



**Kosovo Law Institute**

# FIGHTING CORRUPTION IN KOSOVO: PRIORITY IN PAPER

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**Authors:** Ehat Miftaraj and Betim Musliu

**Lawyers and monitors:** Genc Nimoni, Adem Krasniqi, Valdet Hajdini, Erlina Tafa, Arbelina Dedushaj, Diana Berisha

**Monitors:** Hyrije Mehmeti, Bukurezë Surdulli, Gita Lushi

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#### **ABOUT KLI**

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

KLI

Object C2, Entrance II, Floor IV, No. 8

Str. Hajdar Dushi

Pristina

E: [info@kli-ks.org](mailto:info@kli-ks.org)

[www.kli-ks.org](http://www.kli-ks.org)

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## I. EXECUTIVE SUMMARY

Corruption remains prevalent in many areas and is a major concern for the people of Kosovo. The index of perception of corruption in Kosovo based on the Amnesty International is 2.9, and it is classified as a "rampant" level of corruption. Organization for Economic Cooperation and Development, also reported that 'Kosovo remains very permissive to corruption at all levels, meaning that the risk of becoming (or even of actually already being) a "captured state" is high'<sup>1</sup>. Beyond this perception, the fight against corruption in Kosovo continues to be an absolute priority for all state institutions. This fight has turned into political rhetoric of the Kosovo leaders, justice system key stakeholders, including international leaders of the EULEX Mission. Unfortunately, beyond this rhetoric has not had the will and concrete results in fighting corruption in Kosovo, especially high-profile corruption. The lack of concrete results in fighting corruption by institutions has become an obstacle on the path towards European integration. Kosovo remains the only country in the region that does not have visa liberalization. Citizens of Kosovo, remain the only ones in Europe limited with regard to the right of movement, due to the failure of politics and the judiciary to perform their duties and responsibilities in accordance with the mandate with which they were elected or appointed.

The Republic of Kosovo does not suffer from lack of laws and policies to combat corruption. Kosovo is suffering from political interference in the justice system, which is related to the lack of will to support the judicial and prosecutorial system with sufficient budgetary resources that would enable them to exercise their functions independently. The important factor why Kosovo is lacking results in fighting corruption is the lack of accountability and installation of the culture of impunity in all sectors.

KLI as a result of the monitoring the performance of the prosecutorial and judicial system in treating the corruption cases, found that despite the adoption of laws and new institutes in criminal justice, adoption of the adequate policies to combat corruption, the same does not apply in practice. The trend of unresolved corruption cases through the prosecution offices is increased. Until November 4, 2013 there were 516 unresolved corruption cases with 1,682 individuals involved, while on September 30, 2015 this number was increased to 636 unresolved cases with 1753 individuals. This trend proves the practical unwillingness to tackle

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<sup>1</sup> European Union Assistance for Kosovo regarding the Rule of Law. European Court of Auditors. Special Report. No. 18, 2012. See the link [http://www.eca.europa.eu/Lists/ECADocuments/SR12\\_18/SR12\\_18\\_EN.PDF](http://www.eca.europa.eu/Lists/ECADocuments/SR12_18/SR12_18_EN.PDF)

corruption cases with absolute priority. The declared willingness and commitment in fighting corruption remains only on paper. From November 4, 2013 to September 30, 2015, the Basic Prosecution Offices and SPRK have had at work 1334 cases with 3308 individuals involved, of which prosecution offices solved 766 cases with 1,757 individuals. The characteristic of these cases is a way of resolving them by prosecution offices. Out of 1757 individuals against of whom the cases are solved, there are a large number of individuals against which the cases are dismissed for corruption. Out of 1757 individuals that were subject of the corruption criminal proceedings, against 882 individuals the cases are dismissed by prosecution offices. Respectfully, prosecution offices during this period of time filed indictments against 875 individuals, dismissed criminal reports against 476 individuals, and terminated investigations against 406 individuals. The high number of cases dismissed at the Prosecution offices, proves that the justice system in Kosovo is persecuting its citizens, or they are lacking the expertise and professionalism of the officials that are initiating or investigating corruption cases, or justice institutions in Kosovo are under the high pressure from the domestic and international factor to demonstrate results and under such pressure they are initiating high number of the criminal proceedings, which are ending with the dismissal of the cases and violation of the human rights and freedoms. During this reporting period, KLI identified 62 corruption cases that reached statutory limitation, while only on the last six months of the monitoring prosecution offices, are identified 12 cases that reached statutory limitation.

Fighting high level corruption is remaining main challenge of the prosecutorial system. The lack of the results for ages and the application of the selective justice in individual cases during the prosecution of the powerful individuals is having impact in the loss of public trust in the prosecutorial system. The Kosovo citizen satisfaction with the work of the State Prosecutor for March-September 2015, had the highest decrease of all the time, with only 12.8%.

KLI, the biggest failures in combating high-profile corruption in Kosovo, billed to Eulex Mission in Kosovo, which Mission until June 2014, managed the SPRK and has had exclusive competence in this field. This of course doesn't amnesty the local prosecutors from the responsibility in SPRK. The performance of the SPRK prosecutors in fighting high level corruption, results with minimal outcomes, since they have failed to meet annual oriented norm only to 13:26 percent. From 1 January 2015 to 30 September 2015, SPRK has solved cases against 62 persons, out of which against 51 individuals filed indictment, against 6 individuals dismissed criminal reports, while against 5 individuals, terminated investigations. Out of these cases, KLI founds that SP published information for this period of time with regard to the indictments filed in five cases, where were involved one (1) former President of the Constitutional Court, a one (1) former Municipality Mayor, one (1) former Secretary-General, 18 municipal officials, six (6) owners of the companies, one (1) director, one (1) director of the institute, three (3) managers, two (2) officials and in one case

against individual related to suspicions of abuse in the former Ministry of Transport and Tele Communications. During the monitoring process of corruption cases, the KLI has found that the SP in the publication of information in its website, is applying selective justice by applying double standards for different individuals against whom indictments were filed, which in certain cases publish information in details including the names of defendants, while in other cases the individuals who are subject of the indictments are not shown.

KLI monitors from 1 July 2015 to 30 November 2015, monitored 276 court hearings, which includes 171 corruption cases with 367 individuals. Based on the detailed analysis made in 60 cases monitored, it results that in every stage of the criminal procedure, there is violation of the legal deadlines, by prosecutors and judges. Out of these judicial proceedings, KLI analyzed 10 corruption cases, on which the court imposed verdict. The case which took most time from the date when the criminal report was submitted until the judgment, was 1405 days duration (Basic Court of Prishtina) while the case which has taken shorter time was 281 days duration ( Basic Court in Ferizaj). During the monitoring process of these cases, the KLI finds that the profile of individuals subject of the judicial proceedings, were only four senior officials of which, two municipality mayors, a former member of the Kosovo Judicial Council and the President of the Procurement Review Body, while the rest of the defendants are mostly low profile or medium profile eventually.

The Judicial system is also faced with same problem that was facing prosecutorial system is facing during the treatment with priority the corruption cases. To address these cases seriously, KJC on 25 September 2015 adopted Action Plan, through which were identified all corruption cases in the courts and the same are assigned for further proceedings.

Failure to respect legal deadlines and policies in fighting defendants who were committing corruption criminal offenses defendants, are affecting to the violation of human rights and freedoms and in the amnesty of the individuals involved in corruption. Delays in solving cases for ages by the justice institutions continuous to remain the biggest failure of the system in violating the rights of the Kosovo citizens, which rights are guaranteed by the Kosovo Constitution. KLI considers that the advanced criminal justice legislation has not responded to the existing conditions and circumstances of the justice system.

Also there is a lack of political will that the same to be changed in positive manner, in order that the criminal codes to be implemented adequately in practice. Otherwise, if there would exist the willingness of the legislative and executive power, the judiciary would have ability to prove itself, by providing justice in equal and impartial manner for all Kosovo citizens, respectfully, by protecting the human rights through the application of the criminal codes efficiently and with effectiveness, by

treating cases in reasonable time and in line with the international standards and obligations stipulated by the Kosovo Constitution and Criminal Procedural Code. In order to address this issue not only with regard to the corruption cases but also to other criminal offences, it is necessary that Ministry of Justice, to initiate the process of the criminal justice review in order to improve the justice system and receive better services by the justice institutions in Kosovo.

Also with regard to the sequestration and confiscation of assets benefited through the criminal offence, in corruption cases, there is no any progress. Prosecutors still are not in position to find a way to apply provisions of the applicable law in this important field. The issue of the reports provided to the public regarding the sequestration and confiscation of assets benefited through the criminal offence, created misunderstandings with the reality and results that are related to the corruption criminal offences. KLI considers that the performance in fighting perpetrators of the criminal offences that benefited assets through the commitment of the criminal offences, should be measured exclusively with the final judgments that will result with confiscation, otherwise the procedural actions are not representing the real situation, always based on the bad practices established until now.

KLI monitoring shows that there are minimal results of the assets sequestrated and confiscated and which are related to the corruption cases, while correct data for such category are not available in any justice institution, even though were claimed mechanism to track such cases.

## 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 National Anti-Corruption Coordinator of the 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.

The innovation of this report are corruption cases proceeded in seven Municipal Courts and its branches, where KLI researchers for the period of time between July 1 to November 30, 2015 monitored 276 court hearings, where were included 171 corruption cases with 367 individuals indicted. KLI for the first time attempts to make accurate measurements of the duration of corruption cases in all stages of criminal proceedings, including by the time when the criminal report was raised until the announcement of the verdict in the first instance by the courts. The analysis includes all trends of treatment these cases and the duration of the proceedings in the corruption cases. In the focus of analysis in this report are 10 corruption cases, which are completed with the verdict in the first instance.

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 National Anti-Corruption Coordinator, Basic Prosecutors offices, SPRK, the Municipal Courts, Prosecutorial Council and Kosovo Judicial Council. With all stake holders 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.

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. INVESTIGATION OF THE CORRUPTION CASES - PP

Kosovo Prosecutorial Council (here in after, KPC), continuous to lead with policies and decisions in fight against corruption. Promotion of these policies and failure to implement them into practice for a long time has returned the fight against corruption into the daily rhetoric. Subject of the investigation and indictments for corruption, continues to be limited to the low level profile, eventually middle profile. In very rare cases the indictments are filed against high level profile individuals, especially those related to the politicians or powerful businessmen. Kosovo KLI considers that majority of the corruption cases that are under the criminal proceedings do not represent the real and factual corruption activities that are developed in different segments of life in Kosovo, especially in public sector. Prosecution offices are challenged with the high number of the corruption criminal reports received, while on the way such cases during the treatment are filtered. There are many factors why there is no real fight against corruption in Kosovo, starting from the political interference<sup>2</sup>, lack of the independence of the justice system, which is reflected through the limited budget allocated for the judiciary by both legislative and executive branches, selective justice application by judges and prosecutors, lack of the efficient accountability system for judges and prosecutors, and the lack of the professionalism and brave to fight against the individuals involved in corruption cases. Even though high number of the criminal reports submitted to the prosecution offices for corruption, the final results are missing. Subject of the corruption criminal proceedings in majority of the cases remain the very low level profile, eventually the middle profile of the individuals involved in corruption cases, while the high level corruption rarely are formalized through the indictments. Even in those cases where the indictment is filed, the same are dismissed by the court, or in cases that the verdict is imposed, the sentences are with the conditional release, even though the court confirmed that that the damage caused by the corruption criminal offence is in million Euros value.<sup>3</sup>

*“Fight against corruption is turned into the farce, with a lot of noise, when it is discussed wvery where about corruption, but how i see it became just a camufage for the real defendants to not prosecute them, but to prosecute maybe those who committed any irrelevant corruption criminal offence”, Aleksandër Lumezi, Chief State Prosecutor. 8 October 2015.*

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<sup>2</sup> European Commission Progress Report for Kosovo, 2015. Page. 12. See link [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_kosovo.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_kosovo.pdf)

<sup>3</sup> Salihi Nj. “Nuhi Uka: Gjykimi që stimulon korrupsionin”. JNK Newspaper. Published on 29 September 2014. See link: <http://gazetajnk.com/?cid=1,979,9145>

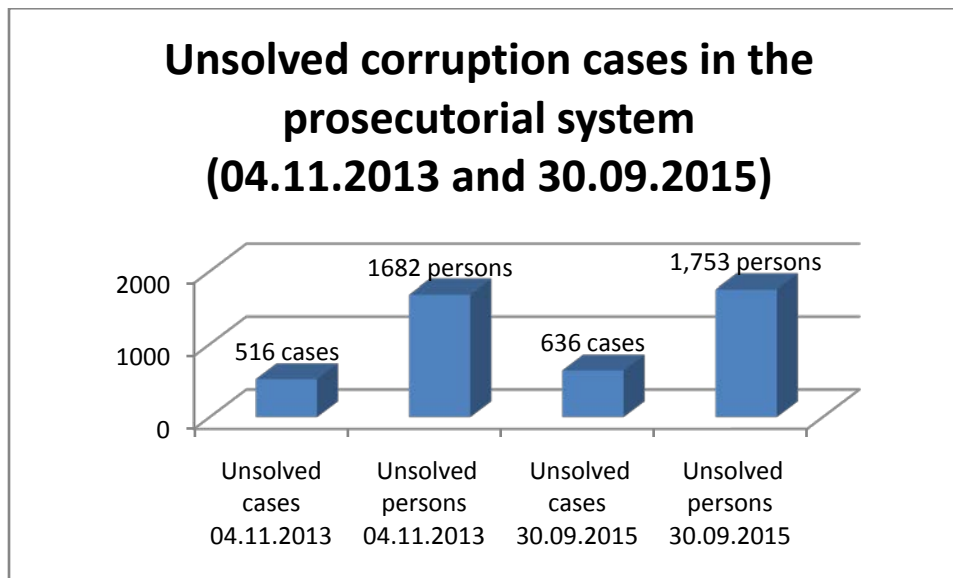
Even though the approval of the advanced policies to treat the corruption cases with absolute priority, prosecutorial system is not achieving to decrease the number of the unsolved corruption cases. Failures to implement into the practice Action Plan obligations, the lack of the efficiency of the accountability mechanisms, is having impact that continuously the trend of the unsolved corruption cases to be increased. The KLI assessment is supported by the daily monitoring to the activities of the State Prosecutor (SP) and KPC with regard to the implementation of the Action Plan to increase the efficiency of the prosecutorial system in fighting corruption (here in after, Action Plan), approved by the KPC on 4 November 2013.<sup>4</sup>

This report includes the monitoring of the SP and KPC in relation to the treatment of the corruption cases, after the entry into force of the Action Plan on 30 September 2015. The analysis are focused also on the third quarter of the year 2015 ( July, August and September 2015). KLI so far published six (6) periodical reports on the external assessment of the Action Plan, while this is the seventh (7) periodical reports.

