.
submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 231 days after the deadline set with Article 82 of the CPCK. Characteristic of this official note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case. Moreover, Prosecution did not refer at all to the criminal offence for which the case was initiated.

50. Case PPN with number 898-5/2007 determined on 03.06.2016. Official note on the Information të parashtruar nga AKK. Criminal offence “Abusing official position or authority” of the CCRK.\textsuperscript{110}

\textbf{KLI:} Based on the official note, it is confirmed that the report was submitted in BP in Pristina on 13.02.2007, meanwhile the Prosecution had decided to dismiss the same one on 03.06.2016. The treatment related to this case had lasted for 3398 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the case was closed after 1219 days after the deadline set with Article 82 of the CPCK counted from January 1, 2013. Characteristic of this official note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case. Moreover, Prosecution did not refer at all to the criminal offence for which the case was initiated.

51. Case PP with number 364-5/2010 determined on 17.06.2016. Official note on the dismissal of the report. Criminal offence related to misuse.\textsuperscript{111}

\textbf{KLI:} Based on the official note, it is confirmed that the report was submitted in BP in Pristina on 11.01.2010, meanwhile the Prosecution had decided to dismiss the same one on 17.06.2016. The treatment related to this case had lasted for 2348 days from the submission of this report. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Pristina has violated this legal prescribed period of time, since the criminal report was dismissed after 1233 days after

\textsuperscript{110} Note: Based on the official note dated on 03.06.2016 BP in Pristina has dismissed this Information in view of the fact that there are no elements that the criminal offence was committed.

\textsuperscript{111} Note: Based on the ruling of 22.03.2016, BP in Pristina based on Article 158, paragraph 1, sub paragraph 1.1 of CCRK, has dismissed the criminal report “Abuse off position or official duty” pursuant with Article 422, paragraph 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed.
the deadline set with Article 82 of the CPCK counted from January 1, 2013. Characteristic of this official note is the fact that the Prosecution did not refer to any legal provision related to the closure of the case. Moreover, the criminal offence is not specified according to CCRK.


**KLI:** Based on the official note, it is confirmed that the report was submitted in the BP in Pristina on 23.06.2016, meanwhile the Prosecution had decided to close the case on 16.06.2016. According to the official note, the deciding time results to be before receiving the report regarding the case, and this discrepancy has prevented the calculation of the time from the receipt of the report to the placement. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

53. Case PPI with number 32/2013 determined on 22.03.2016. Termination of investigation ruling set forth by N.N. lawyer. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph of the CCRK.113

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 17.09.2012, meanwhile the Prosecution has initiated investigation on 11.11.2015. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal prescribed period of time, since had to initiate investigations within 30 days, meanwhile investigations have started nearly 3 years after the legal deadline, or 1005 days after the legal deadline, since 01.01.2013.

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112 Note: Based on the official note dated on 16.06.2016, BP in Pristina has closed the case for the criminal offence “Abusing official position or authority” pursuant with Article 339 of the CCRK in view of the fact that there are no elements that the criminal offence was committed.

113 Note: Based on the ruling issued on 22.03.2016, BP in Pristina based on Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had terminated investigation for the criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK in view of the fact that there’s no prove that the defendant has committed the criminal offence.
54. Case PP/II with number 4239/15 determined on 11.01.2016. **Termination of investigation ruling** set forth by Anti-Corruption Agency. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK.\(^{114}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Pristina on 10.07.2015, meanwhile the Prosecution has initiated investigation on 03.09.2015. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal prescribed period of time, since had to initiate investigations within 30 days, meanwhile investigations have started after 55 days, or 25 days after the legal deadline.

55. Case PP.II with number 2881/2015 determined on 01.02.2016. **Termination of investigation ruling** set forth by Anti-Corruption Agency. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 2 of the CCRK.\(^{115}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Office of the Chief State Prosecutor on 18.05.2015, meanwhile the same one has sent the case to the competence of BP in Pristina on 20.05.2015. BP in Pristina has taken a ruling to initiate investigations on 22.10.2015. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal prescribed period of time, since had to initiate investigations within 30 days, meanwhile investigations have started after 157 days, or 127 days after the legal deadline.

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\(^{114}\)Note: Based on the ruling issued on 11.01.2016, BP in Pristina concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had terminated investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.

\(^{115}\)Note: Based on the ruling issued on 01.02.2016, BP in Pristina concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had terminated investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.
56. Case PP/II with number 4004/15 determined on 08.01.2016. *Termination of investigation ruling* set forth by Anti-Corruption Agency. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 2 of the CCRK.\textsuperscript{116}

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Office of the Chief State Prosecutor on 03.07.2015, meanwhile the same one has sent the case to the competence of BP in Pristina on 13.07.2015. BP in Pristina has taken a ruling to initiate investigations on 08.09.2015. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal prescribed period of time, since had to initiate investigations within 30 days, meanwhile investigations have started after 78 days, or 38 days after the legal deadline.

57. Case PP/II with number 8908/15 determined on 04.03.2016. *Termination of investigation ruling* set forth by Anti-Corruption Agency. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 2 of the CCRK.\textsuperscript{117}

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP on 26.12.2014, meanwhile the same one has initiated investigation on 18.09.2015. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal prescribed period of time, since had to initiate investigations within 30 days, meanwhile investigations have started after 266 days, or 236 days after the legal deadline.

58. Case PP/II with number 8909/14 determined on 22.04.2016. *Termination of investigation ruling* set forth by Anti-Corruption Agency. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 2 of the CCRK.\textsuperscript{118}

\textsuperscript{116}Note: Based on the ruling issued on 08.01.2016, BP in Pristina concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had terminated investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.

\textsuperscript{117}Note: Based on the ruling issued on 04.03.2016, BP in Pristina concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had terminated investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.
**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Office of the Chief State Prosecutor on 23.12.2014, meanwhile BP in Pristina has initiated investigation on 15.01.2016. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal prescribed period of time, since had to initiate investigations within 30 days, meanwhile investigations have started after 387 days, or 357 days after the legal deadline.

59. Case PP/II with number 4243/15 determined on 22.04.2016. **Termination of investigation ruling** set forth by Anti-Corruption Agency. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 2 of the CCRK.\(^{119}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Office of the Chief State Prosecutor on 15.07.2015, meanwhile the same one has sent the case to the competence of BP in Pristina on 21.07.2015. BP in Pristina has taken a ruling to initiate investigations on 08.09.2015. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal prescribed period of time, since had to initiate investigations within 30 days, meanwhile investigations have started after 55 days, or 25 days after the legal deadline.

60. Case PP.II with number 3993/15 determined on 27.01.2016. **Termination of investigation ruling** set forth by Anti-Corruption Agency. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK.\(^{120}\)

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\(^{119}\)Note: Based on the ruling issued on 22.04.2016, BP in Pristina concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had terminated investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.

\(^{120}\)Note: Based on the ruling issued on 27.01.2016, BP in Pristina concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had terminated investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.
Based on the ruling, it is confirmed that the criminal report was submitted in the Office of the Chief State Prosecutor on 08.07.2015, meanwhile the same one has sent the case to the competence of BP in Pristina on 13.07.2015. BP in Pristina has taken a ruling to initiate investigations on 08.09.2015. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal prescribed period of time, since had to initiate investigations within 30 days, meanwhile investigations have started after 43 days, or 13 days after the legal deadline.

61. Case PP.II with number 4006/2014 determined on 21.03.2016. Termination of investigation ruling set forth by Anti-Corruption Agency. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK.121

Based on the ruling, it is confirmed that the criminal report was submitted in the Office of the Chief State Prosecutor on 21.05.2014, meanwhile the same one has sent the case to the competence of BP in Pristina on 28.05.2014. BP in Pristina has taken a ruling to initiate investigations on 12.09.2014. However, with the entry into force of the New Criminal Procedure Code after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Pristina has violated this legal prescribed period of time, since had to initiate investigations within 30 days, meanwhile investigations have started after 114 days, or 84 days after the legal deadline.

CLOSURE OF CASES

62. Case PPN with number 633-1/2011 determined on 03.06.2016. Report on the closure of the case according to the special report set forth by Kosovo Police-DIECC Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK.122

Based on the report on the closure of the case it is proven that the report was submitted in BP in Pristina on 07.10.2015, meanwhile the same one decided to close the report on 03.06.2016. The treatment related to this report has lasted for 240 days, or

121Note: Based on the ruling issued on 21.03.2016, BP in Pristina concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had terminated investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” pursuant with Article 437, paragraph 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.

122Note: Based on the report dated on 03.06.2016, BP in Pristina has closed the special report for the criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK in view of the fact that there are no elements that the criminal offence was committed by the defendant.
210 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

63. Case PPN/I with number 496/2015 determined on 03.05.2016. **Report on the closure of the case according to the special report** set forth by Kosovo Police-DIECC Pristina. Criminal offence suspected in this case had to do with corruptive actions and legalization of false content.\(^\text{123}\)

**KLI:** Based on the official note it is proven that the report was submitted in BP in Pristina on 22.10.2015, meanwhile the same one decided to close the report on 03.05.2016. The treatment related to this report has lasted for 194 days, or 164 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.

64. Case PPN with number 174-5/2006 determined on 25.05.2016. **Official note on closure of the special report** received by Kosovo Police-RUECC in Pristina. Criminal offence suspected in this case has to do with equalization and financial compensation between the two economic operators.\(^\text{124}\)

**KLI:** Based on the official note it is proven that the report was submitted in BP in Pristina on 27.03.2006, meanwhile the same one decided to close the report on 25.05.2016. The treatment related to this report has lasted for more than ten (10) years. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.

65. Case PPN/I with number 2041/2012 determined on 20.05.2016. **Official note on closure of the special report** received by Kosovo Police- RUECC in Pristina. Criminal offence suspected in this case has to do with irregularities in the former Municipal Court in Drenas.\(^\text{125}\)

\(^\text{123}\)Note: Based on the official note dated on 03.05.2016, BP in Pristina has closed the special report, in view of the fact that there are no elements that the criminal offence was committed.

\(^\text{124}\)Note: Based on the official note dated on 25.05.2016, BP in Pristina has closed the special report, in view of the fact that there is no damage or consequence caused.

\(^\text{125}\)Note: Based on the official note dated on 20.05.2016, BP in Pristina has closed the special report, in view of the fact that there are no elements that the criminal offence was committed.
KLI: Based on the official note it is proven that the report was submitted in BP in Pristina on 11.02.2014, meanwhile the same one decided to close the report on 20.05.2016. The treatment related to this report has lasted for 830 days, or 800 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.

66. Case PPN/I with number 74/2014 determined on 10.05.2016. Official note on closure of the special report received by Kosovo Police- RUECC in Pristina. Criminal offence suspected in this case has to do with illegal cutting of forest in Koliq.  

KLI: Based on the official note it is proven that the report was submitted in BP in Pristina on 20.03.2014, meanwhile the same one decided to close the report on 10.05.2016. The treatment related to this report has lasted for more than two (2) years, or 782 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.

67. Case PPN with number 987/2012 determined on 29.04.2016. Official note on closure of the special report received by Kosovo Police- RUECC in Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.

KLI: Based on the official note it is proven that the report was submitted in BP in Pristina on 02.03.2016, meanwhile the same one decided to close the report on 29.04.2016. The treatment related to this report has lasted for 54 days, or 24 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

68. Case PPN/I with number 347/2015 determined on 19.05.2016. Official note on closure of the special report received by Kosovo Inspectorate Police. Criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK and “Disclosure of official information” pursuant with Article 433, paragraph 1 of the CCRK.

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126 Note: Based on the official note dated on 10.05.2016, BP in Pristina has closed the special report, in view of the fact that there are no elements that the criminal offence was committed.

127 Note: Based on the official note dated on 29.04.2016, BP in Pristina has closed the special report, in view of the fact that there is no reasonable doubt that the criminal offence was committed.
KLI: Based on the official note it is proven that the report was submitted in BP in Pristina on 29.03.2016, meanwhile the same one decided to close the report on 19.05.2016. The treatment related to this report has lasted for 51 days, or 21 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

69. Case PPN/I with number 646/2015 determined on 20.04.2016. Official note on closure of the special report received by Kosovo Police. Criminal offence suspected in this case has to do with the prevention of crime and corruption in the Municipality of Kosovo Polje.129

KLI: Based on the official note it is proven that the report was submitted in BP in Pristina on 22.02.2016, meanwhile the same one decided to close the report on 20.04.2016. The treatment related to this report has lasted for 58 days, or 28 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case, as well as the fact that the criminal offence has not been determined in accordance with the Criminal Code of the Republic of Kosovo.

70. Case PPN/I with number 334/2015 determined on 14.04.2016. Official note on closure of the report notified received by Kosovo Police. Criminal offence suspected in this case has to do with the actions of the health personnel in a prison in Kosovo.130

KLI: Based on the official note it is proven that the report was submitted in BP in Pristina on 29.03.2016, meanwhile the same one decided to close the report on 19.05.2016. The treatment related to this report has lasted for 51 days, or 21 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

128Note: Based on the official note dated on 19.05.2016, BP in Pristina has closed the special report for criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK and “Disclosure of official secret” pursuant with Article 433, paragraph 1 of the CCRK, in view of the fact that there are no sufficient evidences that prove that the criminal offence was committed.

129Note: Based on the official note dated on 20.04.2016, BP in Pristina has closed the special report, in view of the fact that there are no elements that the criminal offence was committed.

130Note: Based on the official note dated on 14.04.2016, BP in Pristina has closed the informing report, in view of the fact that there are no elements that the criminal offence was committed.
BASIC PROSECUTION IN PRIZREN

1. Case PP with number 331/2015 determined on 11.02.2016. **Dismissal of criminal report ruling** set forth by Police Regional Directorate in Prizren- Auto crimes team SRH in Prizren. Criminal offence ” Falsifying official documents” pursuant with Article 434 par.1 of the CCRK.\textsuperscript{131}

**KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 07.12.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 11.02.2016. The treatment related to this criminal report had lasted for 65 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 35 days after the legal deadline set on Article 82 of the CPCK.**

2. Case PP with number 34/16 determined on 03.03.2016. **Termination of investigation ruling**, compiled by BP in Prizren with a criminal report set forth by Unit of Enocmic Crimes in Prizren. Criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK.\textsuperscript{132}

**KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 28.05.2015, meanwhile the Prosecution had decided to initiate investigations on 09.02.2016. The treatment related to this criminal report had lasted for 256 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the investigations were initiated after 226 days after the legal deadline set on Article 82 of the CPCK.**

3. Case PP with number 428/2015 determined on 14.01.2016 **Dismissal of criminal report ruling** set forth by NN lawyer. Criminal offence “Abusing official position or authority” pursuant with Article 339 of the CCK.\textsuperscript{133}

\textsuperscript{131} Note: Based on the ruling issued on 11.02.2016, BP in Prizren concordant with Article 82 par.1.1 of the CCRK has dismissed the criminal report for the criminal offence “Falsifying official document” pursuant with Article 434 par.1 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\textsuperscript{132} Note: Based on the ruling issued on 29.02.2016, BP in Prizren concordant with Article 158 par.1 pika 1 and 1.6 of the CCRK has terminated investigation for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed and that there are other circumstances that exclude the criminal prosecution.
**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 15.05.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 14.01.2016. The treatment related to this criminal report had lasted for 243 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 213 days after the legal deadline set on Article 82 of the CPCK.

4. Case PPN with number 24/13-I determined on 10.02.2016. **Dismissal of information ruling** as a criminal report set forth by NN citizen on 25.01.2013. Criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK and “Misappropriation of another’s property” pursuant with Article 330 of the CCRK.\(^{134}\)

**KLI:** Based on the ruling, it is confirmed that the information was submitted in the BP in Prizren on 25.01.2013, meanwhile the Prosecution had decided to dismiss it on 10.02.2016. The treatment related to this criminal report had lasted for 1110 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 1080 days after the legal deadline set on Article 82 of the CPCK.