KLI based on the findings and assessment of the statistical reports finds that the trend of the number of corruption cases unsolved and individuals involved in such cases is increased in seven basic prosecution offices and SPRK, as of the entry into force of the Action Plan. See below Chart 1.

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<sup>4</sup> Action Plan to increase the efficiency of the Prosecutorial System in fighting corruption  
[http://www.psh-ks.net/repository/docs/Nr.1285.2013-Plani\\_i\\_Veprimit\\_per\\_Rritjen\\_e\\_Efikasitetit\\_te\\_Sistemit\\_Prokurorial.pdf](http://www.psh-ks.net/repository/docs/Nr.1285.2013-Plani_i_Veprimit_per_Rritjen_e_Efikasitetit_te_Sistemit_Prokurorial.pdf)



**Chart 1 - Unsolved corruption cases in the prosecutorial system**

Even though the Action Plan provided clear obligations and responsibilities of the officials at the prosecutorial system, in relation to the action and activities to perform in order to increase the efficiency of the prosecutorial system in treatment of the corruption cases, the practice showed the opposite. The Action Plan was an achievement of the KPC, in drafting the policies and addressing the fight against corruption. However, the prosecutorial system mechanisms including the KPC itself, Chief State Prosecutors and prosecutors did not show the necessary willingness and engagement to implement the Action Plan in practice. KLI considers that the prosecutorial system key stakeholders yet did not take seriously the content of the Action Plan and its implementation. How seriously was taken the Action Plan and the level of the engagement for its implementation, was confirmed during the KPC meeting discussion among the KPC members, and held on October 8, 2015. Chief State Prosecutor and Chairman of the KPC, Mr. Aleksandër Lumezi, in this meeting declared that until this meeting never read seriously the Action Plan.<sup>5</sup>

<sup>5</sup> "Whether the Action Plan was successful or not? Last night I read, I was dealing with it. To tell the truth until now I never read seriously Action Plan, last night I read and saw it that we had an Action Plan to increase the Efficiency of the prosecutorial system in fighting corruption which was very good. I had contacts also with the Chief Prosecutor in Croatia, believe me they showed me their action plan which is not different from the KPC action plan, is not better at all. But we are having problem with

Such approach was confirmed in practice by the whole prosecutorial system in treatment of the corruption cases. Numerous of the obligation of the Action Plan, are not implemented and KLI reported continuously for such failures.<sup>6</sup> Same failures are discussed twice at the KPC meetings and the same KLI findings are confirmed by the KPC members.<sup>7</sup> KPC members in such meeting were auto critic, by accepting the fact that the Chief Prosecutors and KPC itself failed to implement the Action Plan and in disciplining the prosecutors who failed in corruption cases as a result of the KLI findings, which findings served for Office of the Disciplinary Prosecutor (here in after ODC), to initiate the disciplinary proceedings ex-officio against the prosecutors.<sup>8</sup>

Based on the table above, the statistics show that while with entry into force of the Action Plan on September 2015, prosecution offices had at work 516 unsolved cases with 1682 individuals involved, while this number is increased to 636 unsolved cases with 1753 individuals involved. Based on this data it is confirmed that prosecutorial system, its confirmed that the prosecutorial system still did not decrease the number of the unsolved cases that has at work. Such data confirms the KLI findings and assessment reported continuously through the published periodical reports that there is still lacking the willingness and

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*implementation of the Action Plan. "We identified in the beginning 532 cases", quoting Chief Prosecutor and Chairman of the KPC, Mr. Aleksandër Lumezi. KPC meeting, October 8,2015.*

<sup>6</sup> See the KLI publications on the monitoring and assessment of the implementation of the Action Plan to increase the efficiency of the prosecutorial system in fighting corruption, approved by KPC, link <http://kli-ks.org/publikime/>

<sup>7</sup> KPC members during 2015, after the appointment of the Chief State Prosecutor, Mr. Aleksander Lumezi, in two meetings discussed the treatment of the corruption cases, and implementation of the action plan. KPC members were auto critic and admitted the KLI findings that prosecutorial system failed in implementation of the action plan. Discussion took place at the KPC meetings held on 26.06.2015 and 08.10.2015. . See the links: <https://www.youtube.com/ëatch?v=JgngHpVQW38> and <https://www.youtube.com/watch?v=kNL1bTf1bJ4>

<sup>8</sup> Chief Prosecutor of the BC in Gjilan, and member of the KPC Mr. Jetish Maloku, on the KPC meeting held on 8.10. 2015, declared that Chief Prosecutors, National Coordinator against Corruption and KPC failed to held responsible prosecutors who failed in corruption cases. Mr. Maloku also said that the failure of the KPC mechanisms

To held responsible prosecutors for their failures, covered KLI, which according to him took initiative to offer the findings of the violations made by prosecutors to the ODC. Quoting of Mr. Maloku, *While KLI is providing recommendations and also is submitting report to the ODC to initiate the disciplinary proceedings for prosecutors, where in their desks cases are reaching statutory limitations, nor we and Coordinator, and Chief Prosecutors, we couldn't find strength to and possibility to report our prosecutors, that within their offices the cases reached statutory limitation. Then we should ask, why we are waiting that somebody from outside to make us responsible or to ask us for responsibility.*

*... Or we from inside are not in position that these prosecutors. Or they Chief prosecutors to make them responsible for the statutory limitation of cases. Where is our responsibility? Why we are not reporting this cases? Did not initiated such cases. It reached statutory limitation a case of corruption in the office, Or we from inside are not in position that these prosecutors. Or they Chief prosecutors to make them responsible for the statutory limitation of cases. Where is our responsibility? Why we are not reporting this cases? Did not initiated such cases. It reached statutory limitation a case of corruption in the office, we should open the case, why happened and not that the initiative to be taken by NGO (KLI, who reported the case and submitted to the ODC. KPC meeting, held on 8.10.2015, see link: <https://www.youtube.com/watch?v=kNL1bTf1bJ4>*

commitment of the prosecutorial system in fighting corruption in Kosovo. Such findings also are confirmed through the European Commission Progress Report for Kosovo, for year 2015, published on November 2015.<sup>9</sup>

*“Kosovo is at an early stage in the fight against corruption. Some progress has been achieved over the past year, notably in improved cooperation between the Anti-corruption Agency and the prosecution, and in requiring officials to declare property and gifts. However, overall progress has been limited and strong political will and commitment is needed to tackle this phenomenon properly. A comprehensive and strategic approach is necessary to ensure real results in fighting endemic corruption in Kosovo”* Progress Report for Kosovo, for year 2015

The lack of willingness and commitment of the prosecutorial system in fighting corruption, reiterated also the Chief State Prosecutor and Chairman of the KPC, Mr. Aleksandër Lumezi<sup>10</sup> at the KPC meeting held on October 8, 2015, during the discussion of the Action Plan for corruption cases.

KLI through the table below describes the number of cases and individuals involved in corruption cases. Majority of the prosecution offices, still are not achieving to decrease the number of the corruption cases and individuals involved in such cases. See below Table 1.

<sup>9</sup> European Commission Progress Report for 2015: “Fighting Corruption”. Page.15 See link [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_kosovo.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_kosovo.pdf)

<sup>10</sup> “From what was said by the Coordinator, it seems that the work was done by prosecutors. However, in other side we have bad perception but not only perceptions, but also assessment of the international partners, that are very real. But also the assessment from the World Bank and International Monetary Fund, but also many embassies in the Republic of Kosovo, Ambassadors with whom I met that in this direction PS has not shown sufficient results. Although somewhere 660 cases, or 700 that are closed, but in the other side we see a statistic of cases which have been on November 4, 2013, when started the implementation of the Action Plan for Efficiency against the Fight against Corruption, we had in work a total of 532 criminal cases. While now after two years we have come to a situation where we have 589 unsolved criminal cases. Meaning the number of cases of criminal reports now its bigger than at the time when he started implementation of this Action Plan. On the other side according to the report it is seen that according to the number with persons there is a greater efficiency. We have from some persons that we have finished more cases than have been when started the implementation of this Action Plan. On the other hand, you mentioned that these cases to special reports that we say in PPN with unknown persons, at the beginning of the implementation of the Action Plan we have had 235 cases while we have 346 unsolved cases with criminal reports, meaning we have 119 cases more than at the beginning of the implementation of the Action Plan”, quotation of the Chief State Prosecutor, Mr. Aleksandër Lumezi, during the discussion of item 5 of the agenda of the meeting of Kosovo Prosecutorial Council; “Reporting of the National Anti-Corruption Coordinator, Mr. Laura Pula”. The meeting of the Kosovo Prosecutorial Council. October 8, 2015.

<b>CORRUPTION CASES IN PROSECUTORIAL SYSTEM (04.11.2013 - 30.09.2015)</b>											
<b>State Prosecutor</b>	<b>State Prosecutor</b>										
	Unsolved in the beginning (04.11.2014)		Received (04.11.2013 until 30.09.2015)		Solved		Solving manner			Unsolved in the end (30.09.2015)	
	Cases	Persons	Cases	Persons	Cases	Persons	Dismissal	Termination	Indictment	Cases	Persons
<b>SPRK</b>	35	232	44	174	39	223	35	101	87	49	253
<b>Pristina</b>	224	777	336	628	203	410	95	94	221	391	1,094
<b>Prizren</b>	70	175	94	192	133	294	72	90	132	24	63
<b>Peja</b>	37	86	94	156	92	176	34	87	55	40	77
<b>Gjilan</b>	23	81	66	116	82	187	59	43	84	16	25
<b>Mitrovica</b>	64	141	73	143	67	150	49	11	90	69	148
<b>Ferizaj</b>	37	126	66	119	83	193	34	26	133	24	52
<b>Gjakova</b>	26	64	45	98	67	125	28	24	73	23	41
<b>Total:</b>	<b>516</b>	<b>1682</b>	<b>818</b>	<b>1,626</b>	<b>766</b>	<b>1757</b>	<b>406</b>	<b>476</b>	<b>875</b>	<b>636</b>	<b>1,753</b>

**Table 1 - Trend of the corruption cases from 04.11.2013 until 30.09.2015**

Based on the trend described in table 1, it results that majority of the prosecution offices are at the initial stage with the number of the unsolved cases and individuals involved, which they had at work in the beginning of the Action Plan. SPRK and BP in Pristina, are continuing with the negative trend of the increase of the number of cases and individuals involved in corruption cases.

Based on the table above, SP as of the entry into force of the Action Plan until September 30, 2015, received 818 new cases with 1626 individuals involved in corruption cases. While, SP from the entry into force of the Action Plan until September 2015, solved 766 cases with 1757 individuals involved. Analysis show that SP during the same reporting period received more cases (818), that was in position to solve (766). While, in comparison with the number of the individuals involved, SP solved more cases (1757), than received (1626) during the same reporting period.

Characteristically from this report is also the solving manner of the cases in all Prosecution offices. Out of the 1757 individuals involved for corruption cases against which the cases are solved, there are a high number of the individuals against which the cases are dismissed. Out of 1757 individuals that were subject of the corruption criminal proceedings, against 1351 individuals' cases are closed at prosecution offices. Respectively, Prosecution Offices during this period of time filed indictments against 636 individuals, the criminal report is dismissed against 476 individuals, and the investigations are terminated against 875 individuals.

#### **a) Performance of the Special Prosecution Office of the Republic of Kosovo**

At the SPRK function of the prosecutor exercise 10 prosecutors.<sup>11</sup> Out of this number 7 prosecutors are assigned to treat corruption cases, but the same prosecutors also are assigned with other cases that falling under the criminal offences of terrorism and organized crime.<sup>12</sup>

SPRK with entry into force of the Action Plan, had at work 35 cases with 232 individuals, while such prosecution office in the end of September 2015, has at work 49 cases with 253 individuals. SPRK from the entry into force of the Action Plan until September 30, 2015, received 44 new cases with 174 individuals, while during the same period of time solved 39 cases with 222 individuals. Out of this solved cases, against 35 individuals criminal reports are dismissed, against 101 individuals cases are terminated, while indictments are filed against 87 individuals. Based on this statistical report, it results that SPRK, during this period of time of 23 months, indicted 87 individuals, while cases were closed against 136 individuals.

For the period of time (July, August, September 2015), SPRK achieved to solve cases against 22 individuals, out of which against 15 individuals indictments were filed, against 4 individuals criminal reports were dismissed and against 3 individuals investigations were terminated.