5. Case PPN with number 291/2015 determined on 07.03.2016. **Dismissal of criminal report ruling** set forth by NN citizen on 11.08.2015. Criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK.\(^{135}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 11.08.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 07.03.2016. The treatment related to this criminal report had lasted for 208 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal

\(^{133}\) **Note:** Based on the ruling issued on 14.01.2016, BP in Prizren concordant with Article 82 par.1 point 1.2 has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 339 of the CCK in view of the fact that the period of statutory of limitation for the criminal prosecution was reached.

\(^{134}\) **Note:** Based on the ruling issued on 10.02.2016, BP in Prizren concordant with Article 82 par.1 point 1.2 has dismissed the information in form of the criminal report for the criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK and “Misappropriation of another’s property” pursuant with Article 330 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{135}\) **Note:** Based on the ruling issued on 07.03.2016, BP in Prizren concordant with Article 82 par.1, subpar.1 point 1.5 of the CCRK has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK in view of the fact that there are other circumstances that exclude criminal prosecution.
prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 178 days after the legal deadline set on Article 82 of the CPCK.

6. Case PPN with number 591/2015 determined on 03.03.2016. Dismissal of criminal report ruling set forth by NN citizen on 18.12.2015. Criminal offence “Abusing official position or authority” pursuant with Article 422 par.1. of the CCRK.\textsuperscript{136}

**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 18.12.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 03.03.2016. The treatment related to this criminal report had lasted for 75 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 45 days after the legal deadline set on Article 82 of the CPCK.

7. Case HP with number 321/15 determined on 01.02.2016. Dismissal of criminal report ruling set forth by UIECC on 31.03.2015. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.\textsuperscript{137}

**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 31.03.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 01.02.2016. The treatment related to this criminal report had lasted for 306 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 276 days after the legal deadline set on Article 82 of the CPCK.

\textsuperscript{136}Note: Based on the ruling issued on 03.03.2016, BP in Prizren concordant with Article 82 par.1 point 1.1 of the CCRK has dismissed the criminal report for the criminal offence Abusing official position or authority” pursuant with Article 422 par.1. of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\textsuperscript{137}Note: Based on the ruling issued on 01.02.2016, BP in Prizren concordant with Article 82 par.1 point 1.1 of the CCRK has dismissed the criminal report for the criminal offence Abusing official position or authority” pursuant with Article 422 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed.
8. Case PPN with number 384/2015 determined on 28.04.2016. Dismissal of criminal report ruling set forth by NN citizen on 22.09.2015. Criminal offence “Abusing official position or authority” pursuant with Article 422 par.2.1 and with 2.2 of the CCRK.\footnote{Note: Based on the ruling issued on 28.04.2016 BP in Prizren concordant with Article 82 par.1, sub par.1, point 1.5 of the CCRK CCRK has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.2.1 and by 2.2 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed and there are other circumstances that exclude the criminal prosecution.}

\textit{KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 22.09.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 28.04.2016. The treatment related to this criminal report had lasted for 219 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 189 days after the legal deadline set on Article 82 of the CPCK.}

9. Case PPN with number 535/2015 determined on 06.04.2016. Dismissal of criminal report ruling set forth by NN citizen on 12.10.2015. Criminal offence ”Conflict of interest” pursuant with Article 424 par.1 of the CCRK.\footnote{Note: Based on the ruling issued on 06.04.2016, BP in Prizren concordant with Article 82, point 1 and 1.5 of the CCRK has dismissed the criminal report for the criminal offence “Conflict of interest” pursuant with Article 424 par.1 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed and there are other circumstances that exclude the criminal prosecution.}

\textit{KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 12.10.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 06.04.2016. The treatment related to this criminal report had lasted for 167 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 137 days after the legal deadline set on Article 82 of the CPCK.}

10. Case PPN with number 536/2015 determined on 14.04.2016. Dismissal of criminal report ruling set forth by NN citizen on 01.07.2015. Criminal offences “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK and “Falsifying official document” pursuant with Article 434 par.1 of the CCRK.\footnote{Note: Based on the ruling issued on 14.04.2016, BP in Prizren concordant with Article 82 par.1, sub par.1, point 1.5 of the CCRK has dismissed the criminal report for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 and by 2.2 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed and there are other circumstances that exclude the criminal prosecution.}
Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 01.07.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 14.04.2016. The treatment related to this criminal report had lasted for 288 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 258 days after the legal deadline set on Article 82 of the CPCK.

11. Case PPN with number 50/16 determined on 13.04.2016. Dismissal of informing report ruling set forth by UIECC in Prizren. Criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK.¹⁴¹

Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Prizren on 04.02.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 13.04.2016. The treatment related to this criminal report had lasted for 68 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Prizren has violated this legal prescribed period of time, since the criminal report was dismissed after 38 days after the legal deadline set on Article 82 of the CPCK.

BASIC PROSECUTION IN GJILAN

1. Case PP.I with number 16/2016 determined on 03.02.2016. Dismissal of criminal report ruling set forth by N.N. person. Criminal offences “Abusing official position or authority” pursuant with Article 422 paragraph 1 related to Article 31 of the CCRK; “Tampering with evidence” pursuant with Article 397 paragraph 2 related to paragraph 1 of Article 31 of the CCRK; “Issuing unlawful judicial decision” pursuant with Article 432 paragraph 1 related to Article 31 of the CCRK and

¹⁴⁰ Note: Based on the ruling issued on 14.04.2016, BP in Prizren concordant with Article 82 par.1sub par.1.1 of the CCRK has dismissed the criminal report for the criminal offences “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK and “Falsifying official document” pursuant with Article 434 par.1 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed .

¹⁴¹ Note: Based on the ruling issued on 13.04.2016 BP in Prizren has dismissed the Informative Report for the criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK that there is no inditement for criminal prosecution.
“Preventing exercise of the right to use legal remedies” pursuant with Article 208 paragraph 2 related to paragraph 1 and Article 31 of the CCRK.\(^{142}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 16.10.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 03.02.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 110 days, or 80 days after the legal deadline.

2. Case PP.I with number 21/2016 determined on 26.02.2016. **Dismissal of criminal report ruling** set forth by N.N. person. Criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 3 related to paragraph 1 of the CCRK.\(^{143}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 27.04.2014, meanwhile the Prosecution had decided to dismiss the criminal report on 26.02.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 670 days, or 640 days after the legal deadline.

3. Case PP.I with number 28/2016 determined on 29.02.2016. **Dismissal of criminal report ruling** set forth by N.N. person. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.\(^{144}\)

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\(^{142}\) **Note:** Based on the ruling issued on 03.02.2016, BP in Gjilan concordant with Article 82 paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report, for criminal offences mentioned above, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{143}\) **Note:** Based on the ruling issued on 26.02.2016, BP in Gjilan concordant with Article 82 paragraph 1 sub paragraph 1.1 of the CPCRK has dismissed the criminal report, for criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 3 related to paragraph 1 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{144}\) **Note:** Based on the ruling issued on 29.02.2016, BP in Gjilan concordant with Article 82 paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report, for criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.
KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 15.01.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 29.02.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 45 days, or 15 days after the legal deadline.


KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 19.08.2013, meanwhile the Prosecution had decided to dismiss the criminal report on 18.02.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 913 days, or 883 days after the legal deadline.

1. Case PP.I with number 20/2016 determined on 29.02.2016. Dismissal of criminal report ruling set forth by N.N.. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.146

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 12.01.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 29.02.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 48 days, or 18 days after the legal deadline.

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145 Note: Based on the ruling issued on 18.02.2016, BP in Gjilan concordant with Article 82, paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Issuing unlawful judicial decision” pursuant with Article 346 of the CCRK, in view of the fact that the reasonable doubt that existed, does not present a sufficient basis.

146 Note: Based on the ruling issued on 29.02.2016, BP in Gjilan concordant with Article 82, paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the same one for criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.
2. Case PP.I with number 6/2016 determined on 21.03.2016. **Dismissal of criminal report ruling** set forth by Anti-Corruption Agency in Pristina. Criminal offence “Abusing official position or authority” pursuant with Article 422 related to Article 31 of the CCRK.\(^{147}\)

**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 05.01.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 21.03.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 76 days, or 46 days after the legal deadline.

3. Case PP.I with number 18/2016 determined on 29.03.2016. **Dismissal of criminal report ruling** set forth by N.N. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.\(^{148}\)

**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 12.01.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 29.03.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 77 days, or 47 days after the legal deadline.

4. Case PP.I with number 22/2016 determined on 08.03.2016. **Dismissal of criminal report ruling** set forth by N.N. Criminal offences “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK’ “Issuing unlawful judicial decision” pursuant with 432 of the CCRK and “Manipulation with evidence” pursuant with 397 paragraph 2 of the CCRK.\(^{149}\)

\(^{147}\) **Note**: Based on the ruling issued on 29.02.2016, BP in Gjilan concordant with Article 82, paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422 related to Article 31 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{148}\) **Note**: Based on the ruling issued on 29.03.2016, BP in Gjilan concordant with Article 82, paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{149}\) **Note**: Based on the ruling issued on 08.03.2016, BP in Gjilan concordant with Article 82, paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK “Issuing unlawful judicial decision” pursuant with Article 432 of the CCRK as well as the “Manipulation with evidence” pursuant with Article 397 paragraph 2 of the CCRK.
**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 12.01.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 08.03.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 56 days, or 26 days after the legal deadline.

5. Case PP.I with number 59/2016 determined on 29.03.2016. **Dismissal of criminal report ruling** set forth by N.N. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.¹⁵⁰

**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 25.02.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 29.03.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 33 days, or 3 days after the legal deadline.

6. Case PP.I with number 17/2016 determined on 24.03.2016. **Dismissal of criminal report ruling** set forth by N.N. Criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK.¹⁵¹

**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 18.11.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 24.03.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 128 days, or 98 days after the legal deadline.

7. Case PP.I with number 19/2016 determined on 08.03.2016. **Dismissal of criminal report ruling** set forth by N.N. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.¹⁵²

¹⁵⁰ *Note:* Based on the ruling issued on 29.03.2016, BP in Gjilan concordant with Article 82, paragraph 1.5 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that are other circumstances that exclude the criminal prosecution.

¹⁵¹ *Note:* Based on the ruling issued on 24.03.2016, BP in Gjilan concordant with Article 82, paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.
**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 12.01.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 08.03.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 56 days, or 26 days after the legal deadline.

8. Case PP.I with number 236/2015 determined on 04.03.2016. **Dismissal of criminal report ruling** set forth for the criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK.\(^{153}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 10.12.2015, meanwhile the Prosecution had decided to initiate the investigations on 28.01.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has initiated investigations after 49 days after the submission of the criminal report, or 19 days after the legal deadline to decide on the criminal report. While in this case, according to the ruling of BP in Gjiilan, investigation was terminated on 04.03.2016.

9. Case PPN.I with number 283/2015 determined on 25.04.2016. **Dismissal of criminal report ruling** set forth by N.N. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK, “Trading in influence” pursuant with Article 431 of the CCRK.\(^{154}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 22.10.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 25.04.2016. Whereas with the new Criminal Procedural Code entering into

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\(^{152}\) Note: Based on the ruling issued on 08.03.2016, BP in Gjilan concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.

\(^{153}\) Note: Based on the ruling issued on 04.03.2016, BP in Gjilan concordant with Article 158 paragraph 1, sub paragraph 1.1 of the CPCRK, has decided to terminate investigation for the criminal offence “Abusing official position or authority” pursuant with Article 422 paragraph 1 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offence was committed.

\(^{154}\) Note: Based on the ruling issued on 25.04.2016, BP in Gjilan concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK, “Trading in influence” pursuant with Article 431 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed.
force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 186 days, or 156 days after the legal deadline.

10. Case PP.I with number 117/2016 determined on 15.06.2016. **Dismissal of criminal report ruling** set forth by N.N. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1.

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 07.03.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 15.06.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 100 days, or 70 days after the legal deadline.

11. Case PPN.I with number 295/2015 determined on 03.06.2916. **Dismissal of criminal report ruling** set forth by N.N. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 23.11.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 03.06.2016. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Gjilan has violated this legal prescribed period of time, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 193 days, or 163 days after the legal deadline.

12. Case PPN.I.no.with number 285/2015 determined on 26.01.2016. **Official note.** Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.

**Note:** Based on the ruling issued on 15.06.2016, BP in Gjilan concordant with Article 82 paragraph i 1, sub paragraph 1.1 of the CCRK, has dismissed the criminal report for criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1, in view of the fact that there is no reasonable doubt that the criminal offence was committed by the defendant.

**Note:** Based on the ruling issued on 03.06.2016, BP in Gjilan concordant with Article 82 paragraph 1 sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.

**Note:** Based on the official note dated on 26.01.2016, BP in Gjilan after the receipt of the request dated on 16.11.2015 has closed the case, due to the fact that there is no misunderstanding.
KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjilan on 16.11.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 26.01.2016. The treatment related to this report has lasted for 71 days. Based on Article 82 of the CPCK, results that BP in Gjilan has dismissed the report 41 days after the legal deadline. Characteristic for the dismissal of this report is the fact that the Prosecution did not refer to any legal provision related to the closure of the case.

BASIC PROSECUTION IN MITROVICA

1. Case PP with number 276/2015 determined on 24.05.2016. Dismissal of criminal report ruling set forth by Kosovo Police-Unit in charge of fighting economic crimes and corruption in Mitrovica. Criminal offence “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK.¹⁵⁸

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Mitrovica on 24.05.2016. The treatment related to this criminal report had lasted for 1805 days from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Mitrovica has violated this legal prescribed period of time, since the criminal report was dismissed after 1210 days after the legal deadline set on CPCK, after January 1, 2013.

2. Case PP with number 523/2011 determined on 23.05.2016. Dismissal of criminal report ruling set forth by Kosovo Police-Regional Unit for investigations in Mitrovica. Criminal offence “Abusing official position or authority” pursuant with Article 339 paragraph 2 of the CCK.¹⁵⁹

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Mitrovica on 31.05.2011, meanwhile the Prosecution had decided to dismiss the criminal report on 23.05.2016. The treatment related to this criminal report had lasted for 1818 from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that

¹⁵⁸ Note: Based on the ruling issued on 24.05.2016 BP in Mitrovica concordant with Article 82 paragraph 1.1 of the CCRK, has dismissed the same one for criminal offences “Abusing official position or authority” pursuant with Article 422 par.1 of the CCRK in view of the fact that there is no reasonable doubt that the criminal offence was committed.

¹⁵⁹ Note: Based on the ruling issued on 23.05.2016 BP in Mitrovica concordant with Article 82 paragraph 1.1 of the CCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 339 paragraph 2 of the CCK in view of the fact that there is no reasonable doubt that the criminal offence was committed.
the BP in Mitrovica has violated this legal prescribed period of time, since the criminal report was dismissed after 1209 days after the legal deadline set on CPCK, after January 1, 2013.

3. Case PP with number 360/2015 determined on 19.02.2016. **Dismissal of criminal report ruling** set forth by Kosovo Police-Unit in charge of fighting economic crimes and corruption in Mitrovica. Criminal offences “Abusing official position or authority” pursuant with Article 339 paragraph 1 of the CCK and “Trading in influence” pursuant with Article 345 paragraph 1 of the CCK.

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Mitrovica on 26.10.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 19.02.2016. The treatment related to this criminal report had lasted for 115 from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Mitrovica has violated this legal prescribed period of time, since the criminal report was dismissed after 85 days after the legal deadline set on CPCK, after January 1, 2013.

4. Case PP with number 196/2012 determined on 29.02.2016. **Termination of investigation ruling** was taken by BP in Mitrovica. Criminal offences “Abusing official position or authority” pursuant with Article 339 paragraph 3 related to par. 1 of the CCK, “Fraud in office” pursuant with Article 341 par.3 related to par.1 of the CCK and “Falsifying official document” pursuant with Article 348 par.1 of the CCK.