KLI analyzed permanently the performance and results of the SPRK, which has the exclusive competence in fighting high level corruption.<sup>13</sup> From the monitoring process it results that the performance and results of the SPRK in treatment of the corruption

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<sup>11</sup> In this number are not involved the international prosecutors of EULEX who exercise the function of the prosecutor in this Prosecution Office. However, for SPRK are allowed 18 positions for prosecutors, but which have not been fulfilled yet.

<sup>12</sup> KLI interview with the Acting Chief of the Special Prosecution of the Republic of Kosovo, Mr. Reshat Millaku. November 2015.

<sup>13</sup> Chapter "failures of the Prosecutors in the treatment of the corruption cases" Statutory limitation cases. Chart, 3, Directive on defining high-level corruption signed by the Chief State Prosecutor, Chief Prosecutor of EULEX Prosecutors and the Chief Prosecutor of the Special Prosecution of the Republic of Kosovo.

cases are concerning, if we compare the number of the prosecutors assigned in corruption cases and number of cases solved. Analysis shows that seven prosecutors assigned in corruption cases in this office, were supposed to solve all of them<sup>14</sup>, annually 154 corruption cases, while 23 months after the entry into force of the action plan, they were supposed to solve 294 corruption cases. While, all seven prosecutors together had solved only 39 corruption cases with 223 individuals involved, which results that such office in percentage achieved to solve only 13.26% of cases based on the annual orientation norm for each prosecutor, with regard to the corruption cases.

Performance of this office, results to be poor in general, also with regard to the treatment of the criminal offences of organized crime, terrorism, money laundering and other criminal offences treated by this office. Based also on the annual work report of the SP for 2014<sup>15</sup>, SPRK for 2014 has solved 78 cases, while received 152 new cases. Based on the annual oriented norm, SPRK was supposed to solve annually 264 cases based on the 12 prosecutors in this office, which results that the SPRK realized the oriented norm for only 29.54%. The SPRK are explaining the poor performance with the limited number of prosecutors, with cases that are transferred by EULEX prosecutors and with complexity of the corruption cases to be investigated.<sup>16</sup>

There are different assessments with regard to the oriented work norms for prosecutors at SPRK. Applicable policies at KPC are supporting the applicable provisions that are applied, while the discussions at the KPC meetings reviewed the proposal to revoke the norms for SPRK. KPC members discussed to revoke the quantitative norm and proposed to have qualitative norm, in order to finalize the qualitative cases, in order to increase the indictments against the high profile of corruption. Chief Prosecutor and Chairman of the KPC, Mr. Aleksander Lumezi, assessed that such norms are damaging the quality of the work, and as such SPRK is overloaded with different cases and in the end we are lacking the concrete results.<sup>17</sup> KLI considers that discussions in relation

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November 13, 2013. See the link [http://www.psh-ks.net/repository/docs/Udhezim\\_kur\\_nje\\_veper\\_e\\_korrupsionit\\_do\\_te\\_konsiderohet\\_si\\_e\\_nivelit\\_te\\_larte.pdf](http://www.psh-ks.net/repository/docs/Udhezim_kur_nje_veper_e_korrupsionit_do_te_konsiderohet_si_e_nivelit_te_larte.pdf)

<sup>14</sup> The Prosecutor of Special Prosecution Office is obliged to finish 2 cases within the month, respectively 22 cases within the year, Article 2 point 1.5 of the Administrative Directive for determining the annual oriental rate for Prosecutors, approved by Kosovo Prosecutorial Council on January 24, 2012. See the link [http://www.psh-ks.net/repository/docs/Udhezimi\\_Administrativ\\_Nr.01-2012,per\\_Percaktimin\\_e\\_Normes\\_Orientuese\\_Vetore\\_per\\_Prokurore.pdf](http://www.psh-ks.net/repository/docs/Udhezimi_Administrativ_Nr.01-2012,per_Percaktimin_e_Normes_Orientuese_Vetore_per_Prokurore.pdf)

<sup>15</sup> Annual Report of the State Prosecutor for 2014. See the link [http://www.psh-ks.net/repository/docs/Nr\\_529\\_2015-Raporti\\_Vjetor\\_2014-Prokurori\\_i\\_Shtetit1.pdf](http://www.psh-ks.net/repository/docs/Nr_529_2015-Raporti_Vjetor_2014-Prokurori_i_Shtetit1.pdf)

<sup>16</sup> KLI interview with the Acting Chief Prosecutor of the Special Prosecution of Republic of Kosovo, Mr. Reshat Millaku. November 2015.

<sup>17</sup> Discussions of KPC members about the performance of prosecution offices and SPRK in treating corruption cases. Meeting of Kosovo Prosecutorial Council. June 26, 2015.

to the qualitative norms for SPRK prosecutors, confirms that KPC members are not aware of the Instruction, which stipulated the oriented norms, in this case also for SPRK. As for the same prosecution office, article 6 of this Instruction provides that qualitative norm, for prosecutors assigned in this office. Based on this Instruction, article 6<sup>18</sup>, it results that a special prosecutors fulfills the oriented norm if he/she annually achieves to finalize three complicated cases successfully. While the similar prosecution office in Croatia, with almost same competences as SPRK, during 2012, in total had filed 283 indictments and represented at the Croatian courts, achieved to protect 95% of them, and received 252 sentence court verdicts of the high level based on the indictments.<sup>19</sup>

Prosecutorial system, especially SPRK because of the competencies that is exercising, is challenged in daily basis with the different monitoring domestic and international reports, which are reiterating the failure of the system in fighting high level of corruption<sup>20</sup>.

KLI also monitored the website of the SP, in regard to the public communication relating to the indictments filed for corruption cases form SPRK, from the entry into force of the Action Plan until September 30, 2015. KLI during the monitoring process finds that SP published in total 19 communications in relation to the corruption cases, where included arrestments or indictments filed for corruption cases. Based on the monitoring, it results that SPRK published the indictments filed in five cases, where are involved high level corruption as stipulated with the Instruction. SPRK filed indictment against former President of the Constitutional Court, one former Permanent Secretary, 18 municipality officials, 6 company owners, one Director, against one Institute Director, 3 managers, 2 officials and in one case against individuals that are related to the suspicions for misuse of the official duty at the Ministry of the Transport and Telecommunication.

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<sup>18</sup> Prosecutor of the Special Prosecution of Republic of Kosovo in case if he finishes three cases within the year that are complicated is calculated as hi has met the work rate, just like he has finished 22 cases within the year. The assessment for the successful completion of these cases is made by the Chief Prosecutor of SPRK in cooperation with the Chief State Prosecutor. Article 6 "Case very complex and very special"; Administrative Directive for determining the annual oriental rate for Prosecutors, approved by Kosovo Prosecutorial Council on January 24, 2012  
[http://www.psh-ks.net/repository/docs/Udhezimi\\_Administrativ\\_Nr.01-2012,per\\_Percaktimin\\_e\\_Normes\\_Orientuese\\_Vetore\\_per\\_Prokurore.pdf](http://www.psh-ks.net/repository/docs/Udhezimi_Administrativ_Nr.01-2012,per_Percaktimin_e_Normes_Orientuese_Vetore_per_Prokurore.pdf)

<sup>19</sup> Musliu B."Seeking a way to fight corruption: Between two fires, prosecution and failure"(Analysis and recommendations regarding the implementation of the Action Plan for Fighting Corruption). Kosovo Law Institute, Pristina. August 2015. See the link <http://kli-ks.org/ne-kerkim-te-rruges-per-luftimin-e-korrupsionit-ne-mes-dy-zjarreve-persekutimit-dhe-deshtimit-2/>

<sup>20</sup> Progress Report of the European Commission in 2015 for Kosovo. "Fighting Corruption". Page 15 See the link [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_kosovo.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_kosovo.pdf)

BC in Pristina, in which mainly the SPRK indictments are submitted, is not challenged enough with cases that can be considered serious and that are belonging to the corruption nature. Fighting corruption of the high profile, respectfully the number of individuals that are considered high level corruption can be counted in the fingers.<sup>21</sup>

#### Features of the Special Prosecution Office of the Republic of Kosovo:

1. High number of the individuals against which the investigations are terminated or criminal reports dismissed, in comparison with the number of individuals against which the indictment is filed.
2. Low efficiency of the corruption cases solved.
3. Low number and value of the requests for sequestration and confiscation of assets benefited through criminal offence
4. Vacant position at the SPRK for prosecutors.

Civil society actors assess that the SPRK performance failed in many segments in fighting criminality, especially fighting high level corruption.<sup>22</sup> Procedural acts are not representative do confirm the success of the SPRK in fight against corruption, as in most of the cases the same failed at the court. To date there is no a single case of corruption which is related to the politicians, which was adjudicated with final verdict, and which resulted with the confiscation of assets benefited through the criminal offence of corruption.<sup>23</sup>

KLI considers that it is a last time for SPRK to prove commitment and willingness to implement the law. As in other prosecution offices, also in SPRK should be increased the accountability of the prosecutors and the violation of the law by the same shall be

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<sup>21</sup> KLI interview with the President of BC in Pristina, Mr. Hamdi Ibrahim. November 2015.

<sup>22</sup> KLI interviews with the Senior Researcher of KIPRED Institute, Ms. Ariana Qosaj Mustafa; Director of the Group for Legal and Political Studies, Mr. Fisnik Korenica, Legal representative of the Organization "Çohu", Mr. Arton Demhasaj. November 2015.

<sup>23</sup> KLI interview with the Legal representative of the Organization "Çohu," Mr. Arton Demhasaj. November 2015.

treated and punished in merit basis in order to improve the prosecutor's performance with expertise in prosecuting the criminal offences that are under the competence of such prosecution office.

#### **b) Profile of the corruption cases investigated**

Profile of the fighting high level corruption continues to be the rhetoric of the State officials in the Republic of Kosovo institutions and the heads of the EULEX Mission.<sup>24</sup> Beyond this rhetoric there is no willingness and commitment for concrete results on the fighting high level corruption<sup>25</sup>. Failures for fighting high level corruption, indeed that are to be addressed to the EULEX Mission, who had the exclusive competence within the SPRK and which office was headed by EULEX until end of May, 2014.<sup>26</sup>

Facing with the continuous failures in fighting high level corruption, the SPRK was established,<sup>27</sup> as specialized prosecution office with the SP. Such office as its establishment until 30 May 2014, was headed and managed by the international prosecutors.<sup>28</sup>, Competences and responsibilities to manage the SPRK, EULEX prosecutors received in the end of 2008, when such mission was build with the initial operational capacities, while in April 2009, the EULEX was fully operational and received almost all cases and responsibilities that were under the competence and responsibility of the international UNMIK judges and prosecutors.<sup>29</sup>

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<sup>24</sup> Progress Report of the European Commission in 2015 for Kosovo. "Fighting Corruption". Page 15 See the link [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_kosovo.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_kosovo.pdf)

<sup>25</sup> Chief State Prosecutor, Mr. Aleksandër Lumezi, in the meeting of KPC held on October 8, 2015, said that the fight against corruption has become rhetoric and that the prosecutorial system has failed to implement the Action Plan for Increasing the Efficiency of Prosecutorial System in Fighting Corruption approved on November 4, 2013 by KPC. Meeting of Kosovo Prosecutorial Council. October 8, 2015.

<sup>26</sup>EUROPEAN UNION ASSISTANCE TO KOSOVO RELATED TO THE RULE OF LAW, European Court of Auditors, Special report, No. 18, 2012, See the link: [http://www.eca.europa.eu/Lists/ECADocuments/SR12\\_18/SR12\\_18\\_EN.PDF](http://www.eca.europa.eu/Lists/ECADocuments/SR12_18/SR12_18_EN.PDF)

<sup>27</sup> This prosecution office is founded and functionalized by the Law on Special Prosecution of the Republic of Kosovo in 2008, (last accessed on June 30, 2014) [http://www.kuvendikosoves.org/common/docs/ligjet/2008\\_03-L052\\_al.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L052_al.pdf)

<sup>28</sup> Decision of former Chief State Prosecutor, Mr. Ismet Kabashi, for the appointment of the Acting Chief Prosecutor of SPRK. See the link [http://www.psh-ks.net/repository/docs/Vendim\\_588-2014\\_per\\_aktimin\\_e\\_Sevdije\\_Morina\\_UD\\_Kryeprokurore\\_ne\\_PSRK.PDF](http://www.psh-ks.net/repository/docs/Vendim_588-2014_per_aktimin_e_Sevdije_Morina_UD_Kryeprokurore_ne_PSRK.PDF)

<sup>29</sup> In fact, EULEX has declared to have achieved "initial operational capacity" on December, 2008. Initially the mission was expected to be much smaller. However, during the preparatory phase, the numbers are constantly reviewed and increased, while eventually reached a level similar to that of UNMIK. Since January 2009, EULEX has a staff of 2364 persons, of whom 1642 were international staff and 722 local staff, allocated to the component of the police, the component of justice (around 70 in the prison system, 40 judges and 20 prosecutors) and relatively small component in the customs (27). "Initial operational capacity" meaning, that within the justice component, for example, the work on court files and in cases that may have started. Of these "reductions" in December 2008, about five months were needed for EULEX Kosovo to get on April 2009 the so-called "full operational responsibility" as the international presence in Kosovo to justice, police and customs sector. EULEX KOSOVO - The mandate, structure and implementation: Essential clarification for an

SPRK composed of the local and international prosecutors as of the EULEX establishment, was managed by international and acted fully independently from the prosecutorial system in Kosovo. Deputy Chief Prosecutor of the PSRK was assigned local prosecutor among the prosecutors who were serving in SPRK. KPC as of its establishment and SP, did not have any competency nor authority over the SPRK until 2014, when with the Law on amendment of the laws related to the mandate of the European Union Mission in Kosovo for Rule of Law, was decided that such prosecution office to be headed by local prosecutors.<sup>30</sup>

Establishment of the SPRK was a result of the need and requirements that Kosovo to fight successfully organized crime, money laundering and terrorism, corruption and other characteristically criminal offences. The management of the SPRK was trusted to the internationals, in order that through some time to increase the professional local capacities, with aim that after the termination of the EULEX mandate in Kosovo, SPRK to be managed by local prosecutors.