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Mitrovica on 25.05.2012, meanwhile the Prosecution had decided to dismiss the criminal report on 29.02.2016. The treatment related to this criminal report had lasted for 1375 from its submission. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Mitrovica has violated this legal prescribed period of time, since the criminal report was dismissed after 1115 days after the legal deadline set on CPCK, after January 1, 2013.

5. Case PP with number 360/2015 determined on 19.02.2016. **Report on the case file** by BP in Mitrovica. Criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK, ”Trading in influence” pursuant with Article 431 of the CCRK.
**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Mitrovica on 30.10.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 19.02.2016. The treatment related to this criminal report had lasted for 112 days from the receipt of the same one. Whereas with the new Criminal Procedural Code entering into force after January 1, 2013, where the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82), results that the BP in Mitrovica has violated this legal prescribed period of time, since the criminal report was dismissed after 81 days after the legal deadline set on CPCK, after January 1, 2013.

**BASIC PROSECUTION IN PEJA**

1. Case PP. I with number 203/14 determined on 25.02.2016. *Termination of investigation ruling by criminal report* set forth by Directorate for Economic Crimes and Corruption in Peja. Criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 and “Misuse of economic authorizations” pursuant with Article 290, paragraph 1.5 of the CCRK.\(^{160}\)

**KLI**: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 13.06.2014, meanwhile the Prosecution decided to initiate investigation on 25.03.2015. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the investigations had to be initiated within 30 days, while investigations have started after 285 days, or 255 days after the legal deadline. The same Prosecution, after investigations, on 25.02.2016 decided to terminate investigations.

2. Case PP with number 404/14 determined on 08.02.2016. *Termination of investigation ruling by criminal report* set forth by N.N citizen. Criminal offences “Abusing official position or authority” pursuant with Article 339, paragraph 3 of the CPC and “Falsifying official document” pursuant with Article 343, paragraph 3, related to Article 31 of the CCRK.\(^{161}\)

\(^{160}\)Note: Based on the ruling issued on 25.02.2016, BP in Peja concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had decided to terminate investigation for criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 and “Misuse of authorizations in economy” pursuant with Article 290, paragraph 1.5 of the CRKR, in view of the fact that there are not enough evidences to prove the exciting of the criminal offence.

\(^{161}\)Note: Based on the ruling issued on 08.02.2016, BP in Peja concordant with Article 231, paragraph 1, sub paragraph 1.1 of the CPCRK, had decided to terminate investigation for criminal offences “Abusing official position or authority” pursuant with Article 339, paragraph 3 of the CPC and “Falsifying official document” pursuant with Article 343, paragraph 3, related to Article 31 of the CRKR, in view of the fact that there was not proven that there exists the damage or the injured persons.
KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 07.07.2014, meanwhile the Prosecution decided to initiate investigation on 04.02.2015. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the investigations had to be initiated within 30 days, while investigations have started after 212 days, or 182 days after the legal deadline. The same Prosecution, after investigations, on 08.02.2016 decided to terminate investigation.

3. Case PP with number 195/2015 determined on 29.03.2016. **Termination of investigation ruling by criminal report** set forth by N.N citizen. Criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 and “Falsifying official document” pursuant with Article 434, paragraph 1 of the CCRK.\(^{162}\)

**KLI:** The characteristic of this case is that the termination of investigation ruling contains no information regarding the date of the initiation of investigation. However, based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 16.07.2015, meanwhile the Prosecution on 14.09.2015 has authorized Directorate for Economic Crimes and Corruption in Peja, to undertake actions, in order to highlight the case. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja, even from the authorization date of Directorate for Economic Crimes and Corruption in Peja, has violated this legal deadline, since the termination of investigation ruling had to be issued within 30 days. Meanwhile, the same one was taken after 60 days, or 30 days after the legal deadline. The same Prosecution, after investigations, on 29.03.2016 decided to terminate investigation.

1. Case PP with number 250/15 determined on 29.03.2016. **Termination of investigation ruling by criminal report** set forth by N.N citizen. Criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 and “Falsifying official document” pursuant with Article 434, paragraph 1 of the CCRK.\(^{163}\)

\(^{162}\)Note: Based on the ruling issued on 29.03.2016, BP in Peja concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had decided to terminate investigation for criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 and “Falsifying official document” pursuant with Article 434, paragraph 1 of CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.

\(^{163}\)Note: Based on the ruling issued on 29.03.2016, BP in Peja concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had decided to terminate investigation for criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 and “Falsifying official document” pursuant with Article 434, paragraph 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.
KLI: Based on the termination of investigation ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 02.09.2015, meanwhile the Prosecution on 14.09.2015 has authorized Directorate for Economic Crimes and Corruption in Peja, to verify the data on the criminal report and other actions in order to highlight the case. From Police Special Report, dated 13.10.2015, it is found that this case is resolved in a civil contest. On 08.12.2015 the Prosecution engaged the geodesy expert, to give a professional opinion in order to highlight the case, who on 05.01.2016 has submitted the expertise in the Prosecution. Meanwhile, on 08.01.2016 the Prosecution has undertaken a ruling to initiate investigation. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the investigations had to be initiated within 30 days. While investigations have started after 128 days, or 98 days after the legal deadline. The same Prosecution, after investigations, on 29.03.2016 decided to terminate investigation.

2. Case PP/I with number 356/2015 determined on 14.03.2016. Termination of investigation ruling by criminal report set forth by N.N citizen. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph and 2, under paragraph 2.6, related to Article 31 of the CCRK.164

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 11.12.2015, meanwhile the Prosecution decided to initiate investigation on 10.02.2016 However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the investigations had to be initiated within 30 days, while investigations have started after 61 days, or 31 days after the legal deadline. The same Prosecution, after investigations, on 14.03.2016 decided to terminate investigation.

3. Case PPN with number 6/2016 determined on 16.03.2016. Prosecutions official note set forth by Unit in charge of fighting economic crimes and corruption in Peja. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1, related to Article 31 of the CCRK.165

164Note: Based on the ruling issued on 14.03.2016, BP in Peja concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CPCRK, had decided to terminate investigation for criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 and 2, sub paragraph 2.6, related to Article 31 of the CCRK, in view of the fact that there was not proved the purpose of the damage caused, neither the material gain.
**KLI:** Based on the official note results that the report of the Directorate for Economic Crimes and Corruption was submitted in the BP in Peja on 03.02.2016, meanwhile the Prosecution decided to initiate investigation on 16.03.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the investigations had to be initiated within 30 days, while investigations have started after 41 days, or 11 days after the legal deadline.

4. Case PP/I with number 392/13 determined on 30.06.2016. Term
   ermination of investigation ruling by criminal report set forth by N.N citizen. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 and 2, under paragraph 2.6, related to Article 31 of the CCRK.166

**KLI:** Based on the ruling, it is confirmed that the criminal report submitted in the BP in Peja on 17.12.2013, was submitted against three persons as co-perpetrators of the same criminal offence. Meanwhile, the Prosecution has initiated investigation on 22.03.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the investigations had to be initiated within 30 days, while investigations have started after 826 days, or 796 days after the legal deadline. During the investigation phase on this case, BP in Peja has found elements of the criminal offence for two out of three defendants, therefore on 30.06.2016 has filed an indictment against them.

1. Case PP with number 367/2015 determined on 06.04.2016. Term
   ermination of investigation ruling by criminal report set forth by N.N lawyer. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK.167

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 16.12.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 06.04.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribing period of time of granting a decision concerning the criminal report has been limited

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166Note: Based on the ruling issued on 16.03.2016, BP in Peja had decided to terminate investigation for criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK, in view of the fact that there was not found that the presented one is the perpetrator of the criminal offence.

167Note: Based on the ruling issued on 30.06.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422 of the CPCRK, in view of the fact that the presented ones are not the perpetrators of the criminal offence.
to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 112 days, or 82 days after the legal deadline.

2. Case PP/I with number 368/15 determined on 07.04.2016. **Termination of investigation ruling by criminal report** set forth by N.N lawyer. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK.\(^{168}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 22.12.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 07.04.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 107 days, or 77 days after the legal deadline.

3. Case PP/I with number 108/16 determined on 20.05.2016. **Termination of investigation ruling by criminal report** set forth by Directorate for Economic Crimes and Corruption in Peja. Criminal offence “Conflict of interest” pursuant with Article 424, paragraph 1 of the CCRK.\(^{169}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 07.04.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 20.05.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 43 days, or 13 days after the legal deadline.

4. Case PP/I with number 109/16 determined on 26.05.2016. **Termination of investigation ruling by criminal report** set forth by Directorate for Economic Crimes and Corruption in Peja. Criminal offence “Conflict of interest” pursuant with Article 424, paragraph 1 of the CCRK.\(^{170}\)

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\(^{168}\)Note: Based on the ruling issued on 07.04.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CPCRK, in view of the fact that by the actions of the presented, the criminal offence was not committed.

\(^{169}\)Note: Based on the ruling issued on 20.05.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Conflict of interest” pursuant with Article 424, paragraph 1 of the CPCRK, in view of the fact that there are no elements that the criminal offence was committed.
Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 07.04.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 26.05.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 49 days, or 19 days after the legal deadline.

5. Case PP with number 110/2016 determined on 26.05.2016. Termination of investigation ruling by criminal report set forth by Directorate for Economic Crimes and Corruption in Peja. Criminal offence “Conflict of interest” pursuant with Article 424, paragraph 1 of the CCRK.

Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 08.04.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 26.05.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 47 days, or 17 days after the legal deadline.

1. Case PP/I with number 27/16 determined on 26.05.2016. Termination of investigation ruling by criminal report set forth by N.N citizen. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK.

Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 21.01.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 26.05.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited.
to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 127 days, or 97 days after the legal deadline.

2. Case PP/I with number 56/16 determined on 18.05.2016. **Termination of investigation ruling by criminal report** set forth by N.N lawyer. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.\(^{173}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 15.02.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 18.05.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 93 days, or 63 days after the legal deadline.

3. Case PP with number 82/2016 determined on 11.05.2016. **Termination of investigation ruling by criminal report** set forth by N.N lawyer. Criminal offences “Abusing official position or authority” pursuant with Article 339, par. 1 of the CCRK, “Tampering with evidence” pursuant with Article 397, paragraph 1 of the CCRK and “Robbery” pursuant with Article 256, paragraph 1, related to Article 23 of the CCRK.\(^{174}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 15.03.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 11.05.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 57 days, or 27 days after the legal deadline.

\(^{173}\)Note: Based on the ruling issued on 18.05.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422 of the CPCRK, in view of the fact that there are no elements that the criminal offence was committed.

\(^{174}\)Note: Based on the ruling issued on 11.05.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 339, par. 1 of the CCRK, “Manipulation of evidence” pursuant with Article 397, paragraph 1 of the CPCRK and “Robbery” pursuant with Article 256, paragraph 1, related to Article 23 of the CPCRK, in view of the fact that there is a lack of material evidences.
4. Case PP/I with number 87/16 determined on 25.05.2016. **Termination of investigation ruling by criminal report** set forth by N.N lawyer. Criminal offence “Legalization of false content” pursuant with Article 403 of the CCRK.\(^\text{175}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 17.03.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 25.05.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 69 days, or 39 days after the legal deadline.

5. Case PP/I with number 164/16 determined on 03.06.2016. **Termination of investigation ruling by criminal report** set forth by N.N citizen. Criminal offence “Issuing unlawful judicial decision” pursuant with Article 432 of the CCRK.\(^\text{176}\)

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Office of the Chief State Prosecutor on 14.07.2014. On the clarification of the BP in Peja is said that the criminal report was submitted in the Office of the Chief State Prosecutor, which on 22.07.2014 sent the report in BP in Pristina. On 23.05.2016 BP in Pristina has sent the case on competence of BP in Peja. The Prosecution has undertaken a dismissal of criminal report ruling on 03.06.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 690 days, or 660 days after the legal deadline.

6. Case PP/I with number 149/2016 determined on 23.06.2016. **Termination of investigation ruling by criminal report** set forth by N.N lawyer. Criminal offence “Abusing official position or authority” pursuant with Article 422 of the CCRK.\(^\text{177}\)

\(^{175}\)Note: Based on the ruling issued on 25.05.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Legalization of false content” pursuant with Article 403 of the CCRK in view of the fact that there is a lack of material evidences.

\(^{176}\)Note: Based on the ruling issued on 03.06.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Issuing unlawful judicial decision” pursuant with Article 432 of the CCRK, in view of the fact that the case is in court proceeding at the Court of Appeal.

\(^{177}\)Note: Based on the ruling issued on 23.06.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422 of the CCRK, in view of the fact that the actions of the persons presented in criminal report do not present incriminating actions for the criminal offence.
KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 13.05.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 23.06.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 41 days, or 11 days after the legal deadline.

7. Case PP with number 58/2016 determined on 01.06.2016. Termination of investigation ruling by criminal report set forth by N.N citizen. Criminal offence “Abusing official position or authority” pursuant with Article 422, par. 1 of the CCRK.  

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 15.02.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 01.06.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 107 days, or 77 days after the legal deadline.

8. Case PPN/I with number 46/16 determined on 07.06.2016. Official note set forth by Regional Police Directorate in Peja. Criminal offence “Abusing official position or authority” pursuant with Article 422, par. 1 of the CCRK.  

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 03.03.2016, meanwhile the Prosecution had decided to dismiss the criminal report on 07.06.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 126 days, or 96 days after the legal deadline.

9. Case PPN with number 249/2015 determined on 31.03.2016. Termination of investigation ruling by criminal report set forth by N.N lawyer. Criminal offence “Abusing official position or authority” pursuant with Article 422, par. 1 of the CCRK.  

178Note: Based on the ruling issued on 01.06.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422, par. 1 of the CCRK, in view of the fact that there is no basis of doubt.

179Note: Based on the ruling issued on 31.03.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422, par. 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.
**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Peja on 19.10.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 31.03.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 163 days, or 133 days after the legal deadline.


**KLI:** Characteristic for this official note is the fact that the Prosecution did not refer to any criminal offence as foreseen with the Criminal Code. Based on the official note it is confirmed that the informative report was submitted in the BP in Peja on 06.11.2015, meanwhile the Prosecution had decided to close investigation on 24.05.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Peja has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 200 days, or 170 days after the legal deadline.

**BASIC PROSECUTION IN GJAKOVA**

1. Case PP/I with number 43/2015 determined on 12.04.2016. **Termination of investigation ruling by criminal report** set forth by N.N citizen. Criminal offences “Abusing official position or authority” pursuant with Article 339, paragraph 1 of the CCRK and “Accepting Bribes” pursuant with Article 343, paragraph 1 of the CCRK.¹⁸²

¹⁸¹Note: Based on the ruling issued on 31.03.2016, BP in Peja concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422, par. 1 1 of the CCRK, in view of the fact that there are no elements that the criminal offence was committed by the defendant.

¹⁸²Note: Based on the ruling issued on 12.04.2016, BP in Gjakova concordant with Article 82 paragraph 1, sub paragraph 1.1 of the CPCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” and “Accepting bribes”, in view of the fact that there is no reasonable doubt that the criminal offence was committed by the defendants.
KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjakova on 26.03.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 12.04.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Gjakova has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 383 days, or 353 days after the legal deadline.

2. Case PP/I with number 132/15 determined on 30.03.2016. **Termination of investigation ruling** set forth by the Regional Police of Peja – Directorate for Economic Crimes and Corruption. Criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK.\(^{183}\)

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjakova on 19.10.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 30.03.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Gjakova has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 163 days, or 133 days after the legal deadline.

3. Case PPN/I with number 169/2015 determined on 21.01.2016. **Dismissal of criminal report ruling** set forth by N.N citizen. Criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK and “Conflict of interest” pursuant with Article 424, paragraph 1 of the CCRK.\(^{184}\)

KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjakova on 19.10.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 30.03.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Gjakova has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 101 days, or 71 days after the legal deadline.

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\(^{183}\)Note: Based on the ruling issued on 30.03.2016 BP in Gjakova concordant with Article 158, paragraph 1, sub paragraph 1.1 of the CCRK, has dismissed the special report for criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK.

\(^{184}\)Note: Based on the ruling issued on 21.01.2016, BP in Gjakova concordant with Article 82, paragraph 1 sub paragraph 1.1 and 1.5 of the CCRK, has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK and “Conflict of interest” pursuant with Article 424, paragraph 1 of the CCRK, in view of the fact that there is no elements that the criminal offence was committed by defendants.
4. Case PP/I with number 93/2015 determined on 29.03.2016. **Dismissal of criminal report ruling** set forth by N.N citizen. Criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK; “Violating equal status of citizens and residents of the Republic of Kosovo” pursuant with Article 193, paragraph 4, related to paragraph 1 of the CCRK; “Violation of the right to management” pursuant with Article 223, paragraph 2, related to paragraph 1 of the CCRK; “Obstructing official persons in performing official duties” pursuant with Article 409, paragraph 1 of the CCRK; “Threat” pursuant with Article 185, paragraph 1 of the CCRK; “Harassment” pursuant with Article 186, paragraph 1 of the CCRK; “Violating rights of employment and unemployment” pursuant with Article 222, paragraph 1 of the CCRK.185

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjakova on 29.06.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 29.03.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Gjakova has violated this legal deadline, since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 274 days, or 244 days after the legal deadline.

5. Case PP/I with number 191/2015 determined on 21.03.2016. **Dismissal of criminal report ruling** set forth by Kosovo Police – Regional Unit for Economic Crimes and Corruption in Gjakova. Criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK and “Destruction or damage to property “pursuant with Article 333, paragraph 1 of the CCRK.186

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the BP in Gjakova on 17.11.2015, meanwhile the Prosecution had decided to dismiss the criminal report on 21.03.2016. The Prosecutor of the case on 25.11.2015 was headed to the Police in Gjakova for undertaking certain investigative actions. By accepting the case, the criminal case is delegated to the Regional Unit for Investigation of Economic Crimes and Corruption in Peja. After analyzing the case and other documents, it is concluded

185Note: Based on the ruling issued on 29.03.2016, BP in Gjakova concordant with Article 82, paragraph 1 sub paragraph 1.1 of the CCRK has dismissed the criminal report for criminal offences “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK; “Violation of equal status of the citizens of the Republic of Kosovo” pursuant with Article 193, paragraph 4, related to paragraph 1 of the CCRK; “Violation of the right to management” pursuant with Article 223, paragraph 2, related to paragraph 1 of the CCRK; “Obstructing official persons in performing official duties” pursuant with Article 409, paragraph 1 of the CCRK; “Threat” pursuant with Article 185, paragraph 1 of the CCRK; “Harassment” pursuant with Article 186, paragraph 1 of the CCRK; “Violation of the rights of employment and unemployment” pursuant with Article 222, paragraph 1 of the CCRK, in view of the fact that there is no reasonable doubt that the criminal offences were committed.

186Note: Based on the ruling issued on 21.03.2016, BP in Gjakova concordant with Article 82, paragraph 1 sub paragraph 1.5 of the CCRK, has dismissed the special report for criminal offence “Abusing official position or authority” pursuant with Article 422, paragraph 1 of the CCRK and “Destruction or damage of property ”pursuant with Article 333, paragraph 1 of the CCRK, in view of the fact that the same one is in an uncompleted court proceeding.
that this criminal case was investigated earlier, had developed an indictment and court proceedings, and the case is in the Court of Appeal. For all the findings of the findings found, the Regional Unit for Investigation of Economic Crimes and Corruption Peja has sent to BP in Gjakova an informative report, which was submitted on 08.02.2016. However with the new Criminal Procedural Code entering into force after January 1, 2013, the legal prescribed period of time of granting a decision concerning the criminal report has been limited to 30 days (Article 82). Out of this results that BP in Gjakova has violated this legal deadline since the criminal report had to be dismissed within 30 days, while the criminal report was dismissed after 125 days, or 95 days after the legal deadline.
X. PROSECUTOR’S ACCOUNTABILITY

a) Failures on the Tracking Mechanism at corruption cases

During this reporting period (January – June 2016) KLI has identified cases registered on delay in the Tracking Mechanism and cases that do not appear in the data register of the Tracking Mechanism, although the same cases existed at prior register, which are presented in the table below. Also were identified same cases solved in two manners. For more see the table below.

<table>
<thead>
<tr>
<th>PP- Prosecution Offices’ defects in the Tracking Mechanism (01.01.2016-30.06.2016)</th>
<th>Registered on delay</th>
<th>Do not exist in the register</th>
<th>Solved according to two manners</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cases</td>
<td>Persons</td>
<td>Cases</td>
<td>Persons</td>
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<td>BP in Pristina</td>
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<td>43</td>
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<td>1</td>
<td>1</td>
</tr>
<tr>
<td>BP in Gjilan</td>
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<td>2</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>BP in Peja</td>
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</tr>
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<td>1</td>
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<tr>
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<td>3</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>BP in Ferizaj</td>
<td>2</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>50</td>
<td>113</td>
<td>56</td>
<td>122</td>
</tr>
</tbody>
</table>

Table 10 – Defects of the Tracking Mechanism during the reporting period
The table above, confirms the failures of prosecution offices in registering the cases in the Tracking Mechanism, from January 1 until June 30, 2016. According to this table, it is noted that Prosecution offices have registered on delay 50 cases with 113 persons involved. Of this number, BP in Pristina leads with 34 cases with 83 persons, followed by SPRK with 6 cases with 15 persons.

The register of corruption cases on delay in the Tracking Mechanism by prosecutors represents a matter of concern, due to the fact that this mechanism aims to harmonize statistical reports between SP and other law enforcement agencies in Kosovo. Also, this mechanism serves as an important mean for Prosecution Offices to have information regarding the number of corruption cases at every Prosecution Office. Through this information, KPC is able to make adequate policies for the implementation of constitutional and legal obligations regarding the prosecution of criminal offences perpetrators.

During the monitoring process of corruption cases, in this reporting period, KLI has also found that there are cases which were not registered at all or do exist in the Tracking Mechanism. Only during this reporting period, KLI has identified 56 such cases with 122 persons involved. BP in Pristina leads these cases too, with 43 of them and 97 persons. Also, a characteristic this time is the fact that in one case in SPRK at the category of solved cases, figures the same case solved in two manners.

b) Disciplinary investigations after the findings of KLI reports
Office of the Disciplinary Counsel (ODC) has engaged the staff of inspectors in treating the findings of periodical reports of KLI. As a result of KLI findings, ODC has treated 253 corruption cases at preliminary investigations against prosecutors. Of them are involved in disciplinary investigation 25 cases of prosecutors, including 18 cases. Of them 9 cases with proved disciplinary evidences by ODV were sent to the Disciplinary Committee of the KPC. So far, based on the findings of KLI a decision was taken in 29 cases against prosecutors. The decisions of the Commission have not been made public neither by ODC nor by the Disciplinary Commission of the KPC. However, ODC has informed that has filed complaints against the decisions of the Disciplinary Commission of KPC. Also, according to the information of ODC, from KLI reports findings, currently there are 29 cases against prosecutors in the phase of decision making in Disciplinary Commission.

187 KLI has made requests to ensure the statistical data on the decision of these cases by ODC and Disciplinary Commission of KPC, but the same one has not taken any response. The requests for the data are made in accordance with the Law in Access to Public Documents and the Law on Protection of Personal Data, but these institutions did not respect the legal deadlines and obligations. KLI will follow the legal roads to ensure these statistical data.
Kosovo Law Institute

October 2016

CASES OF INVESTIGATIONS FROM THE OFFICE OF THE DISCIPLINARY COUNSEL, INITIATED BY KLI REPORTS

<table>
<thead>
<tr>
<th>KLI published reports</th>
<th>L. Subjects involved in preliminary investigations</th>
<th>Subjects involved in disciplinary investigations</th>
<th>Subjects involved in preliminary investigations</th>
<th>Cases involved in disciplinary investigations</th>
<th>Disciplinary investigations addressed in the Disciplinary Committee</th>
<th>Disciplinary Investigations completed by findings</th>
<th>Disciplinary investigations in the phase of investigations</th>
<th>Refused cases</th>
<th>Refused cases at the preliminary investigations</th>
<th>Cases in the deciding stage</th>
<th>Decided cases</th>
<th>ODC complaints against the decisions of the Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corruption in Kosovo - I -</td>
<td>26</td>
<td>21</td>
<td>14</td>
<td>6</td>
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<td>1</td>
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<td>5</td>
<td>0</td>
<td>6</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Corruption in Kosovo - II -</td>
<td>16</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>15</td>
<td>15</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corruption in Kosovo - III -</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corruption in Kosovo - IV -</td>
<td>22</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>19</td>
<td>19</td>
<td>22</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fighting corruption, priority in paper</td>
<td>56</td>
<td>56</td>
<td>56</td>
<td>56</td>
<td>56</td>
<td>56</td>
<td>56</td>
<td>56</td>
<td>56</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Corruption in Kosovo: Combating or promotion of corruption</td>
<td>104</td>
<td>104</td>
<td>104</td>
<td>104</td>
<td>104</td>
<td>104</td>
<td>104</td>
<td>104</td>
<td>104</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td>253</td>
<td>18</td>
<td>9</td>
<td>8</td>
<td>1</td>
<td>39</td>
<td>68</td>
<td>29</td>
<td>29</td>
<td>5</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 11 – Cases of ODC investigations after the publications of KLI reports.

ODC now is being challenged in its work for the development of investigations into the cases of the findings of KLI reports. The director of this office, Zef Prendrecaj emphasizes that the findings of KLI are constantly treated with priority by the inspectors of ODC. ODC has difficulty in providing relevant files and information because prosecution offices / prosecutors did not respond quickly and so is delayed also the review process and deciding in a considerable measure given the fact that the files / information must be provided in almost all Kosovo Prosecution Offices.188

According to ODC, after collection of documents, information and other actions undertaken based on the findings of the reports of KLI, it's been observed that the work of similar cases has began to improve (the findings in the reports) or to increase accountability.

188 KLI interview with Mr. Zef Prendrecaj, Director of the Office of Disciplinary Cunsel. September 2016.
There are times when office holders are angry with the KLI findings and actions of ODC where they went to such an extent that they tried to make retaliation against the staff of ODC, only because they were recommended to the Disciplinary Committee. ¹⁸⁹

KLI considers that this approach is extremely worrying and contains in itself an abuse of official duty and improper professional conduct and ethics. In fact, the ODC is an independent authority, which must act in these cases and any such behavior of prosecutors or judges to investigate and submit the same to the Disciplinary Committees of Prosecutorial Council and Judicial Council.

c) ODC investigation against prosecutors and judges during the reporting period (01.01.2016-30.06.2016)

ODC during the first months of 2016 has received 292 complaints against judges and prosecutors. Of them 236 complaints have been for judges, while 56 complaints have been for prosecutors.

<table>
<thead>
<tr>
<th>ODC legal actions against judges and prosecutors for improper behavior for the period 01.01.2016 - 30.06.2016</th>
<th>Complaints received from 01.01.2016 - 30.06.2016</th>
<th>Rejecting of complaints</th>
<th>Disciplinary investigation</th>
<th>Reports sent to Disciplinary Commissions</th>
<th>Reports closed after disciplinary investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases against Gjykatësve</td>
<td>236</td>
<td>315</td>
<td>14</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Cases against Prokurorëve</td>
<td>56</td>
<td>70</td>
<td>10</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Total:</td>
<td>292</td>
<td>385</td>
<td>24</td>
<td>13</td>
<td>17</td>
</tr>
</tbody>
</table>

Table 12 – ODC report for the first six months of 2016.

Of 236 complaints received during the first six months of 2016, 315 of them filed against judges have been rejected, while against prosecutors have been rejected 70 complaints. ODC has opened disciplinary investigation against 14 judges and 10 prosecutors, while has found an improper behavior for 6 judges and 7 prosecutors, which has sent to Disciplinary Commissions of the Councils.

¹⁸⁹ KLI interview with Mr. Zef Prendercaj, Director of the Office of Disciplinary Council. September 2016.
Accused for selective implementation of the law by ODC, its director, considers unfounded and defamatory. "These allegations have come from the holders that ODC has had or has under disciplinary investigation (retaliation), by individual or certain groups of interest that for their own interests had aspirations to intervene directly or indirectly in the work of this office and affect the functional independence of ODC." 190

ODC Director has not been able to provide information on how many cases have been closed after as a result of legal amendments and supplements to the Law on Kosovo Judicial Council and the Law on Kosovo Prosecutorial Council. For this is recommended to be asked KJC and KPC. Neither these institutions have provided information on this issue.

XI. MONITORING OF CORRUPTION CASES BY KLI

KLI starting from June 2015, has been monitoring corruption case in every Basic Court of the Republic of Kosovo. KLI’s team of monitors starting from June 2015 have continuously visited on daily basis the Basic Courts and their Presidents191 in order to closely monitor every judicial proceeding related to the criminal offences of the corruption domain. The process of monitoring has incorporated the identification of the ongoing corruption cases, the appointment and delegation of cases, the information regarding the current procedural stage of the cases and this process is concluded with the compilation of a daily report that is published in the official website of the organization.192 The issue of identifying corruption cases and the exact hour of their hearing remains a continuous challenge for KLI’s monitors.193 However, from now on KLI looks forward to diminishing this challenge due to the fact

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190 KLI interview with Mr. Zef Prendrecaj, Director of the Office of Disciplinary Cunsel. September 2016.
191 Interviews conducted by KLI with the President of BC in Pristina, Mr. Hamdi Ibrahimi; the President of BC in Prizren, Mr. Ymer Hoxha; the President of BC in Ferizaj Mr. Bashkim Hyseni; Acting President of BC in Peja, Mrs. Lumturije Muhaxheri; the President of BC in Gjilan, Mr. Zyhdzi Haziri; the President of BC in Gjakova, Mr. Vaton Durguti. August, September, 2016.
192 KLI in cooperation the Public Broadcaster of the country co-produce a programme “Oath for Justice” focused on the rule of law, a programme apart from displaying research, analysis and debates, publishes the daily reports of the Institute’s monitors for every followed corruption case. The reporting is conducted in a special section of the portal, which can be found at the following link: http://betimiperdrejtesi.com/lajme/
193 The Basic Courts in general are still lacking an efficient and effective system that will update the database regarding the exact hour of the court hearings, and specifically for corruption cases. Firstly, KLI had established communication through Court Presidents and afterwards through the Spokespersons of the court who informed the monitors regarding the court hearings from the corruption domain. The aforementioned practice did not function optimally, due to the fact that sometime the Spokespersons were sending out incomplete and inaccurate information regarding the hour and date of the hearings and this produced various problems in their monitoring process. This sort of communication has improved over time, although is still facing difficulties. Bearing in mind these challenges, KLI by using the applicable legislation in order to access the necessary information from these cases, has signed a Memorandum of Cooperation with the KJC, through which has enabled a better access, communication, cooperation and coordination between the Institute’s monitors and KJC, namely with every level of Courts and their Presidents.
that it has formalized a Memorandum of Cooperation with KJC\textsuperscript{194}, a document which will facilitate the Institute’s access in communication, cooperation and coordination with the courts.