The greatest goal and expectation derived from SPRK was the combat against perpetrators of specific criminal offences such as high-level corruption and organized crime, but reality has proven to be the opposite. The greatest achievements of this prosecution office since its foundation were limited into arrests that were displayed merely as media show lead by both local and international prosecutors, whereas the efficient criminal prosecution of the perpetrators and their punishment have remained an unachieved mission. The abovementioned stream of spectacles was a characteristic for the EULEX prosecutors as well, who have not been able to prove specific results in the combat against corruption.

Nonetheless, we have to stress out that throughout this time period the local prosecutors haven't shown the required level of will, dedication or seriousness to investigate or criminally prosecute high-level corruption. On the contrary, with the failure to act this prosecution office has proven a general submissive practice in report with its executive ascendancy. On daily basis we encounter reports from the civic societies, media or the public related to the public monetary abuse from high-level officials, but there is absence of legal actions to prosecute them.

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unprecedented Mission to the EU, Martina Spornbauer\*, The Center for the Right of Foreign Relations of the EU. See the link [http://www.asser.nl/upload/documents/7302010\\_24440CLEER%20EP%202010-5%20-%20SPERNBAUER.pdf](http://www.asser.nl/upload/documents/7302010_24440CLEER%20EP%202010-5%20-%20SPERNBAUER.pdf)

<sup>30</sup> Law on Amendments and Supplements to the Law related to the mandate of the Mission of the European Union for the Rule of Law in the Republic of Kosovo. See the link <http://www.assembly-kosova.org/common/docs/ligjet/04-L-273%20sh.pdf>

The Subjugation of the SPRK to the executive power nowadays has been transformed into a regular phenomenon. On yearly basis, this prosecution office requests a budget for the approval of hazard additions for the prosecutors, but the executive has never shown a full will to increase SPRK's income and classify them as legal categories and it has continuously left pending the prosecutors and the employees of this office, for whom not rarely, the approval for the additions have been delayed.<sup>31</sup> KLI assesses that the way the executive treats SPRK presents a direct interference upon the impartiality of this institution. By no means, the security of the prosecutors of this office and all-level prosecutors should be left on the mercy of the executive's will. Such a phenomenon should be regulated exclusively by law, in order for the legal security of prosecutors to exercise an impartial function, to prevail.

Kosovo citizens' expectations were excessively high for the EULEX Rule of Law Mission in regards to combating corruption. The belief that this mission has competence, will and dedication to brawl the corruption in Kosovo were paled to a great extent in 2014, when the officials of this Mission that were invited by the Republic of Kosovo in order to help the legal system to oppose corruption in the country, were put in the center of attention by the local and international media regarding the suspicion that they were involved in corruption themselves. Prof. Jane Paul Jacque was appointed to compile a report related to the review of the implementation of the EULEX Mission in Kosovo, emphasizing to a great focus the latest allegations.<sup>32</sup>

Apart from SPRK's omission of expected actions in combating high-level corruption, the ill-practice of striving to fight high-level corruption in Kosovo should also be underlined, in those cases when the prosecution in cooperation with the police have undertaken legal actions and have arrested and detained high-level officials and in some cases have filed indictments that have failed in the end.<sup>33</sup> KLI has frequently initiated a public debate concerning these groundless legal actions that have tainted certain individuals, who have been publically adjudicated, charged for corruption criminal offences and in the end have been acquitted of

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<sup>31</sup> Throughout 2014 when the SPRK's budget was approved for the year 2015, additions for the special prosecutors and their support staff were not foreseen. After consistent requests of the SPRK, in March 2015, the Government of the Republic of Kosovo had decided to approve these additions taken retroactively also for the month Januray, February 2015.

<sup>32</sup> Prof. Jane Paul Jacque's Report, addressed to the High Representative and vice-President of the European Commission, Frederica Mogherini, the Review of the EULEX Mission's implementation of the mandate with a particular focus on the handling of recent allegations. March 21, 2015. [http://eeas.europa.eu/statements-eeas/docs/150331\\_jacque-report\\_en.pdf](http://eeas.europa.eu/statements-eeas/docs/150331_jacque-report_en.pdf)

<sup>33</sup>**Note:** KLI recalls that in Kosovo there hasn't been a lack of public attempts from judicial bodies, that in front of the media have arrested, indicted or commented upon the indictments against high-level officials, but ultimately have failed in delivering. Well known cases of this nature are: the case of the Governor of the Central Bank, Mr. Haxhim Rexhepi; the case of Kosovo Airport, the case of the ex-advisors of the Minister of Finances and Head of Kosovo Customs, Mr. Lulzim Rafuna, the case known as Collector in the Municipality of Pristina etc.

all charges. KLI assesses that the initiation of investigative actions should be based on legal grounds and on the highest scale of professionalism therefore, the approval for provisional arrest, police detention and detention on remand of the suspects should be done solely on the reasonable suspicion that the person has committed the criminal offence. On the contrary, based on the many cases of arresting and indicting that have provided a media spectacle and turned out as a failure, KLI considers them as persecution against individuals and classifies it as the application of a selection justice.

Additionally, a major concern remains the fact that in the majority of cases or in more than 60% of corruption cases, either the criminal reports are dismissed or the investigation is terminated. KLI throughout the monitoring activity of this type of dismissals and terminations has found that in those cases, where the subject of the criminal procedure regarding corruption offences were high-level officials or Ministers, were dismissed or terminated based on the unlawful justification that incumbent officials enjoy immunity from criminal prosecution.<sup>34</sup> KLI assess that in such cases, the accountability mechanisms should act urgently in order to apply adequate measures against those that don't comply with the law. By all means, only like this the citizens shall be convinced that the law is applied uniformly and fairly towards everyone regardless of their status and that the punishment of those that violate the law will restore citizen's faith in the legal system.

### c) Prosecution of high profile corruption during the period (January 1 - September 30, 2015)

Corruption continues to prevail in many areas and it is a major concern for the people of Kosovo. The index of corruption perception in Kosovo according to Amnesty International is 2.9, and is classified as level of "rampant" corruption. Organization for Economic Cooperation and Development, has reported also that "Kosovo remains tolerant towards corruption at all levels, which implies that the risk of being (or currently is) "captured state" is high.<sup>35</sup>

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<sup>34</sup> "Investigations are resumed against Alush Gashi", Portal Indeksonline. In this case, the Prosecution office has terminated the investigation against the Minister Gashi on the grounds that he enjoys immunity from criminal prosecution, even though in the specific case there was reasonable doubt for abusing the official position or authority. The investigation in this case was led by the Investigation Directorate for Economic and Corruption Crimes- Kosovo Police, that had submitted the criminal report. <http://www.indeksonline.net/?FaqeID=2&LajmID=151913>

<sup>35</sup> EUROPEAN UNION ASSISTANCE TO KOSOVO RELATED TO THE RULE OF LAW, European Court of Auditors, Special report, Nr. 18, 2012, see at: [http://www.eca.europa.eu/Lists/ECADocuments/SR12\\_18/SR12\\_18\\_EN.PDF](http://www.eca.europa.eu/Lists/ECADocuments/SR12_18/SR12_18_EN.PDF)

Prosecution of high profile corruption remains the main challenge of the prosecutorial system. Continued failures for years and the implementation of selective justice in certain cases<sup>36</sup>in the prosecution of powerful persons have influenced the loss of citizens trust in the prosecutorial system.<sup>37</sup>Satisfaction of citizens with the work of the State Prosecutor during the period March - September 2015 has marked the largest decrease of all times, with just 12.8%.<sup>38</sup>

SPRK prosecutors as responsible for fighting the high-profile corruption, results that in cases of corruption have managed to fulfill the annual oriented rate in only 13.26 percent. From January 1, 2015 to September 30, 2015, SPRK has solved cases against 62 persons, of who against 51 persons has filed indictment, against 6 persons has dismissed the criminal report, while against 5 persons has terminated investigations. Meanwhile, only in this last quarter period (July, August, September 2015), SPRK has accused 15 persons.

In the absence of a unique database in the prosecutorial system, which identifies profiles of persons who are subject of the solution of corruption cases, KLI has monitored the website of SP for the nine month period (January 1 - September 30, 2015)in relation with the publication of indictments in cases of corruption, including the profile of defendants, the number of accused officers or other persons, the assumed value for damage caused by allegations of committing criminal offenses of corruption, and the value presented in the indictment for sequestration and confiscation of assets gained by criminal act. Based on this monitoring, KLI has found that the SP has published the information for filing the indictments in five cases, where based on their positions are involved: one (1) former Chairman of the Constitutional Court, one (1) former Municipal Mayor, one (1) former Secretary General, 18 municipal officers, six (6) owner of the companies, one (1) director, one (1) institute director, three (3) managers, two (2)

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<sup>36</sup>"Reinitiated the investigations against Alush Gashi", Indeksonline Portal. In this case, Prosecution Office has terminated the investigations against minister Alush Gashi, on the grounds that the same has immunity from criminal prosecution, although in this concrete case there were suspicions for abusing official position while performing the official duties. Investigation of this case was conducted by the Directorate for Investigation of Economic Crime and Corruption of Kosovo Police, which had filed criminal report. See the link: <http://www.indeksonline.net/? FaqeID = 2 & LajmID = 151913>

<sup>37</sup>Note:Prosecutorial system since 2007, when UNDP has developed surveys on citizens satisfaction, results to having a low percentage. The highest satisfactory percentage was recorded in 2009 (31.7%). KLI considers that this percentage may be related to the process of reappointment and appointment of judges and prosecutors, as well as the overall functioning of the EULEX Mission in Kosovo. In subsequent years satisfaction of citizens with the State Prosecutor has just dropped, while in September 2015, has recorded the largest decline. "Public Pulse 8" (Pristina: UNDP Kosovo, November 2014), p.2.

<sup>38</sup>Note: Prosecutorial system in the period March-September 2015 have marked the lowest point of all times of citizens confidence in the work of prosecution, of only 12.8% (the approximate percentage of satisfaction have had only in October 2012, with only 15.0%). Only from March to September 2015, State Prosecutor has undergone decreased by 4.2% of satisfaction, by marking a decrease of satisfaction that presents a serious concern. "Public Pulse 8" (Pristina: UNDP Kosovo, November 2014), p.2.

officials and one case against the persons that relates to suspicions of abuse in the former Ministry of Transport and Communications.

KLI while monitoring the website of SP, regarding to the publication of corruption cases, has found that there are not applied the same standards and practices for all accused persons. In certain cases are published detailed information regarding the name, surname, position of suspected persons for corruption offenses, while in certain cases, they refer only to the positions of suspected persons, and in other cases when are involved high profile persons, they do not give informations at all on the suspected person or his position. KLI has noted that SP, implementing selective justice while publishing the information and informing the public, by applying double standards for persons against whom were filed the indictments.

This is evident, in the case of former President of the Constitutional Court, for which the SP has published detailed information regarding the names<sup>39</sup>and positions of suspect persons, while in the case of the Ministry of Transport and Telecommunication, where accused are former Minister Fatmir Limaj<sup>40</sup>and four officials of this ministry, the communication is limited only on the information of the filed indictment against five defendants in the Ministry of Transport and Telecommunication. Meanwhile, in the case of the Ministry of Health<sup>41</sup>, SP during the publication of the indictment against officials suspected for corruption, refers to eight defendants, including the positions they had. Also, in the case of the Municipality of Pristina<sup>42</sup>, the published communication refers only to the positions of the defendants, by not submitting the names of accused persons.

In the case of the Municipality of Pristina, according to the filed indictment by SPRK, results that all the defendants, as officials of the Municipality of Pristina, together have enabled investors to build collective buildings, contrary to Law on Construction, by providing them significant material benefits, as well as from the sale of apartments and premises, financial benefits in a total amount of 28.503,922,00 euro. While, in published press release by SPRK, it is said that that from the defendants were confiscated material benefits obtained by criminal offense, in the amount of 111.740.00 euro, 2.600.00 dollars and one (1) flat 76.3 m<sup>2</sup>. While in

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<sup>39</sup>Communication from the SPRK regarding the filament of indictment against Mr. Enver Hasani, former Chairman of the Constitutional Court: July 31st, 2015. See the link: <http://www.psh-ks.net/?page=1,8,780>

<sup>40</sup>Communication from the SPRK regarding the filament of indictment against Mr. Fatmir Limaj, former Minister of Transport and Telecommunication: July 29th, 2015. See the link: <http://www.psh-ks.net/?page=1,8,804>

<sup>41</sup>The case of Ministry of Health. July 6th, 2015. See the link: <http://www.psh-ks.net/?page=1,8,769>

<sup>42</sup>The case of Municipality of Pristina. June 12th, 2015. See link: <http://www.psh-ks.net/?page=1,8,759>

this concrete case, the SPRK confirms that the financial benefit of criminal acts described in the indictment includes the amount of 28.503.922.00 euro, while the confiscation request filed by the Prosecutor in charge, includes the minimum amount that doesn't exceed more than 200.000.00 euro, or even 1% of the value of the damage caused. It is not clear how SPRK refers to this asset as confiscated assets<sup>43</sup> at this stage of filing the indictment, as the confiscation is done by court decision, as defined in the Criminal Procedure Code.<sup>44</sup> Also, during the monitoring of cases published by SP, and informations given, it is noticed a rare tendency and with minimal monetary values submitted in the request for sequestration or confiscation of the material assets benefit from criminal act. This is confirmed by reports and interviews of the National Coordinator for Combating Economic Crimes.<sup>45</sup> In cases where there is potential for sequestration and confiscation, and prosecutors and judges do not implement their legal obligations, the accountable mechanisms shall undertake adequate measures against them.<sup>46</sup> Civil society actors assess that KPC and KJC have failed to sufficiently address the issue of raising the resources and knowledge of prosecutors and judges on the implementation of the provisions of the new Law on Extended Powers for Confiscation of Assets Acquired by Criminal Offense. Even this is one of the aspects why there is no implementation of the provisions of this law.<sup>47</sup>

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<sup>43</sup>KLI explains that these information about confiscation were referred exclusively of communicate published on the website of the SP. It is not clear how the material assets in the amount of about 200.000.00 euro, SPRK is referred as seized assets in the stage of filing of indictment. The legal provisions clearly state when is confiscated an asset and by whom, and the only authority for the confiscation of material assets is the court.