KLI’s monitors, during the time period July 1, 2015 until September 30, 2016 have monitored 1382 court hearings, including 977 corruption cases with 2500 persons involved. For a more detailed approach see the table below.

\begin{center}
\textbf{Monitored cases by KLI}
\textbf{(July 1, 2015- September 30, 2016)}
\end{center}

\begin{itemize}
\item 2500 defendants
\item 1382 monitored court hearings
\item 977 monitored cases
\item The number of cases monitored
\item The number of court hearings monitored
\item The number of persons accused
\end{itemize}

\begin{figure}
\centering
\includegraphics[width=\textwidth]{chart4.png}
\caption{Cases monitored by KLI from 01.07.2015 until 30.09.2016}
\end{figure}

a) The analysis of monitored cases during quarterly period (01.01.2016 – 30.06.2016)

In this report, the subject of research and analysis are the monitored corruption cases during the first six months of 2016 (\textit{january, february, march, april, may, june 2016}), while other cases will be addressed in the next report. Regarding this six month period (\textit{january, february, march,}

\footnote{\textsuperscript{194}The Memorandum of Cooperation between KJC and KLI was approved unanimously by all of the members of the KJC in the meeting held in April 6, 2016. The document was signed in April 7, 2016. Pristina. April 7, 2016.}
April, May, June 2016), KLI has monitored 749 court hearings, including 564 corruption cases with 1386 persons. In the chart below is presented the number of hearings and corruption cases monitored by KLI. Also, there is presented the number of hearings that have been held and hearings that have been postponed due to various reasons.

![Chart 6 – Monitored court cases during the period 01.01.2016 until 30.06.2016.](image)

Clarification: KLI throughout January has monitored 89 court hearings, including 65 corruption cases with 157 persons. During February have been monitored 99 court hearings, including 83 corruption cases with 203 persons. During March have been monitored 168 court hearings, including 104 corruption cases with 229 persons. During April have been monitored 134 court hearings, including 102 corruption cases with 263 persons. During May have been monitored 128 court hearings, including 96 corruption cases with 230 persons. And, during June have been monitored 131 court hearings, including 114 corruption cases with 304 persons. So, from the collection of data per month turns out that have been monitored 749 court hearings, including 564 corruption cases with 1386 persons. However, considering the fact that one case monitored in January, has continued also during five following months, turns out that the analysis of corruption cases for this reporting period will include 269 cases with 630 persons.
The largest number of monitored court hearings involve BC in Pristina, with 300 court hearings monitored, out of which 223 court hearings were held, while 77 court hearings were postponed. Following is BC in Prizren with 124 court hearings monitored, out of which 96 court hearings were held, 28 court hearings were postponed. In BC in Gjilan 106 court hearings have been monitored, out of which 83 court hearings were held, 23 court hearings were postponed. The smallest number of corruption cases appointed refers to BC in Ferizaj with 73 court hearings monitored, out of which 61 court hearings were held while 12 court hearings were postponed. BC in Peja with 59 court hearings monitored out of which 53 court hearings were held while 6 court hearings were postponed, BC in Gjakova with 53 court hearings monitored out of which 46 court hearings were held while 7 court hearings were postponed, and BC in Mitrovica\textsuperscript{196} with 34 court hearings monitored out of which 28 court hearings were held while 6 court hearings were postponed.

Throughout the process of monitoring court hearings by KLI, during this reporting period (\textit{January-June 2016}), various irregularities were identified. From 749 monitored hearings, 590 of them were held, while as a result of the failure to meet the legal conditions for holding the hearings 159 of them were postponed. The reasons for the postponement of 159 hearings are:

- The absence of the defendant
- Failure of prosecutor in delivering case files
- The absence of the prosecutor
- The absence of the Trial Panel
- The absence of the lawyers
- The absence of the injured party and witness
- The absence of the defendant and prosecutor
- Demand of the parties in proceeding

KLI has identified various irregularities also in the proceeded hearings. From 590 sessions held, 152 of them have started with over 15 minutes late, including:

- 75 cases in BC of Pristina

\textsuperscript{196} \textit{Note:} KLI considers that all courts in the judicial system are loaded with large number of cases and are constantly faced with a small number of staff resources from the judges as well as support staff. In this regard, undoubtedly BC Court in Mitrovica, is the Court which is mostly challenged by lack of basic working conditions. KLI has addressed this issue in all its reports, but there has been a lack of political will and the will of the judicial system to find a better solution for this court.
- 17 cases in BC of Gjilan
- 12 cases in BC of Gjakova
- 9 cases in BC of Prizren
- 23 cases in BC of Peja
- 16 cases in BC of Ferizaj

As the most frequent reason of delay are identified the delays of: Judge/Trial Panel, Prosecutor, in some cases of Lawyer/Defender and Witnesses.

Throughout the process of monitoring were also noted other irregularities that have impeded the proceedings of court hearings. From 590 sessions held, in 86 of them KLI monitors have find the following violations:

- Disuse of court dress by judges, prosecutors and defenders (29 cases)
- The holding of hearings in the office (19 cases)
- Absence of the trial panel and clerks during the trial (4 cases)
- Appointment of two different sessions at the same time by the same judge (3 cases)
- Appointment of two different sessions at the same time by the same prosecutor (2 cases)
- Usage of mobile phone during the session by defendants (4 cases)
- Usage of mobile phone during the session by defenders (1 case)
- Failure to put on the record the statements of the parties (2 cases)
- Failure to provide case files to the defense counsel by the prosecutor (4 cases)
- Commencement of the trial without the presence of the prosecutor in the courtroom (3 cases)
- Commencement of the trial without completing the trial panel (5 cases)
- The absence of the Chairman of the trial panel during the announcement of the judgement (2 cases)
- Discrepancy of the indictment provision with the evidences of the case that the court possesses (Cases 1)
- Counsel assisting the defendant during the cross examination (1 case)
- Continuation of the cross examination of the witness without the presence of the defendant in the courtroom (1 case)
- Reading evidence in non-native language of the defendant (1 case)
- One of the defendants being present in the courtroom during the questioning of the other defendant (1 case)
- Failure to notify the defendants with their rights (2 cases)
- Announcement of the verdict by a member of the trial panel (1 case).

b) Delays of prosecution offices in proceeding indictments in courts

KLI while monitoring corruption cases in prosecution offices and courts has noticed in practice the delay phenomenon of the delivery of indictments by prosecutors in courts. KLI has identified seven (7) such cases in all courts of Kosovo. KLI presents at the table below cases in which prosecutors have sent with delay the indictments in court.

In the case of BP in Pristina (Branch in Podujeva), with the number of indictment PP. no. 600-14/2006 197, is confirmed a delay of 400 days from the date when the prosecutor compiled the indictment until the date when the same one was sent to court.

In the case of BP in Prizren, with the number of indictment PP.no. 154/2015, is confirmed a delay of 41 days from the date when the prosecutor compiled the indictment until the date when the same one was sent to court.

In the case of BP in Gjilan, with the number of indictment PP.I.no. 50/15, is confirmed a delay of 31 days from the date when the prosecutor compiled the indictment until the date when the same one was sent to court.

In the case of BP in Pristina, with the number of indictment PP.no. 218-7/08, is confirmed a delay of 26 days from the date when the prosecutor compiled the indictment until the date when the same one was sent to court.

In the case of BP in Gjakova, with the number of indictment PP.no. 121/2013, is confirmed a delay of 15 days from the date when the prosecutor compiled the indictment until the date when the same one was sent to court.

197 Clarification: This delay was presented also in the previous report “Corruption in Kosovo: Combating of promotion of corruption”, since the same case was monitored also during this six month period.
In the case of BP in Pristina, with the number of indictment PP.no.5345-4/11, is confirmed a delay of 13 days from the date when the prosecutor compiled the indictment until the date when the same one was sent to court.

<table>
<thead>
<tr>
<th>Basic Courts and Branches of Basic Courts</th>
<th>No. of Indictment</th>
<th>Date of Indictment compilation by Prosecution office</th>
<th>Date of Indictment filing in Court</th>
<th>Delays</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Pristina (Branch Podujeva)</td>
<td>PP.no. 600-14/2006</td>
<td>14.05.2012</td>
<td>18.06.2012</td>
<td>400 days</td>
</tr>
<tr>
<td>2 Prizren</td>
<td>PP.no.154/2015</td>
<td>12.02.2016</td>
<td>25.03.2016</td>
<td>41 days</td>
</tr>
<tr>
<td>3 Gjilan</td>
<td>PP.I.no.50/15</td>
<td>05.10.2015</td>
<td>05.11.2015</td>
<td>31 days</td>
</tr>
<tr>
<td>4 Pristina</td>
<td>PP.no.218-7/08</td>
<td>17.09.2008</td>
<td>13.10.2008</td>
<td>26 days</td>
</tr>
<tr>
<td>5 Pristina</td>
<td>PP.no. 642-1/2012</td>
<td>14.01.2014</td>
<td>31.01.2014</td>
<td>17 days</td>
</tr>
<tr>
<td>6 Gjakova</td>
<td>PP.nr. 121/2013</td>
<td>18.11.2013</td>
<td>03.12.2013</td>
<td>15 days</td>
</tr>
<tr>
<td>7 Pristina</td>
<td>PP.no.5345-4/11</td>
<td>26.10.2011</td>
<td>08.11.2011</td>
<td>13 days</td>
</tr>
</tbody>
</table>

Table 13 - Delays of prosecutors in proceeding indictments in courts
c) Delays of courts in treating indictments filed for corruption (January 1, - June 30, 2016)

KLI has monitored and generated information on the profile of perpetrators of criminal offences of corruption based on the information published by SP, regarding the indictments filed against these perpetrators of corruption criminal offences.

SP during this reporting period has shown higher efficiency in filing indictments for corruption, including indictments against high profile. SP has published information regarding the filing of indictments in 17 cases against 143 persons accused for criminal offences of corruption. Profile of individuals against whom indictments have been filed, include:

- Former President of the Constitutional Court, former Judge of the Municipal Court of Pristina, President of the Court of Appeal, former deputy, former ministers, mayors, chairman and members of regulatory boards, general secretary, director in a Ministry, 44 doctors, procurement director, director of economic operators, etc.

According to the indictments filed by Prosecution offices, it appears that with these criminal offences, the damage caused worth is over 825,000.00 euro, meanwhile, in these indictments there is no information if the prosecution offices have filed requests for sequestration or confiscation of assets acquired by criminal offence.

Characteristic about this six months period is an indictment filed by a prosecutor of the Office of the Chief State Prosecutor against 64 individuals.

The most effective prosecution office during this period is, SPRK with 5 cases, of which 2 cases filed by EULEX prosecutors against 43 persons, and 3 cases filed by local prosecutors against 8 persons.

BP in Prizren has filed 5 indictments against 15 persons, BP in Pristina has filed 3 indictments against 7 persons, BP in Peja has filed 2 indictments against 2 persons, and BP in Gjilan has filed 1 indictment against 4 persons. State Prosecutor has not released any information concerning the filing of indictments for corruption by BP in Mitrovica, BP in Gjakova and BP in Ferizaj.
Indictments filed for criminal offences of corruption according to prosecution offices during the period January-June 2016

<table>
<thead>
<tr>
<th>Office</th>
<th>Cases</th>
<th>Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPRK</td>
<td>5</td>
<td>51</td>
</tr>
<tr>
<td>OCHSP</td>
<td>1</td>
<td>64</td>
</tr>
<tr>
<td>BP in Pristina</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>BP in Prizren</td>
<td>5</td>
<td>15</td>
</tr>
<tr>
<td>BP in Peja</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>BP in Gjilan</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>17</strong></td>
<td><strong>143</strong></td>
</tr>
</tbody>
</table>

Table 14 – Indictments filed for criminal offences of corruption during the reporting period January-June 2016

During this reporting period, KLI monitors have consistently followed the flow of these cases to see if the legal deadlines for their proceeding in court are being respected. Consequently, to see if the judiciary is treating these cases with absolute priority, as determined by the Actio Plan issued by KJC.

Out of 17 indictments filed for criminal offences of corruption during the reporting period (January-June 2016), 8 cases have been treated by the courts, while 9 cases are still waiting to be treated. From 8 cases proceeded to courts, in 2 cases was held the initial hearing after the legal deadline foreseen in the Criminal Procedure Code regarding the held of the initial hearing. This legal deadlines has been violated also in another 1 case in which the initial hearing was scheduled but the same one was postponed.

198 Article 242, point 4: “The single trial judge or presiding trial judge shall immediately schedule an initial hearing to be held within thirty (30) days of the indictment being filed”. Criminal Procedure Code of the Republic of Kosovo.

199 For the indictment filed by BP in Peja on February 8, 2016, against the Police officer, lieutenant Gj.K., with the court number P.no 25/16, the initial hearing was held after 136 days. For the indictment filed by SPRK on March 3, 2016, against 23 persons, with the court number P.no 130/16, the initial hearing was held after 38 days, although it was scheduled twice within the deadline, but the same ones were postponed.

200 For the indictment filed by SPRK on March 1, 2016, against the Mayor of Mitrovica, A.B., procurement director in of the Municipality of Mitrovica, H.F. and director of the Economic Operator, F.M., with the court number PKR.no.20/16, the initial hearing was scheduled to be held after 121 days.
From 8 cases proceeded in courts, in 2 cases\(^{201}\) was held also the second hearing, eventhough in both cases has been violated the legal deadline regarding the schedule of the initial hearing.

From 8 cases proceeded in courts, in 1 case\(^{202}\) was held also the trial hearing, eventhough in this case has also been violated the legal deadline foreseen in CPC regarding the schedule of the initial hearing within 30 days.

In these 8 cases proceeded in courts, in two of them the courts have announced a verdict. In the first case, Basic Court of Prizren, after 4 hearings held, on May 27, 2016 has announced the sentencing verdict against the director of the Directorate for Legal and Property Services in the municipality of Suhareka, S.H., for the criminal offence “Abusing official position”. Which is a suspended sentence for a term of one year and six months imprisonment. In the second case, Basic Court of Prizren, on May 24, 2016 has announced the sentencing verdict against three of four officials of the water company “Southern Hydro”, F.B., I.R.R. and D.G., after the same ones have pleaded guilty for the criminal offence “Misappropriation in office”. To the three defendants the Court imposed a suspended sentence of one year duration, and has singled out the procedure for the fourth defendant, H.G.

<table>
<thead>
<tr>
<th>Basic Courts</th>
<th>The number of the case in court</th>
<th>The date of the indictment</th>
<th>The date of the initial hearing</th>
<th>Delays</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peja</td>
<td>25/16</td>
<td>08.02.2016</td>
<td>24.06.2016</td>
<td>136 days</td>
</tr>
<tr>
<td>Prizren</td>
<td>56/16</td>
<td>21.03.2016</td>
<td>20.05.2016</td>
<td>60 days</td>
</tr>
<tr>
<td>Prizren</td>
<td>27/16</td>
<td>15.02.2016</td>
<td>07.04.2016</td>
<td>51 days</td>
</tr>
<tr>
<td>Pristina</td>
<td>130/16</td>
<td>03.03.2016</td>
<td>10.04.2016</td>
<td>38 days</td>
</tr>
<tr>
<td>Peja</td>
<td>78/16</td>
<td>14.04.2016</td>
<td>18.05.2016</td>
<td>34 dité</td>
</tr>
</tbody>
</table>

Table 15 – Court delays in proceeding the indictments filed for criminal offences of corruption during the reporting period January-June 2016

\(^{201}\) For the indictment filed by BP in Prizren on March 21, 2016, against the director of Sport Department in the Ministry of Culture, Youth and Sports, I.A with the court number P.no.56/16, the initial hearing was held after 60 days. Meanwhile, in the second case, for the indictment filed by BP in Peja on April 14, 2016, against the doctor of ophthalmology, O.G., with the court number P.no. 78/16, the initial hearing was held after 34 days.

\(^{202}\) For the indictment filed by BP in Prizren on February 15, 2016, against the owner of the residential building "Gradina” in Suhareka, M.E., director of urban planning in the Municipality of Suhareka, K.F. and three building inspectors in this Municipality, H.M., B.K. and R.F. with the court number P.no 27/16, the initial hearing was held after 51 days, since the first time it was scheduled after 38 days from the filing of indictment, but the same one was postponed.
From 18 indictments filed for criminal offences of corruption during the reporting period (January-June 2016), 9 cases are not proceeded in court, where in 5 cases of them is violated the deadline foreseen in CPC regarding the schedule of the initial hearing within 30 days.