<sup>44</sup>Article 115, "Permanent confiscation of temporarily confiscated items". Code of Criminal Procedure of the Republic of Kosovo, adopted on December 13th, 2012. The Assembly of the Republic of Kosovo.

<sup>45</sup>"Since we are in a situation, anywhere better about the seizures according CCRK and CPC, we are in a totally different situation in terms of the extended confiscation. In this direction it is an exclusive obligation of the prosecution offices, because the courts cannot decide without a request by the prosecution. According to our information, in these 36 months of the entry into force of the Law on Enhanced Powers for the Confiscation of Assets Acquired by Criminal Offense, the law was applied in one case in BP in Pristina (Article 8), another case in BP in Gjilan (Article 6), another potential case in BP of Pristina (Article 8) and perhaps an another case in SPRK. Except the case in SPRK, all other cases were initiated under the suggestions of the National Coordinator for Combating Economic Crimes. Without further thoughts to conclude that this law represents a challenge to the prosecution in its application, since for these 36 months, its application is almost at the initial level. We consider that this is much more the responsibility of the Chief Prosecutors of Basic Prosecution Offices". KLI interview with the National Coordinator for Combating Economic Crimes, Mr. Shqipdon Fazliu. December 2015.

<sup>46</sup>KLI interview the Director of Group for Legal and Political Studies, Mr. Fisnik Korenica. November 2015.

<sup>47</sup>KLI interview with the Legal Representative of the Organization "Çohu", Mr. Arton Demhasaj. November 2015.

KLI assesses that the performance in assets confiscation should be measured exclusively by the final judgments that brings confiscation, on contrary, procedural actions are not representative to show the real situation, always based on the bad practices build until now.<sup>48</sup>

The issue of reporting to the public about the seizures and confiscations of assets benefit from criminal acts by civil society actors, is assessed as pressure of justice institutions to demonstrate results in the visa liberalization process, than actually has concrete results. Success in fighting the assets benefit through crime should be measured by the final judgments of the courts and not by statistical of temporary measures, through which aims to create the impression that were confiscated millions of assets that in reality is not sustained.<sup>49</sup>In the below table are presented cases of filed indictments against persons that some of them are considered as high positions.

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<sup>48</sup>KLI recalls that procedural actions in terms of arrest, filing of indictments and seizure of assets has had in the past, but in the court proceedings, the majority of these cases have ended in failure for the accuse bodies. Therefore, the procedural actions are not representatives while they end up with final judgments, by proving in courts the prosecutors claims in the indictments.

<sup>49</sup>KLI interview with the High Researcher in KIREL Institute, Mrs. Ariana Qosaj Mustafa. November 2015.

<b>Date</b>	<b>Position of the accused person</b>	<b>The value of damage caused</b>	<b>Demand for sequestration / confiscation</b>	<b>Number of persons</b>	<b>Prosecution Office</b>
<b>08.05.2015</b>	1 Former Mayor; 8 Municipal officials; 3 Owner of economic operators; 2 Citizens	There is no information	There is no information	14	SPRK
<b>12.06.2015</b>	10 Municipal official; 1 Company official	28.503,922,00 Euro	111.740.00 euro; 2.600.00 dollar, 1 flat; 76.3m2	11	SPRK
<b>06.07.2015</b>	1 Former General Secretary of the Ministry; 1 Director of MH; 1 Former procurement manager; 3 Officials of MH, 2 Bussiness co-owners	700.000.00 Euro	Were frozen two real estates and one building	8	SPRK
<b>31.07.2015</b>	1 Former President of the Constitutional Court; 1 Former Head of procurement in UP; 1 Director of the Institute -Tirana	70.426.90 Euro	There is no information	3	SPRK
<b>29.07.2015</b>	Consolidated indictment in the case of MTC	There is no information	There is no information	5	SPRK
<b>06.07.2015</b>	1 Former General Secretary of the Ministry; 1 Director of MH; 1 Former procurement manager; 3 Officials of MH, 2 Bussiness co-owners	700.000.00 Euro	Were frozen two real estates and one building	8	SPRK

**Table 2 - Table from the monitoring of SP webpage (Janary 1 - September 30, 2015)**

#### d) The performances of Basic Prosecution Offices of the Republic of Kosovo

##### 1) The Performance of the Basic Prosecution Office in Pristina (hereinafter BP in Pristina)

In the BP in Pristina the function of the prosecutor is exercised by 49<sup>50</sup> prosecutors. With the Action Plan entering into force, BP in Pristina in its line of work has dealt with 224 cases with 777 persons involved, while this prosecution office at the end of September had in its line of work 391 cases with 1094 persons. From the entry into force of the Action Plan until September 30, 2015, this prosecution office has received 336 new cases with 628 persons involved, whereas during the same period has resolved 203 cases with 410 persons. Out of this total, against 95 persons the criminal reports were dismissed, against 94 persons the investigation was terminated, whilst against 221 persons indictments were filed. Based on this statistic report it is concluded that the BP in Pristina during the time period of 23 months has indicted 221 persons for the criminal offences of the corruption domain, whereas has terminated the cases initiated against 198 persons.

During the quarter of the reporting period (July, August, and September 2015), BP in Pristina has resolved cases against 44 persons in the following order: filing indictments against 24 of them, dismissing criminal reports against 10 persons and terminating the investigation against another 10 of them.

BP in Pristina during this time period continues to face a low trend of corruption cases solved, with the increase of unresolved cases and persons involved in such cases. As a result, this prosecution office hasn't been able to reduce the number of unresolved cases, on the contrary it has marked an increase of cases. Comparing the number of 45 prosecutors appointed in the General Department and the Serious Crimes Department with the number of resolved cases, it results that each prosecutor of this office has solved 4.5 cases on an average from the moment this Action Plan entered into force, respectively each prosecutor has solved 2.25 cases on yearly basis.

KLI on each and every one of the periodical reports of monitoring has displayed a realistic view of corruption cases treatment in the BP in Pristina and has offered specific recommendations on how to address problems in order to increase the efficiency of resolving corruption cases. With the sole purpose of prioritizing ways to address corruption cases, by supporting BP in Pristina,

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<sup>50</sup> BP in Pristina has 54 allowed positions for prosecutors, but has filled in only 49 positions.

KLI has maintained continuous meetings with Mr. Imer Beka, the Chief Prosecutor of this office. Having in mind the problems that this prosecution office is facing, due to the fact that it is the largest office in the prosecutorial system, our meetings were focused in the implementation of the recommendations given by KLI, in order to construct an action plan that will contribute into the efficiency grows of corruption cases treatment in BP in Pristina. In this regard, KLI has drafted an Action Plan which has been discussed in the collegiums with prosecutors of the BP in Pristina and the same plan has been approved on August 25, 2015.<sup>51</sup> The approval of this plan has resulted with the establishment of two prosecutorial commissions lead by the Chief Prosecutor Imer Beka, to prioritize the treatment of older corruption cases registered until November 4, 2013. KLI is currently monitoring BP in Pristina regarding corruption cases treatment and the implementation of this action plan. The results of this Action Plan are going to be displayed throughout the next published reports.

The main challenges that BP in Pristina is facing related to corruption cases treatment are the old cases inherited throughout the years and the insufficient number of prosecutors unable to deal with omniscient-nature cases.<sup>52</sup> This prosecution office is still facing old cases of corruption submitted from the year 2004 and on. The prolongment of resolving this type of old corruption cases affects its impact throughout time and hampers evidence and witness disclosure which battle corruption that has allegedly happened based on the criminal report submission.

In the same time, the non-treatment of old corruption cases is like a self-proclaimed paradox, taking into consideration the great repercussions that could be inflicted in many dimensions. First of all there is a flagrant human rights violation of those individuals involved in these criminal records and this creates a great legal uncertainty reflected in those individuals involved in criminal reports untreated for decades. Also, if allegedly the submitted criminal report confirms the involvement of officials in the criminal offences of corruption, and the same report isn't treated for decades, then officials can carry on with their work without being impeded for years in the institutions, as a result of such negligence.<sup>53</sup>

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<sup>51</sup> Chief Prosecutor of the BP in Pristina Mr. Imer Beka, has expressed willingness to cooperate with KLI in drafting the Action Plan, taking into consideration the monitoring experience regarding corruption cases and the continuous given recommendation in order to increase the efficiency and effectiveness of the corruption cases treatment. The Chief Prosecutor's good will and cooperation have resulted with the drafting of a worthy document, that if implemented will produce specific outcomes related to the treatment of old corruption cases, that overload the work of the BP in Pristina.

<sup>52</sup> KLI interview with the Chief Prosecutor Mr. Imer Beka, November 2015.

<sup>53</sup> "To prevent being treated as a laughing stock, we have a case dating from 2001 and hasn't been solved until 2015. The question is what will be the effect of prosecuting someone for a corruptive offence committed in 2008, 2009, 2010, when the same person is still exercising a public position in a public company or the administration of the

BP in Pristina is the largest prosecution office in the Republic of Kosovo and in the same time the most burdened one case-wise, because of the concentration of the state administration in the capital of Kosovo, Pristina. After the action plan has been approved for the BP in Pristina, throughout the monitoring activity a positive wave of treating older corruption cases has been noticed, nevertheless it is left to be seen how it will result on practice. KLI assesses that the current number of prosecutors and the compliance with the action plan approved by the BP in Pristina should bring out specific results in the corruption cases treatment.

#### Features of BP in Pristina:

1. High number of corruption cases and persons involved in such cases;
2. Low number of treated corruption cases,
3. Higher number of filed indictments against persons involved in corruption, in comparison with the number of persons involved in terminated cases;
4. Low number and amount of Sequestration and Confiscation requests for the assets confiscated from the criminal offences;

## 2) The performance of the Basic Prosecution Office in Prizren (hereinafter BP in Prizren)

In the BP in Prizren the function of the prosecutor is exercised by 16 prosecutors.<sup>54</sup>This office with the entering into force of the Action Plan had in its line of work 70 unresolved cases with 175 persons, while at the end of September 2015, had in its line of work 24 unresolved cases with 63 persons. This prosecution office from the moment the Action Plan entered into force until September 30, 2015 has received 94 new cases with 192 persons, whilst in the same time has resolved 133 cases with 294 persons. Out of this total, against 72 persons the criminal reports were dismissed, against 90 persons the investigation were terminated and against 132 persons indictments were filed. Based on this statistic report it is concluded that in the BP in Prizren throughout a time period of 23 months the number of terminated cases is higher than the number of persons indicted with corruption, respectively it has terminated cases against 162 persons, whereas 132 persons have been indicted with criminal offences of corruption.

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*Assembly or Government*" - a citation from the State Chief Prosecutor, in the same time President of KJC Mr. Aleksander Lumnezi. Kosovo Judicial Council meeting. November 8, 2015.

<sup>54</sup>BP in Prizren has 18 allowed position for prosecutors, but 2 of them haven't been filled in yet.

During the quarter of the reporting period (July, August, September 2015), BP in Prizren has resolved cases against 30 persons in the following order: filing indictments against 18 of them and terminating the investigation against another 12 persons.

BP in Prizren from the moment the Action Plan entered into force has achieved a positive trend of solving corruption cases. Respectively, this prosecution office has achieved results related with the decrease of the number of unresolved corruption cases and the number of persons involved in such cases. Comparing the number of 13 prosecutors in this office appointed in the General Department and the Serious Crimes Department with the number of resolved cases, results that each prosecutor of this office has solved approximately 10.2 cases counted from the time the Action Plan has entered into force, respectively each prosecutor has solved 5.1 cases on yearly basis.

The main challenges regarding corruption cases treatment are the small number of prosecutors and the complexity of the cases that require an ample amount of time for a successful outcome of the investigation.<sup>55</sup>

The President of the Basic Court in Prizren, while referring to the corruption cases that are being preceded in this court, claims that the profile of the accused complies with a medium profile that includes Directors of various institutions and officials of municipality.<sup>56</sup>The quality of the indictments in certain cases does not match the proper required level; therefore the same ones might be returned back for improvements or are dismissed in view of the fact that there is incompleteness or lack of evidence.<sup>57</sup>

#### Features of the BP in Prizren:

1. Positive trend of solving corruption cases;
2. Higher number of persons against who the investigation were terminated or the criminal reports were dismissed compared with the number of persons that have been indicted;
3. There has been no Sequestration and Confiscation requests

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<sup>55</sup>KLI interview with Chief Prosecutor of the BP in Prizren, Mr. Syle Hoxha. November 2015

<sup>56</sup>KLI interview with the President of BC in Prizren, Mr. Ymer Hoxha. November 2015.

<sup>57</sup> Ibid

### 3) The performance of the Basic Prosecution Office in Peja (hereinafter BP in Peja)

In the BP in Peja the function of the prosecutor is exercised by 13 prosecutors.<sup>58</sup>This office with the entering into force of the Action Plan had in its line of work 37 cases with 86 persons, while at the end of September 2015, had in its line of work 40 unresolved cases with 77 persons. This prosecution office from the moment the Action Plan entered into force until September 30, 2015 has received 94 new cases with 156 persons included, whilst in the same time has resolved 92 cases with 176 persons. Out of this total (176), against 34 persons the criminal reports were dismissed, against 87 persons the investigation was terminated and against 55 persons indictments were filed. Based on this statistic report it is concluded that in the BP in Peja throughout a time period of 23 months, whereas on the other hand has terminated the cases against 121 persons.

BP in Peja from the moment the Action Plan entered into force has achieved a negative trend of resolving corruption cases, respectively out of 37 cases that were active in its line of work at the time, in September 2015 this number was increased to 40. Regarding the number of persons involved in corruption cases, this office has decreased the number from 86 persons in November 4, 2013 - to 77 persons at the end of September 2015. Comparing the number of 11 prosecutors in this office appointed in the General Department and Serious Crimes Department with the number of solved cases, results that each prosecutor of this office has resolved 8.4 cases counted from the time the Action Plan has entered into force, respectively each prosecutor has solved 4.2 cases on yearly basis.

#### Features of BP in Peja:

1. Low trend of solved corruption cases;
2. Higher number of persons against who the investigation have been terminated or the criminal reports have been dismissed, compared with the number of indicted persons;
3. Low number and amount of Sequestration and Confiscation request for the assets benefitted from the committed criminal offences.

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<sup>58</sup>BP in Peja has 15 allowed positions for prosecutors, but 2 of them haven't been filled in yet.

The President of the Basic Court in Peja claims that the followed level of corruption cases and the profile of the accused persons in this court, mainly corresponds with a low-level profile. In rare cases, prosecutors indict those of an average profile mainly coming from the local administration in Peja.<sup>59</sup>

Chief Prosecutor in Peja assesses the performance of the prosecutors in this office listing them between those that have achieved success in the implementation of the obligations that derive from the Action Plan. In regards to combating high-profile corruption, prosecutors undertake actions for every case initiated by the applicant or with self-initiative, excluding the possibility of prosecuting someone without evidence.<sup>60</sup>

#### **4) The performance of Basic Prosecution Office in Gjilan (hereinafter BP in Gjilan)**

In the BP in Gjilan the function of the prosecutor is exercised by 15 prosecutors.<sup>61</sup> This office with the entering into force of the Action Plan had in its line of work 23 unresolved cases with 81 persons, while at the end of September 2015, has in its line of work 16 unresolved cases with 25 persons. This prosecution office from the moment the Action Plan entered into force until September 30, 2015 has received 66 new cases with 116 persons, whilst in the same time has resolved 82 cases with 187 persons. Out of this total, against 59 persons the criminal reports were dismissed, against 43 persons the investigation was terminated and against 84 persons indictments were filed. Based on this statistic report it is concluded that in the BP in Gjilan throughout a time period of 23 months the number of indicted persons for criminal offences of corruption reaches 84, while on the other hand the number of persons where the cases have been closed reaches 102.

During the quarter of the reporting period (July, August, September 2015), BP in Gjilan has resolved cases against 8 persons in the following order: filing indictments against 6 of them and terminating the investigation process against 2 person.

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<sup>59</sup> KLI interview with the President of BC in Peja, Mrs. Elmaze Sylja. November 2015

<sup>60</sup> KLI interview with the Chief Prosecution of the BP in Peja, Mr. Agron Galani. November 2015.

<sup>61</sup> BP in Gjilan has 17 available positions for prosecutors, but 2 of them haven't been filled in yet.

BP in Gjilan from the moment the Action Plan entered into force has achieved a positive trend of resolving corruption cases, respectively out of 23 cases that were active in its line of work at the time period when the Action Plan entered into force, in September 2015 this number was decreased to 16. Regarding the number of persons involved in corruption cases, this office has also decreased the number from 81 persons in November 4, 2013 - to 25 persons at the end of September 2015. Comparing the number of 15 prosecutors in this office appointed in the General Department and Serious Crimes Department with the number of solved cases, results that each prosecutor of this office has solved 5.5 cases counted from the time the Action Plan has entered into force, respectively each prosecutor has solved 2.25 cases on yearly basis. The performance of this prosecution office concerning old cases of corruption has marked the greatest success out of all prosecution offices, treating these cases with priority.<sup>62</sup>

The profile of the persons that are criminally prosecuted in certain cases are of a high profile, incorporating the ex- mayor of the region of Gjilan, who's case is now proceeded in the BC of Gjilan.<sup>63</sup>

#### Features of the BP in Gjilan:

1. Positive trend of solved cases of corruption;
2. Higher number of persons against who the investigation were terminated or the criminal reports have been dismissed, compared with the number of indicted persons;
3. Low number and ammount of Sequestration and Confiscation request for the assets benefitted from the committed criminal offences.

#### 5) The performance of the Basic Prosecution Office in Mitrovica (hereinafter BP in Mitrovica)

In the BP in Mitrovica the function of the prosecutor is exercised by 10 prosecutors.<sup>64</sup> This prosecution office after the declaration of independence of the Republic of Kosovo, continues to struggle for basic work conditions. This office with the entering into force of the Action Plan had in its line of work 64 unresolved cases with 141 persons, while at the end of September 2015, had in its line

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<sup>62</sup> KLI interview with the Chief Prosecutor of the BP in Gjilan, Mr. Jetish Maloku. December 2015.

<sup>63</sup> KLI interview with the President of the BC in Gjilan Mr. Zyhdi Haziri. November 2015.

<sup>64</sup>BP in Mitrovica has 14 available position for prosecutors, but 4 haven't been filled in yet.

of work 69 unresolved cases with 148 persons. BP in Mitrovica from the moment the Action Plan entered into force until September 30, 2015 has received 73 new cases with 143 persons involved, whilst in the same time has resolved 67 cases with 150 persons. Out of this total, against 49 persons the criminal reports were dismissed, against 11 persons the investigation was terminated and against 90 persons indictments were filed. Based on this statistic report it is concluded that in the BP in Mitrovica throughout a time period of 23 months the number of indicted persons for criminal offences of corruption reaches 90, while on the other hand the number of persons whose cases have been closed reaches 60.

During the quarter of the reporting period (July, August, September 2015), BP in Mitrovica has resolved cases against 12 persons in the following order: filing indictments against 6 of them, dismissing the criminal reports against 2 of them and terminating the investigation process against 4 persons.

#### Features of BP in Mitrovica:

1. Low trend of solved corruption cases;
2. Higher number of indicted persons involved in corruption in comparison with the number of persons whose cases were terminated;
3. Low number and amount of Sequestration and Confiscation request for the assets benefitted from the committed criminal offences.

BP in Mitrovica from the moment the Action Plan entered into force has achieved a negative trend of resolving corruption cases, respectively out of 64 unresolved cases that were active in its line of work at the time, in September 2015 this number was increased to 69. Regarding the number of persons involved in corruption cases, this office has increased the number of persons involved in corruption offences from 141 persons in November 4, 2013 - to 148 persons at the end of September 2015. Comparing the number of 8 prosecutors in this office appointed in the General Department and Serious Crimes Department with the number of solved cases, results that each prosecutor of this office has resolved 8.4 cases counted from the time the Action Plan has entered into force, respectively each prosecutor has solved 4.2 cases on yearly basis.

The performance of the prosecutors in this office has been satisfactory taking into consideration the working conditions.<sup>65</sup>The rise of this performance will happen in addition to the increase of the number of prosecutors and proper work conditions.<sup>66</sup>

#### **6) The performances of Basic Prosecution Office in Ferizaj (hereinafter BP in Ferizaj)**

In the BP in Ferizaj the function of the prosecutor is exercised by 12 prosecutors.<sup>67</sup>This office with the entering into force of the Action Plan had in its line of work 37 unresolved cases with 126 persons, while at the end of September 2015, has in its line of work 24 unresolved cases with 52 persons. BP in Ferizaj from the moment the Action Plan entered into force until September 30, 2015 has received 66 new cases with 119 persons involved, whilst in the same time has resolved 83 cases with 193 persons. Out of this total, against 34 persons the criminal reports were dismissed, against 26 persons the investigation was terminated and against 133 persons indictments were filed. Based on this statistic report it is concluded that in the BP in Ferizaj throughout a time period of 23 months the number of indicted persons for criminal offences of corruption reaches 133, while on the other hand the number of persons whose cases have been closed reaches 60.

During the quarter of the reporting period (July, August, September 2015), BP in Ferizaj has resolved cases against 36 persons in the following order: filing indictments against 20 of them, dismissing the criminal reports against 4 and terminating the investigation against another 12 persons.

BP in Ferizaj from the moment the Action Plan entered into force has achieved a positive trend of solving corruption cases, respectively out of 37 active cases in its line of work at the time when the Action Plan entered into force, in September 2015 this number was decreased to 24 cases. While regarding the number of persons involved in corruption, this prosecution office has decreased the number from 126 person in November 4, 2013, to 52 persons at the end of September 2015. Comparing the number of 9 prosecutors in this office appointed in the General Department and the Serious Crimes Department with the number of resolved cases, results that each prosecutor of this office has solved approximately 9.2 cases counted from the time the Action Plan has entered into force, respectively each prosecutor has solved 4.6 cases on a yearly basis.

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<sup>65</sup> KLI interview with the Chief Prosecutor of BP in Mitrovica Mr. Shyqri Sylja. October 2015.

<sup>66</sup> KLI interview with the acting Chief Prosecutor of BP in Mitrovica, Mr. Ismet Ujkani. Nëntor 2015.

<sup>67</sup>BP in Ferizaj has 14 available positions for prosecutors, but 2 of them haven't been filled in yet.

The majority of the indictments filed in the Basic Court in Ferizaj are consisted of low-profile persons, eventually medium and there is a high-profile case (Mayor of a Municipality), that is being proceeded in court. <sup>68</sup>

Features of the BP in Ferizaj:

1. Positive trend of solved corruption cases;
2. Higher number of indicted persons involved in corruption in comparison with the number of persons whose cases were terminated;
3. Low number and ammount of Sequestration and Confiscation request for the assets benefitted from the committed criminal offences

**7) The performance of the Basic Prosecution Office in Gjakova(hereinafter BP in Gjakova)**

In the BP in Gjakova the function of the prosecutor is exercised by 12 prosecutors.<sup>69</sup>This office with the entering into force of the Action Plan had in its line of work 26 unresolved cases of corruption with 64 persons, while at the end of September 2015, has in its line of work 23 unresolved cases with 41 persons. BP in Gjakova from the moment the Action Plan entered into force until September 30, 2015 has received 45 new cases with 98 persons involved, whilst in the same time has resolved 67 cases with 125 persons. Out of this total, against 28 persons the criminal reports were dismissed, against 24 persons the investigation was terminated and against 73 persons indictments were filed. Based on this statistic report it is concluded that in the BP in Gjakova throughout a time period of 23 months the number of indicted persons for criminal offences of corruption reaches 73, while on the other hand the number of persons whose cases have been closed reaches 52.

During the quarter of the reporting period (July, August, September 2015), BP in Gjakova has resolved cases against 4 persons who were indicted.

<sup>68</sup> KLI interview with the President of BC in Ferizaj Mr. Bashkim Hyseni. November 2015.

<sup>69</sup>BP in Gjakova has 14 available position of prosecutions, but 2 of them haven't been filled yet.

BP in Gjakova from the moment the Action Plan entered into force has achieved a positive trend of solving corruption cases, respectively out of 26 active cases in its line of work at the time when the Action Plan entered into force, in September 2015 this number was decreased to 23 cases. Regarding the number of persons involved in corruption, this prosecution office has decreased the number from 64 persons in November 4, 2013, to 41 persons at the end of September 2015. Comparing the number of 10 prosecutors in this office appointed in the General Department and the Serious Crimes Department with the number of resolved cases, results that each prosecutor of this office has solved approximately 6.7 cases counted from the time the Action Plan has entered into force, respectively each prosecutor has solved 3.5 cases on yearly basis.

Features of the BP in Gjakova:

1. Positive trend of resolving corruption cases;
2. Higher number of indicted persons involved in corruption in comparison with the number of persons whose cases were terminated;
3. Low number and amount of Sequestration and Confiscation request for the assets benefitted from the committed criminal offences

## **SOLVED CASES OF CORRUPTION ACCORDING THE APPLICANT THAT SUBMITTED THE CRIMINAL REPORT FOR CORRUPTION**

### **e) The performance of criminal reports submitted by various applicants**

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 manner of solving such cases and the number of persons against whom cases of corruption have not be solved.

CORRUPTION CASES IN THE PROSECUTORIAL SYSTEM (04.11.2013 - 30.09.2015)							
Applicants of criminal reports	Unsolved in the beginning (04.11.2014)	Received (04.11.2013 until 30.09.2015)	Solved	Solving manner			Unsolved in the end of (30.09.2015)
				Dismissal	Termination	Indictment	
	Persons	Persons	Persons	Persons	Persons	Persons	Persons
Anti-Corruption Agency	341	266	217	42	70	105	391
Kosovo Property Agency		5	15	5		10	
Tax Administration of Kosovo	2						2
Kosovo Customs	13	8	1			1	20
EULEX	39	3	13	1	1	11	25
Kosovo Police Inspectorate	30	68	47	5	12	30	61
Kosovo Police	855	750	1,028	141	267	620	668
Citizens	139	148	126	46	64	16	158
The Injured party	134	239	206	135	37	34	225
The Municipality Administration Body	9	4	9	2	3	4	3
Holder of Property	56	15	28	14	4	10	46
Forestry Authority of Kosovo	14		12		11	1	2
Prosecutor with Self-initiative	46	19	6	4	2		56
Financial Intelligence Unit	2		2		2		
Unidentified	2	7	12	9		3	1
Received into competence		94	35	2	3	30	95
<b>Total:</b>	1,682	1,626	1,757	406	476	875	1,753

Table 3 - Trends of corruption cases according to applicants from 04.11.2013 until 30.09.2015

From the entry into force of the Action Plan entered into force in November 4, 2013 until September 30, 2015 the BPs and SPRK have dealt with 1,334 cases with 3308 persons involved. The prosecution offices have solved cases against 1757 persons, whereas cases against 1753 persons are pending.