### Table 16 – Court delays in proceeding the indictments filed for criminal offences of corruption during the reporting period January-June 2016

<table>
<thead>
<tr>
<th>Basic Courts</th>
<th>The number of the case in court</th>
<th>The date of the indictment</th>
<th>The time spent from the filing of the indictment until June 30</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pristina</td>
<td>14/16</td>
<td>13.01.2016</td>
<td>168 days</td>
</tr>
<tr>
<td>Gjilan</td>
<td>32/16</td>
<td>05.02.2016</td>
<td>145 days</td>
</tr>
<tr>
<td>Pristina</td>
<td>305/16</td>
<td>18.05.2016</td>
<td>43 days</td>
</tr>
<tr>
<td>Pristina</td>
<td>310/16</td>
<td>20.05.2016</td>
<td>41 days</td>
</tr>
<tr>
<td>Pristina</td>
<td>326/16</td>
<td>27.05.2016</td>
<td>34 days</td>
</tr>
</tbody>
</table>

**d) The duration of court proceedings**

Failures to respect legal deadlines in handling corruption cases appear at all levels of justice system, including delays in police, prosecution offices and courts. Delays in solving cases have a direct effect in violating the rights of citizens of the Republic of Kosovo, which are guaranteed by the Constitution of the Republic of Kosovo.

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203 For the indictment filed by SPRK on January 13, 2016, against the former President of the Constitutional Court, E.H., with the court number PKR.no.14/16, until June 30 have passed 168 days without holding the initial hearing. For the indictment filed by BP in Gjilan on February 5, 2016, against construction inspectors, B A., V.Sh, M.Sh and Sh.H., with the court number PKR.no.32/16, until June 30 have passed 145 days without holding the initial hearing. For the indictment filed by SPRK on May 18, 2016, against 20 persons including former deputies, former ministers, with the court number PKR.no.305/16, until June 30 have passed 43 days without holding the initial hearing. For the indictment filed by BP in Pristina on May 20, 2016, against the head of the Division, MIA, B.B., with the court number PKR.no.310/16, until June 30 have passed 41 days without holding the initial hearing. For the indictment filed by BP in Pristina on May 27, 2016, against the Chairman of the Board of the Telecommunications Regulatory Authority, E.H. and former member of the Board of TRA, L.K. with the court number PKR.no.326/16, until June 30 have passed 34 days without holding the initial hearing.


KLI even in this reporting period has identified the violations of justice institutions in handling corruption cases. Through monitoring of the handling of corruption cases in prosecution offices and courts, including all stages of criminal proceeding, KLI presents the real state on how long it takes the institutions responsible for handling a case of corruption, from the submission of the criminal report until the announcement of the verdict.

From 749 court hearings monitored in all seven BCs, including 269 cases of corruption, KLI has identified violations in all criminal proceedings. KLI has set several indicators to measure the time for treating a case, at each stage of criminal proceedings, including: 1) the time period from the submission of the criminal report until the initiation of investigations; 2) the time period from the initial of investigations until the completion of investigations; 3) the time period from the initiation of investigations until filing the indictment; 4) the time period from the completion of investigations until filing the indictment; 5) the time period from the submission of the criminal report until filing the indictment; 6) the time period from filing the indictment until the scheduling of the initial hearing; 7) the time period from the initial hearing until the appointment of the second hearing; 8) the time period from the second hearing until the appointment of the main trial; 9) the number of hearings that were held and 10) the time period from the main trial until the announcement of the verdict of the first instance.

Based on these indicators, KLI has measured 241 corruption cases monitored during this reporting period (January, February, March, April, May, June 2016). Even during this reporting period, KLI findings showed that prosecutors and judges have constantly violated the legal deadlines foreseen by the Criminal Procedure Code. The reason of such violations of legal deadlines by Presidents of Basic Courts are the lack of the number of judges and the large number of cases at work. The legal deadlines based on the current number of judges and work conditions are impossible to be respected. In the table below, KLI has presented all indicators of certain criminal proceedings stages and the average of the spend time at each stage.

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207 Clarification: In this analysis are not included 28 corruption cases returned in trial, considering the fact that for these cases is conducted special analysis.
208 KLI interview with the President of the BC in Pristina, Mr. Hamdi Ibrahimi; President of the BC in Prizren, Mr. Ymer Hoxha; President of the BC in Ferizaj, Mr. Bashkim Hyseni; Acting President of the BC in Peja, Mrs. Lumturije Muhaxheri; President of the BC in Gjilan, Mr. Zyhdi Haziri, President of the BC in Gjakova, Mr. Vaton Durguti. August, September, 2016.
209 Note: The measures for each indicator in each stage differ in terms of the number of cases. KLI has measured and analyzed only those cases for which monitors have managed to provide the completed data about the each stage of the criminal procedure set in indicators.
The period from the criminal charges until the initiation of the investigation

192 cases 175 days

The period from the initiation of investigation to the end of the investigation

193 cases 176 days

The period from the initiation of the investigation until the filing of the indictment

193 cases 178 days

The period from the end of the investigation until the filing of the indictment

200 cases 2 days

The period from the criminal charges until the filing of the direct indictment

34 cases 309 days

The period from the filing of the indictment until the serving of the initial hearing

225 cases 278 days

The period from the filing of the indictment until the scheduled main hearing

229 cases 5 sessions

The average number of sessions held

108 cases 106 days

The period from the second hearing until the scheduled main hearing

108 cases 106 days

The period from the initial hearing until the scheduled second hearing

127 cases 54 days

The period from the detention of the main hearing until the announcement of the verdict

71 cases 188 days

THE AVERAGE DURATION OF THE CRIMINAL PROCEDURES IN 241 CORRUPTION CASES MONITORED Chart 5.
As noted in the table, the average duration of criminal proceedings in 241\textsuperscript{210} corruption cases monitored by KLI, shows that prosecutors and courts at different stages of criminal law commit violation\textsuperscript{211} of legal deadlines provided in Criminal Procedure Code.

- In 192 cases of corruption monitored by KLI, results that the average of the treatment of the criminal charges by prosecutors is 175 days.
- In 193 cases of corruption monitored by KLI, results that the average of the treatment from initiation of investigation until the completion of the investigation is 176 days.
- In 193 cases of corruption monitored by KLI, results that the average of the treatment from the initiation of investigation until the filing of the indictment is 178 days.
- In 200 cases of corruption monitored by KLI, results that the of the treatment from the completion of the investigations until the filing of the indictment is 2 days.
- In 34 cases of corruption monitored by KLI, results that the average of the treatment from criminal charges until the filing of the direct indictment is 309 days.
- In 225 cases of corruption monitored by KLI, results that the average of the treatment from the filing of the indictment until the scheduled initial hearing is 278 days.
- In 127 cases of corruption monitored by KLI, results that the average of the treatment from the initial hearing until the scheduled second hearing is 54 days.
- In 108 cases of corruption monitored by KLI, results that the average of the treatment from the second hearing until the scheduled main hearing is 106 days.
- In 229 cases of corruption monitored by KLI, results that the average of the scheduled sessions for each case is 5.

\textsuperscript{210}Clarification: KLI clarifies that each indicator for which is averaged, is based on cases in which the data are completed and the number of cases for each indicator changes. So, as you may see in the table, calculations are made only for the number of cases for which there are all the data.

\textsuperscript{211}Note: Based on the new criminal procedure code, from the time of the submission of criminal report, prosecutor has to initiate investigations within 30 days or to dismiss the criminal report. This limitation of the deadline was not defined in the old criminal procedure code which fact made it possible to prosecutors to conduct violations, by not taking any legal actions with decades in order to treat those criminal reports. From the initiation of investigations until the completion of them can take 24 months, eventually if the case is complicated the investigation can last six (6) more months, which decision must come from the Court. 2. State prosecutor should immediately send a copy of this decision according to paragraph 1. To the police. 3. State Prosecutor within eight (8) days from the dismissal of the criminal report must notify the injured party regarding the dismissal and the reasons of such decision. Criminal Procedure Code of the Republic of Kosovo. Assembly of the Republic of Kosovo. December 13, 2012. Miftaraj E. and Musliu B. “Fighting Corruption in Kosovo, Priority in Paper”. Kosovo Law Institute. Page 89, 90. December 2015.
In 71 cases of corruption monitored by KLI, results that the average of the treatment from the scheduling of the main hearing until the announcement of the verdict is 188 days.
Ongoing, it is also analyzed the average time spent at each stage of criminal proceedings, for all cases monitored for each prosecutor and court.

Prosecution offices who have spent most of the time in dealing with criminal charges are BP in Ferizaj, BP in Mitrovica and BP in Pristina. The average of the treatment of the criminal charges until the decision from the initiation of the investigation in the prosecution offices it has taken the following time:

- BP in Ferizaj for 18 cases monitored it took 403 days.
- BP in Mitrovica for 12 cases monitored it took 304 days.
- BP in Pristina for 71 cases monitored it took 216 days.
- BP in Prizren for 26 cases monitored it took 108 days.
- BP in Gjakova for 18 cases monitored it took 83 days.
- BP in Gjilan for 34 cases monitored it took 71 days.
- BP in Peja for 13 cases monitored it took 50 days.

Prosecution offices who have spent most of the time in criminal investigations are BP in Ferizaj, BP in Mitrovica and BP in Gjakova. The average of the treatment from the initiation of the investigations until the completion of the investigations in the prosecution offices it has taken the following time:

- BP in Ferizaj for 18 cases monitored it took 257 days.
- BP in Mitrovica for 12 cases monitored it took 242 days.
- BP in Gjakova for 18 cases monitored it took 237 days.
- BP in Prizren for 26 cases monitored it took 192 days.
- BP in Pristina for 72 cases monitored it took 165 days.
- BP in Peja for 13 cases monitored it took 145 days.
- BP in Gjilan for 34 cases monitored it took 103 days.
Prosecution offices who have spent most of the time from the initiation of the investigation until the filing of the indictment are BP in Ferizaj, BP in Mitrovica and BP in Gjakova. The average of the treatment from the initiation of the investigation until the filing of the indictment in the prosecution offices it has taken the following time:

- BP in Ferizaj for 18 cases monitored it took 260 days.
- BP in Mitrovica for 12 cases monitored it took 243 days.
- BP in Gjakova for 18 cases monitored it took 240 days.
- BP in Prizren for 26 cases monitored it took 193 days.
- BP in Pristina for 72 cases monitored it took 170 days.
- BP in Peja for 13 cases monitored it took 146 days.
- BP in Gjilan for 34 cases monitored it took 104 days.

Prosecution offices who have spent most of the time from the completion of the investigation until the filing of the indictment are BP in Gjakova, BP in Ferizaj and BP in Prizren. The average of the treatment from the completion of the investigation until the filing of the indictment in the prosecution offices it has taken the following time:

- BP in Gjakova for 18 cases monitored it took 3 days.
- BP in Ferizaj for 18 cases monitored it took 3 days.
- BP in Prizren for 26 cases monitored it took 2 days.
- BP in Mitrovica for 12 cases monitored it took 2 days.
- BP in Pristina for 79 cases monitored it took 1 day.
- BP in Gjilan for 34 cases monitored it took 1 day.
- BP in Peja for 13 cases monitored it took 1 day.
Courts who have spent most of the time from the filing of the indictment until the scheduled initial hearing are BC in Mitrovica, BC in Peja and BC in Pristina. The average time period from the filing of the indictment until the scheduled of the initial hearing in courts it has taken the following time:

- BC in Mitrovica for 18 cases monitored it took 655 days.
- BC in Peja for 15 cases monitored it took 322 days.
- BC in Pristina for 88 cases monitored it took 307 days.
- BC in Gjilan for 37 cases monitored it took 276 days.
- BC in Ferizaj for 21 cases monitored it took 179 days.
- BC in Gjakova for 20 cases monitored it took 178 days.
- BC in Prizren for 26 cases monitored it took 57 days.

Courts who have spent most of the time from the initial hearing until the scheduled second hearing are BC in Mitrovica, BC in Pristina and BC in Ferizaj. The average time period from the initial hearing until the scheduled of the second hearing in courts it has taken the following time:

- BC in Mitrovica for 4 cases monitored it took 100 days.
- BC in Pristina for 55 cases monitored it took 57 days.
- BC in Ferizaj for 5 cases monitored it took 55 days.
- BC in Prizren for 21 cases monitored it took 51 days.
- BC in Gjakova for 14 cases monitored it took 47 days.
- BC in Gjilan for 17 cases monitored it took 46 days.
- BC in Peja for 11 cases monitored it took 43 days.
Courts who have spent most of the time from the second hearing until the scheduled basic hearing are BC in Gjilan, BC in Peja and BC in Ferizaj. The average period time from the second hearing until the scheduled main hearing in courts it has taken the following time:

- BC in Gjilan for 16 cases monitored it took 184 days.
- BC in Peja for 8 cases monitored it took 133 days.
- BC in Ferizaj for 4 cases monitored it took 111 days.
- BC in Pristina for 47 cases monitored it took 97 days.
- BC in Mitrovica for 3 cases monitored it took 93 days.
- BC in Gjakova for 13 cases monitored it took 79 days.
- BC in Prizren for 17 cases monitored it took 64 days.

Courts who have spent most of the time from the scheduling of the main hearing until the announcement of the verdict are BC in Pristina, BC in Prizren and BC in Gjakova. The average time period from the scheduling of the main hearing until the announcement of the verdict in courts has taken the following time:

- BC in Pristina for 22 cases monitored it took 330 days.
- BC in Prizren for 10 cases monitored it took 170 days.
- BC in Gjakova for 9 cases monitored it took 147 days.
- BC in Ferizaj for 10 cases monitored it took 139 days.
- BC in Peja for 6 cases monitored it took 122 days.
- BC in Gjilan for 8 cases monitored it took 99 days.
- BC in Mitrovica for 6 cases monitored it took 27 days.
e) The duration of the corruption cases until the announcement of the verdict (93 cases monitored by KLI)
During KLI’s monitoring process of 241 cases of corruption, the courts have announced 93 verdicts for corruption cases. In all these cases in which verdicts were announced, KLI has analyzed the duration of each stage of the criminal proceedings and the respect of legal deadlines provided by Criminal Procedure Code. The following charts present two important phases to measure the duration of solving corruption cases, from the initial of criminal report and from the filing of the indictment until the announcement of the verdict in the first instance. See the following charts.
Chart 6 – The duration from the treatment of the criminal report until the announcement of the verdict in 93212 cases monitored by KLI.

Note: KLI has measured and analyzed only those cases for which monitors have managed to provide the completed data about this stage of the criminal procedure set in
The graphic above shows that the shortest time of handling a corruption case from the submission of the criminal report until the announcement of the verdict is 68 days, while the one that lasted longer until the announcement of the verdict is 4257 days or over 11 years and a half. The graphic below presents the duration from the filing of the indictment until the announcement of the verdict. According to corruption cases monitored by KLI, results that the shortest time has been 27 days, while the case that lasted longer has taken 3816 days or over 10 years.
Chart 7 – The duration from the filing of the indictment until the announcement of the verdict in 93 cases monitored by KLI.
f) Monitoring of corruption cases returned in retrial

During the monitoring of 269 corruption cases during the six month period (January-June 2016), KLI monitors have identified 28 cases returned in retrial. Out of these 28 cases, 6 belong to BC of Pristina, 2 cases belong to BC of Ferizaj, 5 cases belong to BC of Prizren, 6 cases belong to BC of Gjilan, 5 cases belong to BC of Peja, 3 cases belong to BC of Gjakova and 1 case belongs to BC of Mitrovica.

Despite this, also in these cases KLI has set several indicators to measure the time for treating a case, at each stage of criminal proceedings, but the main focus has been in these three stages: 1) the time period from the filing of indictment until the announcement of the verdict of the first instance; 2) the time period from the announcement of the verdict of the first instance until the decision to return the case in retrial and 3) the time period from the decision to return the case in retrial until the appointment of the main trial. KLI findings show that judges and prosecutors need years to initiate or complete a case.