Regarding the manner the cases of these 1757 persons have been solved, most of them have been terminated. Against 406 persons the criminal reports were dismissed, against 476 the investigation was terminated, whereas against 875 persons indictments were filed.

### **1) The performance of the criminal reports set forth by Kosovo Police**

Kosovo Police (hereinafter KP) continues to be the one that submits the highest number of corruption criminal reports in the SP. While at the time being when the Action Plan entered into force (November 4, 2013), SP was dealing with an ample amount of unsolved cases submitted by the KP against 855 persons involved, in September 30, 2015 this number has decreased to 668 persons involved. KP at the time being when the Action Plan entered into force has submitted new cases in the prosecution offices against 750 persons involved. SP from the time period of the Action Plan until September 30, 2015 has solved cases against 1028 persons. Out of 1028, against 141 persons the criminal reports were dismissed, against 267 persons the investigations were terminated, whereas 620 persons were indicted. If analyzed in percentage, 60.31% of the persons have been indicted, whereas against 39.69% of the person's the cases have been terminated.

### **1) The performance of the criminal reports set forth by the Anti-Corruption Agency**

Anti-Corruption Agency (hereinafter ACA), falling behind the KP, continues to be the one that submits the highest number of criminal reports regarding corruption. While at the time being when the Action Plan entered into force (November 4, 2013), SP was dealing with an ample amount of unsolved cases submitted by the ACA against 341 persons involved, in September 30, 2015 this number has increased to 341 persons involved. ACA at the time being when the Action Plan entered into force has submitted new cases in the prosecution offices against 266 persons involved. SP from the time period of the Action Plan until September 30, 2015 has solved cases against 217 persons. Out of 217, against 42 persons the criminal reports were dismissed, against 70 persons the investigation were terminated, whereas 103 persons were indicted. If analyzed in percentage, 47.46% of the persons have been indicted, whereas against 52.54% of the persons the cases have been terminated.

The performance of the prosecutorial system and judicial system against the submission of criminal reports set forth by the ACA is assessed as a failure.<sup>70</sup>

## **2) The performance of criminal reports set forth by EULEX**

At the time being when the Action Plan entered into force (November 4, 2013), SP was dealing with unsolved cases set forth by EULEX against 39 persons involved, whereas in September 30, 2015 this number has decreased to 25 persons involved. EULEX at the time being when the Action Plan entered into force had submitted new cases in the prosecution offices against 3 persons involved. SP from the time period of the Action Plan until September 30, 2015 has solved cases against 13 persons. Out of 13, against 1 person the criminal reports were dismissed, against 11 persons the investigations were terminated, whereas 11 persons were indicted. If analyzed in percentage, 84.61% of the persons have been indicted, whereas against 15.49% of the persons the cases have been terminated.

## **3) The performance of criminal reports set forth by Kosovo Police Inspectorate (hereinafter KPI)**

At the time being when the Action Plan entered into force (November 4, 2013), SP was dealing with unsolved cases set forth by Kosovo Police Inspectorate against 30 persons involved, whereas in September 30, 2015 this number has increased to 61 persons involved. KPI at the time being when the Action Plan entered into force had submitted new cases in the prosecution offices against 68 persons involved. SP from the time period of the Action Plan until September 30, 2015 has solved cases against 47 persons set forth by KPI. Out of 47, against 5 persons the criminal reports were dismissed, against 12 persons the investigations were terminated, whereas 30 persons were indicted. If analyzed in percentage, 63.82% of the persons have been indicted, whereas against 36.18 % of the persons the cases have been terminated.

## **4) The performance of criminal reports set forth by citizens**

At the time being when the Action Plan entered into force (November 4, 2013), SP was dealing with unsolved cases set forth by the citizens against 139 persons involved, whereas in September 30, 2015 this number has increased to 158 persons involved. The

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<sup>70</sup> "Hasan's Indictments"; Gazetaexpress.com See the link: <http://ww.gazetaexpress.com/arkiva/akuzat-e-hasanit-65321/>

citizens at the time being when the Action Plan entered into force have submitted new cases in the prosecution offices against 148 persons involved. SP from the time period the Action Plan entered into force until September 30, 2015 has solved cases against 126 persons set forth by the citizens. Out of 126, against 46 persons the criminal reports were dismissed, against 64 persons the investigations were terminated, whereas 16 persons were indicted. If analyzed in percentage, 12.69% of the persons have been indicted, whereas against 87.31% of the persons the cases have been terminated.

#### **5) The performance of criminal reports set forth by the injured parties**

At the time being when the Action Plan entered into force (November 4, 2013), SP was dealing with unsolved cases set forth by the injured parties against 134 persons involved, whereas in September 30, 2015 this number was increased to 225 persons involved. The injured parties at the time being when the Action Plan entered into force have submitted new cases in the Prosecution offices against 239 persons involved. SP from the time period the Action Plan entered into force until September 30, 2015 has solved cases against 206 persons set forth by the injured parties. Out of 206, against 135 persons the criminal reports were dismissed, against 37 persons the investigations were terminated, whereas 34 persons were indicted. If analyzed in percentage, 16.50 % of the persons have been indicted, whereas against 83.50 % of the persons the cases have been terminated.

#### **6) The performance of criminal reports set forth by the prosecutors with self-initiative**

At the time being when the Action Plan entered into force (November 4, 2013), SP was dealing with unsolved cases of corruption set forth by the prosecutors with self-initiative against 46 persons involved, whereas in September 30, 2015 this number was increased to 56 persons involved. The prosecutors with self-initiative, at the time being when the Action Plan entered into force have submitted new cases against 19 persons involved. Prosecution offices from the time period the Action Plan entered into force until September 30, 2015 have solved cases against 6 persons set forth by them with self-initiative. Out of 6 persons, against 4 persons the criminal reports were dismissed, against 2 persons the investigations were terminated, whereas no person has been indicted. If analyzed in percentage against 100% of the persons the cases have been terminated.

#### IV. IMPLEMENTATION OF THE ACTION PLAN: SOLVED CASES REGISTERED TO NOVEMBER 4, 2013

With the entry into force of the Action Plan, SP has had in work 516 unsolved cases of corruption against 1632 persons. From the entry into force of this plan until September 30, 2015, prosecution offices have solved cases against 1001 persons. Out of this total against 214 persons prosecution offices have dismissed criminal reports, or against 21.38% of them, against 317 persons have terminated the investigations, or 31.67% of them, against 35 persons have filed an indictment with punitive order or against 3.5% of them, against 44 persons have filed a direct indictment or against 4.40% of them and against 391 persons have filed an indictment after the investigations or against 39.06% percent of them.

Regarding the fulfillment of the Action Plan, respectively the comparison between the numbers of persons who have been subject of criminal proceedings relating with criminal offenses of corruption registered until November 4, 2013, with the number of persons against whom cases of corruption have been solved, leads BP in Peja and Gjilan with 100% of filled rate. While, BP in Ferizaj, has solved 95 % of cases, BP in Prizren 90% of cases, BP in Gjakova 85% of cases, BP in Mitrovica 82% of cases. The poorest performance of solving corruption cases is concluded by SPRK with only 59% of solved cases and BP in Pristina with only 30% of solved cases.

Regarding the manner of solving corruption cases, SPRK leads with the largest number of the dismissal of criminal reports and termination of investigations, against 97 persons in total suspected for committing the criminal offenses of corruption, or against 70.29% of them. While only against 41 persons was filed an indictment or 29.71% of them. BP in Pristina, has filed indictment against 102 persons and has terminated the investigations or dismissed the criminal report against 138 persons. In percentage, against 42.5 persons was filed an indictment, while against 57.5% of persons the cases are closed. Meanwhile, BP in Peja has filed an indictment against 22 persons, has dismissed the criminal reports against 6 persons and has terminated the investigations against 64 persons. In percentage this prosecution office, has filed indictments against 23.91% of persons while has closed the cases against 76.09% of persons.

Poor performance of filing the indictments in relation to the closure of cases against persons involved in cases of corruption has also BP in Gjilan. This prosecution office has filed indictments against 36 persons, while has terminated investigations or dismissed criminal reports against 45 persons. In percentage, against 45% of persons was filed an indictment, while against 55% of persons cases have been closed. Same performance has had also BP in Prizren. This prosecution office has filed indictments

against 71 persons, while has terminated investigations against 58 persons and has dismissed the criminal reports against 38 persons. In percentage, this prosecution office has filed indictments against 44.66% of persons and has closed cases against 53.44% of persons.

THE SOLUTION AND THE MANNER OF SOLVING CASES REGISTERED IN THE ACTION PLAN ON 04.11.2013													
The solution of old cases from 04.11.2013 until 30.09.2015	The total of unsolved persons on November 4, 2013	The total of solved persons from 04.11.2013 - 30.09.2015	The fulfillment of the Action Plan	Dismissal		Termination		Punitive order		Direct indictment		Indictment after investigations	
				Persons	Percentage	Persons	Percentage	Persons	Percentage	Persons	Percentage	Persons	Percentage
<b>SPRK</b>	232	138	59.0%	10	7.25%	87	63.04%					41	29.71%
<b>Pristina</b>	777	240	30.0%	76	31.67%	62	25.83%			9	3.75%	93	38.75%
<b>Prizren</b>	175	159	90.0%	38	23.90%	50	31.45%			3	1.89%	68	42.77%
<b>Peja</b>	86	92	100.0%	6	6.52%	64	69.57%					22	23.91%
<b>Gjilan</b>	81	81	100.0%	18	22.22%	27	33.33%			20	24.69%	16	19.75%
<b>Mitrovica</b>	141	116	82.0%	46	39.66%	7	6.03%			10	8.62%	53	45.69%
<b>Ferizaj</b>	126	120	95.0%	13	10.83%	15	12.50%	35	29.2%	2	1.67%	55	45.83%
<b>Gjakova</b>	64	55	85.0%	7	12.73%	5	9.09%					43	78.18%
<b>Total</b>	1,632	1,001	61.0%	214	21.38%	317	31.67%	35	3.5%	44	4.40%	391	39.06%

**Table 4 - The solution and the manner of solving cases registered in the Action Plan on 04.11.2013**

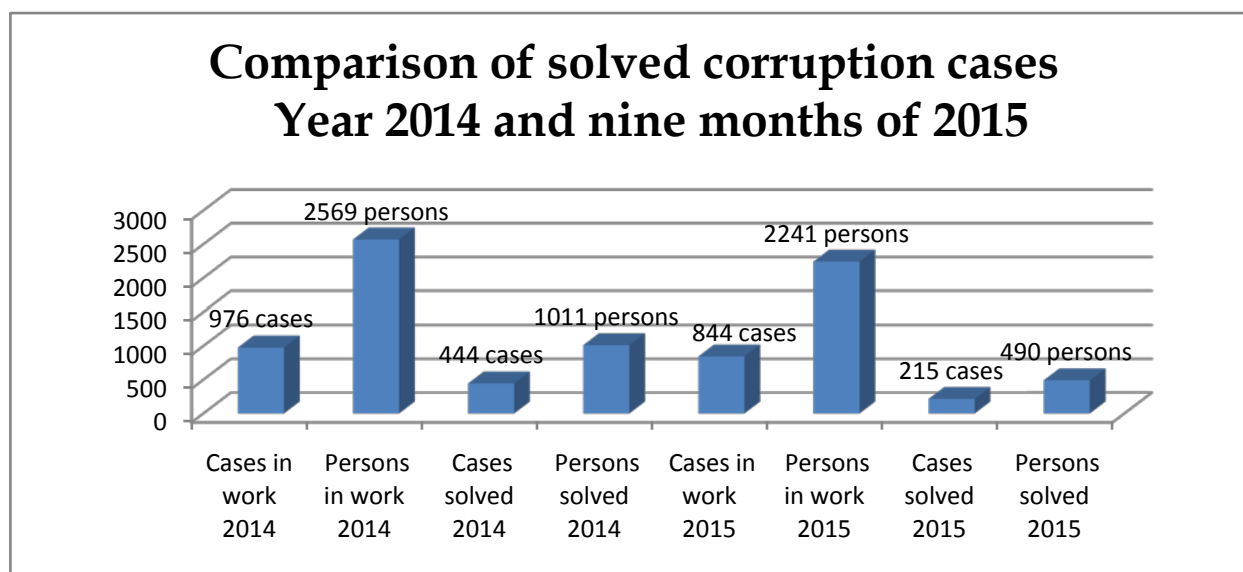
BP in Ferizaj has filed indictments against 92 persons, while has terminated investigations against 15 persons, and has dismissed the criminal reports against 13 persons. In percentage this prosecution office has filed indictments against 77% of persons, while has closed cases against 23% of persons.

BP in Mitrovica has filed indictments against 63 persons, while has terminated investigations against 7 persons, and has dismissed the criminal reports against 46 persons. In percentage this prosecution office has filed indictments against 55.31% of persons, while has closed cases against 44.69% of persons.