On the chart below, IKLI has presented the indicators of three stages mentioned above with the average of the spend time at each stage.\(^{213}\)

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\(^{213}\)Note: The measures for each indicator in each stage differ in terms of the number of cases. KLI has measured and analyzed only those cases for which monitors have managed to provide the completed data about the each stage of the criminal procedure set in indicators, which during this reporting period, these data are completed for 24 cases, and for one case only regarding one stage.
As noted in the chart above, the average duration of criminal proceedings in 28 corruption cases returned in retrial, which are monitored by KLI, shows that need to pass at least 8 months for one stage to be processed.

- In 25 cases returned in retrial, results that the average of the treatment from filing the indictment until the announcement of the verdict of the first instance is 816 days.
- In 24 cases returned in retrial, results that the average of the treatment the announcement of the verdict of the first instance until the decision to return the case in retrial is 360 days.
- In 24 cases returned in retrial, results that the average of the treatment the decision to return the case in retrial until the appointment of the main trial is 284 days.
Out of 28 cases returned in retrial, for 16\textsuperscript{214} of them is announced the second verdict. The average of the spend time from the appointment of the main trial until the announcement of the verdict for 15 cases of them is 169 days.

KLI findings, from the monitoring process of the corruption cases returned in retrial, show that in 16 cases with 25 persons to whom the second verdict was announced, one person is sentenced with 6 months imprisonment, one person with suspended sentence for 3 months, one person with suspended sentence for 6 months, three persons with suspended sentence for 12 months each, two persons with suspended sentence for 24 months each, for twelve persons judges have announced acquittal verdict, for two persons judges have announced rejecting judgment since prosecutors withdrew from criminal prosecution, while against three persons judges have dismissed the indictments due to the reach of statutory limitation.

Meanwhile, out of 28 cases analyzed, 1 case is returned in retrial for the second time. After the announcement of the second verdict, the Court of Appeal needed 451 days to return the case in retrial, while the Basic Court in Prizren needed 359 days from the day that the case was returned in retrial until the first session of the main trial.

\textit{g) Profile of corruption monitored in court hearings by KLI (01.01.2016-30.06.2016)}

The profile of 630 defendants in these 269 corruption cases monitored by KLI during this reporting period (\textit{january-june 2016}) is mainly low and medium and a limited number of defendants belong to the high-profile.

\textsuperscript{214} Clarification: Despite the numerous requests and efforts by KLI monitors to provide the data for a case returned in retrial in the Basic Court of Mitrovica, there was no concrete response given so far.
Out of 398 persons of the low profile, 206 of them are in the BC in Pristina, 52 in BC of Prizren, 20 in BC of Peja, 41 in BC of Gjilan, 24 in BC of Mitrovica, 30 in BC of Ferizaj and 25 in BC of Gjakova.

Out of 208 persons of medium profile, 98 of them are in the BC in Pristina, 24 in BC of Prizren, 7 in BC of Peja, 35 in BC of Gjilan, 13 in BC of Mitrovica, 19 in BC of Ferizaj and 12 in BC of Gjakova.

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215 Clarification: In this table, at the persons of high profile, are two defendants of high profile, which are calculated twice because of their involvement in two different cases.
Out of 22 persons of high-profile, 11 of them are in the BC in Pristina, 3 in BC of Prizren, 3 in BC of Gjilan, 3 in BC of Mitrovica, 1 in BC of Ferizaj and 1 in BC of Gjakova.

Among 22 defendants of high-profile, according to the table presented below, are included: One former Court President, one Chief Prosecutor, one Prosecutor, five Judges, three Ministers, eight Mayors (one of them has two indictments in two cases), Head of PTK, Head of the Procurement Regulatory Commission (two indictments in two cases) and one former Rector of the University of Pristina.

<table>
<thead>
<tr>
<th>The high-profile of defendants accused for corruption offenses during January-June 2016</th>
<th>Pristina</th>
<th>Prizren</th>
<th>Peja</th>
<th>Gjilan</th>
<th>Mitrovica</th>
<th>Ferizaj</th>
<th>Gjakova</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court President</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Chief Prosecutor</td>
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<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Judge</td>
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<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Prosecutor</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Minister</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Mayor</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Head of PTK</td>
<td>1</td>
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<td>0</td>
<td>0</td>
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<td>0</td>
<td>0</td>
<td>1</td>
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<tr>
<td>Head of the PRB</td>
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<td>0</td>
<td>0</td>
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<td>1</td>
</tr>
<tr>
<td>Rector at the UP</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

Tabla 17 – The high-profile of defendants accused for corruption cases during January-June 2016.
XII. SENTENCES POLICY ON CORRUPTION CASES

a) Sentences on corruption cases (01.01.2016-30.06.2016)

KLI assesses that the policy of sentences on corruption cases is soft. In 93 verdicts announced in the first instance on corruption cases monitored by KLI, results that judges mainly implement a soft policy of sentence against perpetrators of corruption offenses. On the following table are presented the verdicts announced by judges in these 93 judgments on corruption cases. See the table below.

<table>
<thead>
<tr>
<th>Imprisonment</th>
<th>Suspended sentence</th>
<th>Fine</th>
<th>Acquittal verdict</th>
<th>Rejecting judgment</th>
<th>Dismissal of indictment – Statutory limitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Persons</td>
<td>Persons</td>
<td>Sum in euro</td>
<td>Persons</td>
<td>Persons</td>
<td>Persons</td>
</tr>
<tr>
<td>25216</td>
<td>28217</td>
<td>12</td>
<td>65</td>
<td>16</td>
<td>14</td>
</tr>
</tbody>
</table>

Table 18 - Cases of judgment monitored by KLI.

The findings of KLI, from the monitoring of corruption cases process, shows that against 160 persons to whom the verdict was announced in the first instance, against 25 persons the court has announced imprisonment verdict, in total from three hundred and ninety one (391) months or thirty two (32) years and seven (7) months for all convicted persons.

From 25 convicted persons two persons are sentenced with 2 months imprisonment each, one person is sentenced with 3 months imprisonment, one person is sentenced with 5 months imprisonment, two persons are sentenced with 6 months imprisonment each,

216 Clarification: From 25 persons sentenced with imprisonment, 5 of them are the same ones that were sentenced also with fine, in total of 7,400 euro.
217 Clarification: From 28 persons with suspended sentence, 8 of them are the same ones that were sentenced also with fine, in total of 4,400 euro.
one person\textsuperscript{218} is sentenced with 7 months imprisonment, one person is sentenced with 10 months imprisonment, seven persons\textsuperscript{219} are sentenced with 12 months imprisonment each, one person is sentenced with 14 months imprisonment, two persons are sentenced with 18 months imprisonment each, one person\textsuperscript{220} is sentenced with 24 months imprisonment, four persons are sentenced with 30 months each imprisonment and two persons are sentenced with 36 months imprisonment each.

Judges against 28 persons have announced suspended sentences of 315 months. Against one person\textsuperscript{221} have announced verdict with suspended sentence for 1 months, against two persons suspended sentence for 2 months each, against two persons\textsuperscript{222} suspended sentence for 3 months each, against one person suspended sentence for 4 months, against five persons\textsuperscript{223} suspended sentence for 6 months each, against ten persons\textsuperscript{224} suspended sentence for 12 months each, against three persons suspended sentence for 18 months each and against four persons\textsuperscript{225} suspended sentence for 24 months each.

Regarding the imprisonment sentences that have been replaced with fine, results that the fines reach the high from 38,900 euro, where three persons are sentenced with 200 euro each, one person is sentenced with 300 euro, one person is sentenced with 400 euro, two persons are sentenced with 500 euro each, one person is sentenced with 700 euro, one person is sentenced with 800 euro, four persons are sentenced with 1,000 euro each, one person is sentenced with 1,600 euro, four persons are sentenced with 2,000 euro each, two persons are sentenced with 2,500 euro each, four persons are sentenced with 3,000 euro each and one person is sentenced with 3,600 euro.

Against 65 persons judges have announced acquittal verdict, while against 16 persons judges have announced rejecting judgment since prosecutors withdrew from criminal prosecution. Meanwhile, against 14 persons they dismissed the indictments due to the reach of statutory limitation. From 160 defendants, results that Courts have sentenced with effective imprisonment 25 persons or 15.6 % of

\textsuperscript{218} Clarification: The person sentenced with imprisonment for 7 months, is the same one that was sentenced also with fine, in total of 400 euro.
\textsuperscript{219} Clarification: Three of seven persons sentenced with imprisonment for 12 months each, are the same ones that were sentenced also with fine, for two of them a fine in total of 1,000 euro each, while for the third one a fine in total of 2,000 euro.
\textsuperscript{220} Clarification: The person sentenced with imprisonment for 24 months, is the same one that was sentenced also with fine, in total of 3,000 euro.
\textsuperscript{221} Clarification: The person sentenced with suspended sentence for 1 month, is the same one that was sentenced also with fine, in total of 500 euro.
\textsuperscript{222} Clarification: One of two persons sentenced with suspended sentence for 3 months each, is the same one that was sentenced also with fine, in total of 300 euro.
\textsuperscript{223} Clarification: One of five persons sentenced with suspended sentence for 6 months each, is the same one that was sentenced also with fine, in total of 500 euro.
\textsuperscript{224} Clarification: Three of ten persons sentenced with suspended sentence for 12 months each, are the same ones that were sentenced also with fine, for two of them a fine in total of 200 euro each, while for the third one a fine in total of 700 euro.
\textsuperscript{225} Clarification: Two of four persons sentenced with suspended sentence for 24 months each, are the same ones that were sentenced also with fine in total of 1,000 euro.
defendants. Also, from these 160 defendants, against 28 persons judges have announced suspended sentences or against 17.5%, of defendants, while 65 persons were released or 40.6% of defendants.

In these cases of corruption in which courts have announced a verdict, are included all profile levels of the defendants. Of them, 93 persons belong to the low profile, 61 persons belong to medium profile and 6 persons belong to high-profile.

Chart 10 – Profile of 160 defendants for criminal offences of corruption, for which Basic Courts have announced a verdict during the reporting period (January-June 2016)
Applicants of criminal reports are expressed dissatisfied with the sentences accounted by courts. Director of ACA notes that in all rejected cases there is an answer. "The agency has failed to prove intent." ACA estimates that carries out its mission by developing-administrative preliminary investigation, and according to them, further Prosecution offices make no commitment to testify the purpose but this is required by the Agency, which is impossible to do. ACA cases are in a small number and delayed, while in court proceedings there are cases initiated by ACA since 2009 and the same one are reaching the statutory limitation.226 Only in the first six

226 KLI interview with Mr. Hasan Preteni, Director of Anti-Corruption Agency. September 2016.
months, according to ACA data on ACA cases, basic courts have imposed seven (7) judgments. Of these five (5) verdicts are sentencing, of which no one has been sentenced to effective imprisonment, but all are sentenced with suspended sentence and fine, one (1) rejecting judgment, due to the withdrawal of the Prosecutor from the indictment and a (1) a judgment of acquittal on lack of evidence. Dissatisfied with the prosecution and sentencing policy were also expressed the Kosovo Tax Administration.

Without prejudging the merits of the judicial decision in corruption cases, KLI expresses its concern that sentences policy implemented by judges on corruption cases, is no sending a clear message to the perpetrators of these criminal offenses. Such practice, by imposing soft sentences with prison or suspended sentence and fine, transmits negative message to the citizens and the public. Also, these soft measures imposed cannot reach its goal of which is punished, if the character punitive to those who are found guilty of having committed the offense of the corruption, or preventive character, which is intended to send a clear message to those who may be the subject to the commission of offenses of corruption.

a) Sentences for corruption cases according to the Tracking Mechanism – 2016

The judicial system during the first six months of 2016, has treated a considerable number of corruption cases. The table below shows that the court at the beginning of 2016 have had at work 407 unsolved cases with 957 persons involved. During this reporting period the courts have received 116 new cases with 209 persons. The total number of cases at work results to be 523 cases with 1166 persons involved, of with 159 cases with 338 persons involved have been resolved. Meanwhile, at the end of June 2016, the number of cases remained at work to courts is 364 cases with 828 persons. See table below:

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227 Director of ACA, Mr. Hasan Preteni, has informed KLI that in (5) sentenced verdict are included the cases of non-declaration of assets. In the first verdict was announced suspended sentence for four (4) months and fine of 400 euro, in the second verdict was announced suspended sentence for one (1) month and fine of 200 euro, in the third verdict was announced suspended sentence for one (1) month and fine of 80 euro, in the fourth verdict was announced suspended sentence for three (3) months and fine of 300 euro and in the fifth verdict was announced suspended sentence for four (4) months and fine of 400 euro. KLI interview with Mr. Hasan Preteni, Director of Anti-Corruption Agency. September 2016.

228 KLI interview with the Officials of the Office for Information in the Kosovo Tax Administration. September 2016.
Chart 12 – The treatment of corruption cases by Basic Courts during the reporting period January-June 2016.
The table above presents the report regarding the solving manner of corruption cases during the first six months of 2016, by Basic Courts in Kosovo. Based on this table it is noted the efficiency trend of judicial system in handling these cases during 2016.

During the first six months of 2016 courts have announced sentences with imprisonment in 26 cases against 31 persons, sentences with fine in 20 cases against 27 persons, suspended sentences in 22 cases against 29 persons, while in 2 cases against 2 persons have
announced other sentences. During this period, Courts in 38 cases against 65 persons have announced acquittal verdicts, while regarding the cases with rejection judgment, Courts have decided in 22 cases with 42 persons. In another manner have been solved 29 cases with 142 persons.

As mentioned above, without prejudging the merits of the judicial decision in corruption cases, KLI expresses its concern that sentences policy implemented by judges on corruption cases, is no sending a clear message to the perpetrators of these criminal offenses. Moreover, responsible for this punitive policy is also the Court of Appeal in Pristina, which should ensure to have adequate punitive policy and at the same time to do the unification of penalties policy.

Based on data from the Court of Appeal in Pristina, it shows that on January 1, 2016, this Court has had to work 4 unsolved cases with a total of 12 persons indicted. During the reporting period from January 1 to August 3, 2016 has received 67 corruption cases with 132 persons accused. By them during the reporting period, 53 cases are solved with 109 persons accused, while remain in work 14 cases with 23 defendants. Acting President of the Court of Appeal in Pristina, estimates that these figures show a remarkable efficiency in handling cases of corruption. Of all these cases resolved, 34 cases have been confirmed or about 70% of first instance judgments. In some cases, basic court judgments were changed regarding the decision on punishment, when imposed tougher penalties or suspended sentences are transformed into effective imprisonment sentences, in a case also from the verdict of acquittal, the defendant is found guilty.229 Regarding the manner of deciding in general based on the data of the Court of Appeal, shows that for 2016 out of 557 cases solved by the Department for Serious Crimes, 334 are proved, 83 are sent to a retrial, while others are set differently. The Court of Appeal has not been able to inform if there was a case where there was confiscation of property acquired through corruption offenses.

XIII. SEQUESTRATION AND CONFISCATION OF THE ASSETS BENEFITET THROUGH CRIMINAL OFFENCE OF CORRUPTION

KLI during the reporting period monitored prosecutors and judges activities with regard to the implementation of the legal provisions on freezing, sequestration and confiscation of the assets benefited through criminal offence of corruption. Out of 269 corruption cases

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229 Kli interview with Mrs. Tonka Berishaj, Acting President of the Court of Appeal in Pristina. September 2016.
230 Kli interview with Mrs. Tonka Berishaj, Acting President of the Court of Appeal in Pristina. September 2016.
monitored in all Basic Courts, KLI found that prosecutors in very rare cases implement in practice legal provisions with regard to the requests for sequestration and confiscation of the assets benefited through criminal offence of corruption.

Chief State Prosecutor on 14 January 2014, issued an Instruction 231, regarding the actions of the prosecution on implementation of the provisions in relation to the sequestration and confiscation of the assets benefited through criminal offence. KLI monitors during the monitoring process of the corruption cases found that in very limited cases, prosecutors submitted requests for sequestration and confiscation of assets benefited through criminal offence of corruption. Only in the following indictments submitted to the court for corruption cases, prosecutors submitted such requests:

**BC in FERIZAJ:**
KLI during the reporting period monitored 44 corruption cases at the Basic Court in Ferizaj. Out of 44 cases, KLI monitors identified only **1 case**, where prosecutors submitted request for sequestration and confiscation. Below is presented the concrete case:

- **PKR.no.1503/12**: Citizen identification cards, certificates issued by the Red Cross.

**BC in GJILAN:**
KLI during the reporting period monitored 96 corruption cases at the Basic Court in Gjilan. Out of 96 cases, KLI monitors identified only **3 cases**, where prosecutors submitted request for sequestration and confiscation. Below are presented the concrete cases:

- **PKR.no. 27/15**: In the indictment of the Basic Prosecution office in Gjilan was proposed to be read as an evidence: Proof on the confiscation of the material evidence – confiscated banknotes (200 euro), orders for disconnection from the electrical network released by the KEDS in Viti, as well as photo documentation of banknotes;

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231 Instruction No. 26/2014, dated 14 2014, regarding the actions of the prosecutors on implementation of the legal provisions on freezing, sequestration and confiscation of assets, (See link: [http://www.psh-ks.net/repository/docs/Nr.26.2014- Udhezim_lidhur_me_veprimet_e_prokuroreve_lidhur_me_sendet_e_sekuestruara.pdf](http://www.psh-ks.net/repository/docs/Nr.26.2014-Udhezim_lidhur_me_veprimet_e_prokuroreve_lidhur_me_sendet_e_sekuestruara.pdf)). (Last accessed on October 9, 2016).
PKR.no. 114/15: In the indictment of the Basic Prosecution office in Gjilan was proposed to be read as an evidence: Proof on the sequestration of the Samsung phone PSC5. Moreover, the proposal of this prosecution office was also the confiscation of the identity card of Kosovo Police in the name of the defendant A.A., “Samsung” mobile phone;

BC in PRISTINA:
KLI during the reporting period monitored 219 corruption cases at the Basic Court in Gjilan. Out of 96 cases, KLI monitors identified only 10 cases, where prosecutors submitted request for sequestration and confiscation. Below are presented the concrete cases:

PKR.no. 612/14: Private car of the defendant, Mercedes type;

PKR.no. 344/15: Claim in the indictment to be confiscated the items sequestrated: Prove on the temporary sequestration of items, prove on the temporary sequestration of items Police report dated 08.05.2015, prove on the temporary confiscations of items dated 08.05.2015, prove on the temporary taking of items dated 12.05.2015

PKR.no. 341/15: Against the defendant I.H SPRK has proposed:-CONFISQATION of the car of the type Audi Q7, with plates 01-900FG, produced on 2008 in the amount of 37.000,00€, car of the type VW Golf with plates 01-326-FP, produced on 2009 in the amount of 12.500€ and another car of the type VW Golf with plates 01-421-FL, produced on 2009, in the amount of 16.800,00€ and the amount of 11.000,00€, as assets gained through criminal offence; - Against the defendant Skender Canolli CONFISQATION of the car of the type VWPassat, with plates 01-714-FL, produced on 2008, in the amount of 20.000,00€, the amount of 10.560,00 Swiss Franc, 2.600,00$ American and 1.880,00€, as assets gained through criminal offence; - Against the defendant CONFISQATION of the building in the neighbor “Kalbria” Lamela 2, floor II, building no. 07 with an area of 76.3m2, in the amount of 38.150,00€; as assets gained through criminal offence; and the ARMS: by the defendant Ismet Haliti- Pistoleta pistol CZ.99 of 9mm caliber with no.121623 with a free cartridge and by the defendant Skender Canolli -Broving Pistol 9mm caliber eight cartridges and a Carbine rifle with serial number 85269, Kragujevac Zastava- Crvena production, caliber 8x57mm, and twenty two of this rifle cartridge.

Sequestrated items:
Sequestrated items by the defendant I.H: a. 11,000.00€ (eleven thousand euro), 22 banknotes 500€; Car VW “Golf”, produced on 2009, metallic black color, with plates 01-326-FP, ID no. WVVZZZ1KZP453134, registered in the name of I.H; Car VW “Golf”, produced on 2009, grey color, metallic, with plates 01-421-FL, ID no. WVVZZZ1KZ9W578466, registered in the name of F.H (son of the defendant I.H); Car Audi Q7, black color, with plates 01-900-FG, identification number
WAUZZZ4L69D025641, produced on 2008, registered in the name of A.P, where the investigation found out that the owner of this car is the defendant I.H.

Sequestrated items by the defendant S.C – 10,560CHF (ten thousand five hundred and sixty Swiss francs) – 1,880€ (one thousand eight hundred and eighty euro) – 2,600$ USD (two thousand six hundred US dollar); Car VW “Passat”, metallic black color, with number of registration 01-714-FL, produced on 2008, ID no. WVWZZZ3CZ9E520573, registered in the name of L.C (son of the defendant S.C)

Property sequestrated by the defendant M.Sh. building no. 8 with an area of 76.3m2, on the lamell 2, entrance 1, floor 2 in the neighbor Calabria;

- **PKR.no. 161/14**: Letters which shows the payment of money;
- **PKR.no. 652/15**: Sequestration of 5000 euros from the defendant;
- **PKR.no. 190/14**: Bill 4.200 euro; Bill 3000 euro; Bill 3000 euro; 09.04.2013 - Prove on the temporary taking of items: MAPD decision – NGO; Authorization 02.04.2010; 06.01.2010 - Prove on the temporary taking of items: NGO License; NRF Certificate; Statute; Paragon; 02.05.2013 - Prove on the temporary taking of items: Cash book 2010; Cash book 2010; 28.12.11 – Prove on the temporary taking of items: A block (Receipt of payment); A file of 14 pages;
- **PKR.no. 243/13**: Confiscation of the banknote in the amount of 10 euro;
- **PKR.no. 222/15**: Confiscation of the banknote in the amount of 50 euro;
- **PKR.no. 303/16**: Temporary taking of items: Contract VR.no.5687/1997 dated.28.01.1990, purchase of real estate contract dated 20.03.2012.
- **PKR.no. 932/13**: Computer Lodge BC in PRIZREN:
  KLI during the reporting period monitored 94 corruption cases at the Basic Court in Prizren. Out of 94 cases, KLI monitors identified only 1 case, where prosecutors submitted request for sequestration and confiscation. Below is presented the concrete case:
  - **P.no. 149/14**: Artificial fertilizer in quantities of 28 tonnes and 125 bags of 50 kg weight.

BC in GJAKOVA:
KLI during the reporting period monitored 37 corruption cases at the Basic Court in Gjakova. Out of 37 cases, KLI monitors identified only 2 cases, where prosecutors submitted request for sequestration and confiscation. Below are presented the concrete cases:
○ **PKR.no. 10/14**: Proposal to confiscate 7.800 and 134.753.71 euro for one defendant H.B., while for the other defendant Z.K., 1.835.36 euro.

○ **PKR.no. 193/15**: Amount of 6,620 euro.

KLI has requested official information from NCFEC regarding the assets sequestrated and confiscated as a result of the commission of corruption offenses. The office of NCFEC has not been able to provide data for this period regarding the material benefit that was returned to the state budget as a result of the sequestration or confiscation of the sentence of persons for corruption offenses.²³²

NCFEC answers related to the freezing and sequestration of assets for the reporting period (January-June 2016), refers to all offenses defined by the Criminal Code or other relevant legislation, which in total includes the amount of **58,273,468.00 to 68,273,468.00€**.

Regarding the confiscations for the period January-June 2016, NCFEC has provided information that during April - June 2016 the final confiscations have reached the amount of **448,234.00€**.

NCFEC did not provide any information regarding the sequestration or confiscations of assets as a result of the commission of corruption offenses. The Head of KPC, Blerim Isufaj, during the meeting held on September 16, 2016, in which meeting has reported the NCFEC, Shqipdon Fazliu, has required from the Coordinator clarifications regarding the results of sequestrated and confiscated assets for characteristic criminal offences, in order to identify to which criminal activity do these assets belong. But the Coordinator Fazliu, said that he does not possess such data.

NCFEC has also informed KLI, that in one case in SPRK, (PPS.no. 33/13) the defendants have already set to the state budget more precisely on account of the Ministry of Health, the amount of 100,000.00 € + 200,000.00 € (300,000.00 Euro in total ) set on the first period january – march 2016. In this case has worked the Prosecutor of SPRK, Admir Shala.

NCFEC has also informed KLI that during this reporting period there were two other cases which ended with a final confiscation in the amount of **€ 9,817.96**.

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²³²KLI communication through electronic mail with the National Coordinator for Fighting Economic Crimes, Mr. Shqipdon Fazliu, September 20-26, 2016;
NCFEC regarding the work of prosecutors and courts in the implementation of legal provisions for sequestration and confiscation, concludes "that on one side there is a progress, and this is expressed particularly on the prosecution because already during the years 2014, 2015 and half of 2016, the amount the seizures has spent over € 100,000,000.00, which is a good figure and cannot be ignored. On the other hand, however, we understand that sequestration is not the final goal of the enforcement bodies and that these sequestrations should be sent to the final stage, which is the confiscation of assets acquired by criminal offense. The undeniable fact is that since the entry into force of new laws in v. 2013 (CCRK and CPC) have no final judgments and responsibility must therefore be addressed to the KJC. Even in these six months of 2016 we have two judgments, but considering that in one case we had plea of guilt, we think that however even this is more a merit of prosecution office while in the second case we are dealing with the case by EULEX judges and prosecutors. Therefore remains an undisputed fact that the courts have not completed even a single case of final confiscation throughout the years. It is worth noting that there are some cases that have obtained a judgment at first instance but they are either not yet decided by the Court of Appeal or returned for retrial.233

NCFEC also said that they are extremely dissatisfied with the implementation of LKZK because in these 3.5 years of the entry into force of this law, we do not have a single case that was completed and where is required the confiscation of property that cannot be justified after the sentencing judgment. "By the fact that we have over 100.000.000.00 assets frozen or sequestrated, it means that there is an increasing of awareness by the prosecution offices regarding the requests for confiscation in indictments, but it remains as single the issue of finalization of such cases by the courts. Regarding this question, these are various troubles, ranging from legal infrastructure because Kosovo has no law allowing confiscation of unjustified asset and without judgment sentencing, then not properly implementing of performance evaluation, accountability, punitive policy, etc. while this is a very small space to talk extensively about these problems, but more details can be found in our quarterly reports. Regarding the confiscations occurred during this period, the indictment includes multiple defendants and one count of the indictment deals with Article 422 of CCRK or abuse of office or official authority, a criminal offence that falls within the scope of offenses against corruption or official duty. There are also other charges where there are sequestration of assets and where the indictments were filed for offenses of the same offense.234

**XIV. RECOMMENDATIONS IMPLEMENTED**

233 KLI communication through electronic mail with the National Coordinator for Fighting Economic Crimes, Mr. Shqipdon Fazliu, September 20-26, 2016;
234 KLI communication through electronic mail with the National Coordinator for Fighting Economic Crimes, Mr. Shqipdon Fazliu, September 20-26, 2016;
RECOMMENDATIONS IMPLEMENTED BY KOSOVO JUDICIAL COUNCIL

- KJC has implemented the recommendation of KLI regarding the announcement of positions for judges at all court levels. KJC from 14 positions announced for judges, for BC in Pristina had announced only three positions.

- KJC implemented partially the KLI recommendation regarding the monitoring of the basic courts in the process of the implementation of the obligations deriving by the action plan.

- Basic courts partially implemented KLI recommendation regarding the increase of the transparency with public, media and civil society during the monitoring process of corruption cases.

- Basic Court in Pristina implemented the KLI recommendation to treat corruption cases with top priority.

RECOMMENDATIONS IMPLEMENTED BY KOSOVO PROSECUTORIAL COUNCIL

- Kosovo Prosecutorial Council has implemented the recommendation of KLI regarding the announcement of the competition for Chief Prosecutor of the Special Prosecution office of the Republic of Kosovo and the appointment of the Chief Prosecutor of this Prosecution office.

- KPC has implemented the recommendation of KLI regarding the fulfillment of allowed positions for prosecutors. KPC is at its final phase of proposing for appointment prosecutors at all basic prosecution offices, including BP in Pristina.

XV. RECOMMENDATIONS

Recommendation for KJC, KPC, KP, ACA and international partners which support the justice system in Kosovo:
KJC, KPC, Police, ACA and international partners which support the justice system in Kosovo are recommended to urgently establish a working group to analyze the acts related to the dismissal of criminal reports and termination of investigations in cases of corruption. Trend of 71 per cent of the cases closed to the persons involved in corruption cases is worrisome, and enters the realm of flagrant violation of the rights and freedoms guaranteed by the Constitution. The justice system through a comprehensive assessment should find the shortcomings while dealing with cases of corruption. The justice system through this process should assess whether in practice we are dealing with poor quality of criminal reports, lack of will or lack of professionalism by the prosecutors during their treatment. Problems arise especially to criminal reports filed by institutions such as KP and ACA.

RECOMMENDATIONS FOR THE MINISTRY OF JUSTICE:

- Ministry of Justice is recommended to start with the amendment of the Law on Special Prosecution of the Republic of Kosovo, regarding the powers and responsibilities of this prosecution office, including reviewing the criteria and procedures for the recruitment and appointment process of prosecutors in this Prosecution Office.
- Ministry of Justice is recommended to commence the drafting of a special Law for the Office of Disciplinary Counsel. This law should increase accountability of ODC, way of management and administration of this office, the Director of this office should have managerial character and non-executive. To consider the possibility for ODC to enter under the umbrella of the Ministry of Justice, while, should be guaranteed the independence of the KJC and KPC in handling cases submitted by ODC against judges and prosecutors.

RECOMMENDATIONS FOR KOSOVO JUDICIAL COUNCIL

- KJC is recommended to speed up and finalize the recruitment process and the proposal for appointment of the 14 positions announced for judges.
- KJC should ask the Commission to monitor the implementation of the action plan for the corruption cases in order to fulfill the obligations stipulated in the Action Plan.

- KLI recommends to the KJC and courts to fulfill all their obligations during the treatment of the corruption cases as stipulated by the deadlines and obligations set out in the Action Plan.

- KLI recommends to the Basic Court in Pristina to continue to assign corruption with priority, including cases submitted by SPRK to be considered as top priority.

- Basic Courts are recommended to strictly implement the deadlines set by the Criminal Procedure Code when handling corruption cases concerning the appointment of the initial hearing, second hearing and main trial.

**RECOMMENDATIONS FOR KOSOVO PROSECUTORIAL COUNCIL**

- KPC is recommended to speed up and finalize the recruitment process and the proposal for appointment of positions announced for new prosecutors.

- KLI recommends to the KPC to review the Strategic Plan and Action Plan to increase the efficiency of the prosecutorial system in fighting corruption, economic crimes, sequestration and confiscation of assets benefited through criminal offence. Review of such Plan shall dismiss provisions that are in violation with the applicable law and best international practices and standards.

- KLI recommends to the KPC to urgently fulfill the allowed positions for prosecutors at the SPRK. This Prosecution office acts with 50% of capacities allowed.

- KPC should urgently review and annul the unlawful Instruction of Chief State Prosecutor with number A.no.258 / 2016 dated on April 29, 2016, for the treatment of criminal reports.

- KPC, Chief State Prosecutor and Chief Prosecutor of SPRK are recommended to fulfill legal obligations regarding requests for access to public documents in the prosecutorial system.
• KPC is recommended through its mechanisms to increase the accountability of prosecutors in fulfilling legal obligations regarding requests for sequestration and confiscation of assets acquired illegally through corruption offenses.

• BP is recommended to treat with absolute priority the corruption cases dated before 2010.