BP in Gjakova is considered as the prosecution with the highest percentage and number of filed indictments against persons involved in criminal offenses of corruption in relation to the number of dismissal of criminal reports or termination of investigations. This prosecution office has filed indictments against 43 persons, has terminated investigations against 5 persons and has dismissed the criminal reports against only 7 persons. In percentage, BP in Gjakova has filed indictments against 78.18% of persons and has closed cases against 21.82% of persons.

**a) Comparison of solved corruption cases between 2014 and nine months of 2015**

SP during 2014 has had in work 976 cases with 2569 persons involved in corruption cases. Of this number, SP during this year has solved 444 cases against 1011 persons. Regarding the manner of solving criminal reports for these 1011 persons, prosecutors during 2014 have taken the following actions: for 248 persons (or 24.53%) the criminal report is dismissed, for 297 persons (or 29.38%), investigations are terminated and for 471 persons (53.92%) indictments are filed.<sup>71</sup>



**Chart 2 - Comparison of solved corruption cases: Year 2014 and nine months of 2015**

While during 2015, SP has had in work 844 cases with 2241 persons involved in corruption cases. Of this number SP has solved 215 cases with 490 persons (Chart 2) Of 490 persons against whom cases are solved, SP has taken the following actions: for 101

<sup>71</sup> Report of Tracking Mechanism for harmonization of statistical reports for 2014, Kosovo Prosecutorial Council. See the link [http://www.psh-ks.net/repository/docs/RAPORTI\\_2014\\_MEKANIZMI\\_PERCJELLES.PDF](http://www.psh-ks.net/repository/docs/RAPORTI_2014_MEKANIZMI_PERCJELLES.PDF)

persons (or 20.61%) have dismissed the criminal reports; for 81 persons ( or 16.53%) have terminated the investigations and for 304 persons ( or 62%) have filed an indictment.

SP during 2015, based on the data mentioned above from the Tracking Mechanism for the harmonization of statistical reports it is seen that there is a very low efficiency in comparison with 2014. While SP, throughout the whole of 2014, has solved 444 cases, in the first nine months of 2015, has solved only 215 cases or in percentage only 48.42% of the rate of 2014. While regarding the solution of cases with persons, SP during 2014, has solved cases against 1011 persons, meanwhile in the nine months of 2015, only 490 persons, or in percentage 48.46%.

## V. PRELIMINARY INVESTIGATIONS IN CASES OF CORRUPTION - PPN

The treatment of corruption cases in SP, presented in table 6 has continued also to the cases of corruption categorized in PPN register, or cases which are in the stage of gathering information. While, in the beginning of November 2013 with the entry into force of the Action Plan, in SP there were 232 cases PPN with 543 persons, at the end of September 2015, this number of this category increased to 375 cases with 803 persons involved in cases of corruption. From the entry into force of the Action Plan until September 30, 2015, SP has received 352 new cases of corruption in the PPN register, with 650 persons involved. While, during this reporting period SP has solved 375 cases with 803 persons involved. Of all the cases treated against 457 persons SP has dismissed the reports submitted by the applicants.

The largest number of reports dismissed belong to BP in Pristina against 143 persons, followed by SPRK with 84 persons, BP in Peja with 76 persons, BP in Prizren with 72 persons, BP in Mitrovica with 29 persons, BP in Gjilan with 24 persons, BP in Ferizaj with 18 persons and BP in Gjakova with 11 persons.

The largest number of unsolved cases to PPN cases remains in BP in Pristina with 148 cases with 366 persons, followed by SPRK with 45 cases with 144 persons, BP in Ferizaj with 46 cases with 77 persons, BP in Peja with 44 cases with 80 persons, BP in Mitrovica with 41 cases with 61 persons, BP in Prizren with 32 cases with 50 persons, BP in Gjakova with 10 cases with 13 persons and PTh in Gjilan with 9 cases with 12 persons.

PPN CASES OF CORUPTION IN THE PROSECUTORIAL SYSTEM (04.11.2013 - 30.09.2015)									
State Prosecutor - PPN	State Prosecutor								
	Unsolved in the beginning (04.11.2014)		Received (04.11.2013 until 30.09.2015)		Solved cases with persons	Solving manner		Unsolved at the end (30.09.2015)	
	Cases	Persons	Cases	Persons	Persons	Dismissal	Termination	Cases	Persons
<b>SPRK</b>	12	46	49	165	84	84	0	45	144
<b>Pristina</b>	142	356	48	115	143	143	0	148	366
<b>Prizren</b>	9	18	67	109	72	72	0	32	50
<b>Peja</b>	21	43	67	85	76	76	0	44	80
<b>Gjilan</b>			29	38	24	24	0	9	12
<b>Mitrovica</b>	18	32	40	60	29	29	0	41	61
<b>Ferizaj</b>	22	33	38	62	18	18	0	46	77
<b>Gjakova</b>	8	15	14	16	11	11	0	10	13
<b>Total:</b>	232	543	352	650	457	457	0	375	803

Table 6 - The treatment of corruption cases for the cases of preliminary investigations from 04.11.2013 until 30.09.2015

#### a) Cases of corruption initiated by reports of media, civil society

Civil society organizations and journalists in various media in Kosovo report on daily basis about various cases of violation of the law by certain public officials. Among these reports of violations of the law, in the majority of cases are reported actions that enter the incriminating realm, presenting elements of criminal offenses which enter in the chapter of corruption. The reporting of these representatives of civil society and the media, probably ends with the publication of their reports, due to the negligence of the prosecuting authorities, which do not follow the traces for the detection of corruption.

Appreciating this contribute of independent actors of civil society and the media, the Chief State Prosecutor, Aleksandër Lumezi, has issued a decision<sup>72</sup>, on June 17, 2015, to create a “Committee<sup>73</sup> for daily monitoring and verification of claims in cases of alleged organized crime and corruption, published through electronic means of the press, the complaints of citizens and public appearances of officials of state and public bodies and organizations and non-governmental organizations”.

After verifying the information, according to the decision, the Committee is mandated to verify the claims, and in cases where it is considered that there is a doubt that there stand incriminating elements for criminal prosecution, immediately takes actions towards addressing these cases to competent prosecutors, for which also may be suggested procedural actions to take on these cases. In cases when the Committee, after verifying cases presented in media, considers that there is no doubt that there stand incriminating elements for criminal prosecution, then immediately will notify the publisher or the applicant of this case and if necessary also the public opinion through the means of information.

KLI has attempted to monitor the work of this Committee in terms of the actions undertaken, looking for approach in accordance with the Law on Access to Public Documents.<sup>74</sup> The members of the Committee, spokesman of KPC have not returned official respond, violating so the legal deadlines to reply. KLI remains to the request, unless there is no information, if this Committee has ever met, and implemented the decision of the Chief State Prosecutor.

KLI has conducted a research with the number of civil society representatives and journalists who have reported on various violations of the law and have published scandals of the involvement of high officials in corruption affairs. In all the interviews conducted by KLI, the representatives of civil society and journalists say that SP has failed to treat their findings, which are made public through publications and daily reports. The success in these cases for which these representatives have reported is minimal.<sup>75</sup> While corruption scandals are daily made public in the media, according to journalists, there are no adequate reactions of the institution of SP. The discovery in the media of scandals involving violations of law and corrupt affairs has produced

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<sup>72</sup> Chief State Prosecutor, Aleksandër Lumezi, has issued a decision with number A. nr.208/2015 on June 17, 2015, in accordance with Article 11, point 7 and Article 12 point 3 of Law on State Prosecutor. State Prosecutor.

<sup>73</sup> Committee consists of Mayor Lulëzim Sylejmani, prosecutor of Appellate Prosecution in Pristina, Kujtim Munishi, prosecutor in Basic Prosecution in Gjilan and Ekrem Lutfiu, spokesman of KPC.

<sup>74</sup> KLI has made “Official request for access in public documents” in KPC, on November 24, 2015, addressing the request to all members of Committee, responsible for communication with the public and the certain officer in KPC for access to public documents.

<sup>75</sup> KLI interviews with the Senior Researcher of KIPRED Institute, Ms. Ariana Qosaj Mustafa; Director of the Group for Legal and Political Studies, Mr. Fisnik Korenica, Legal representative of the Organization Çohu, Mr. Arton Demhasaj. November 2015.

nothing more than journalistic articles or stories, while the same ones are not followed by investigations by prosecuting authorities.<sup>76</sup> All the journalists interviewed have declared that never any official of SP has contacted them to inform about any case, for which the Committee has concluded that has not found any elements of criminal offense for corruption or organized crime. The work of this Committee is assessed as failed since it is not made transparent and accountable to the public, in accordance with the legal provisions in force.

KLI assesses that the contribution of independent external stakeholders of civil society and journalists is very valuable and should serve for the prosecution bodies to consider seriously each report, in order to produce the necessary results for all the offenders of law and persons involved in criminal offenses of corruption. If this Committee does not make his work public, in accordance with the law, the Chief State Prosecutor must hold accountable the members of the Committee, on the contrary KPC should hold responsible the Chief State Prosecutor for the failure to implement the decisions.

## VI. UNSOLVED CASES OF CORRUPTION IN PROSECUTORIAL SYSTEM ON SEPTEMBER 30, 2015

Compared with the previous reporting period (January, February, March 2015) regarding the old cases unsolved at the end and the current number of unsolved cases, the situation remains almost the same with only an increase of 4% cases more than solved cases. While at the end of the previous reporting period (June 30, 2015) the Action Plan was fulfilled 57%, now at the end of this reporting period (September 30, 2015), the Action Plan regarding the solved old cases is fulfilled 61%. KLI assesses the treatment of cases by SP dated from the years 2001-2003, treated on the sixth report (6) that included the period until June 30, 2015. However, the fact that SP has still in work cases dating from 2004 and inward, remains a concern. In these cases, as discussed earlier in this report, besides the loss of confidence of applicants of criminal reports for corruption and the possibility of violating the rights of citizens involved in these acts, there is a chance for all these persons to be part of the institutions, while the same ones if treated by prosecutors, could be found guilty for the criminal offenses of corruption.<sup>77</sup>

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<sup>76</sup> KLI interviews with Mr. Besnik Krasniqi "Koha Ditore", Mr. Parim Olluri "Gazeta JNK", Ms. Selvije Bajrami "Zëri", Mr. Faton Ismajli "Express", Mr. Naim Sadiku "KTV", Mr. Beadin Sylja "Kosovapress", Ms. Ardita Sylejmani "RTK" and Mr Shkodran Bajraku "KlanKosova". November 2015.

<sup>77</sup> "To prevent being treated as a laughing stock, we have a case dating from 2001 and hasn't been solved until 2015. The question is what will be the effect of prosecuting someone for a corruptive offence committed in 2008, 2009, 2010, when the same person is still exercising a public position in a public company or the administration of the Assembly or Government" - a citation from the State Chief Prosecutor, in the same time President of KJC Mr. Aleksander Lumnezi. Kosovo Judicial Council meeting. November 8, 2015.

To have a clear picture of the old cases of corruption, KLI has presented in the table below, cases and persons for each prosecution office, for each year. As in previous reports, KLI has provided this insight for stakeholders of the prosecutorial system, primarily to identify and remind these institutions to treat these cases with priority in accordance with the obligations arising from the Action Plan, and at the same time to understand the issue and the risk of statutory limitation from the criminal prosecution of these cases pending for years. KLI continues to insist that the untreated cases and unsolved from previous years dating from 2004, directly affect the effectiveness of the prosecution offices and the image of the prosecutorial system in relation to public confidence in the system. Also, KLI assesses that it will be tough for the prosecutors to defend these cases in courts for the criminal offenses which were allegedly committed in the earlier years as 2004. This is due to the fact that has passed a long time from the commission of the offense, and if the same cases have not already reached the statute of limitation of criminal prosecution, it will be very difficult to ensure the witnesses, the credibility of their statements concerning these cases and ascertaining the facts.

Compared with the number of cases pending at the end of the previous reporting period (April, May and June) in this reporting period (July, August and September 2015), the number of cases has increased from 589 cases with 1,706 persons, in 636 cases with 1753 persons. KLI expresses its concern that the negative trend of solving cases continues, respectively, for each quarter we will have an increase of the number of corruption cases in relation to the previous period. During this quarter, the number of cases has increased from 589 to 636, while the number of persons involved in criminal offenses of corruption is raised from 1706 persons in 1753 persons. In the table below, KLI has presented all cases of corruption, which have remained unsolved on September 30, 2015, for each prosecution office according to years:

Unsolved cases with persons according to prosecution offices over the years (September 30, 2015)	2004		2006		2007		2008		2009		2010		2011		2012		2013		2014		2015		Total	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
<b>SPRK</b>											6	22	5	27	3	25	7	28	18	120	10	31	49	253
<b>Pristina</b>	1	1	4	14	5	21	14	39	2	2	12	35	18	95	29	108	56	260	150	302	100	217	391	1,094
<b>Prizren</b>																	2	2	5	16	17	45	24	63
<b>Peja</b>											1	1					3	11	12	27	24	38	40	77
<b>Gjilan</b>																		2	5	14	20	16	25	
<b>Mitrovica</b>									1	2			4	4	7	15	8	20	21	44	28	63	69	148
<b>Ferizaj</b>	1	4									2	4					3	3	6	12	12	29	24	52
<b>Gjakova</b>															1	2	2	5	3	7	17	27	23	41
<b>TOTAL</b>	2	5	4	14	5	21	14	39	3	4	21	62	27	126	40	150	81	329	217	533	222	470	636	1,753

Table 7 – State of unsolved corruption cases for each prosecution office on 30.09.2015

BP in Pristina continues to remain the prosecution office with the largest number of unsolved cases, which on September 30, 2015, has in work 391 unsolved cases with 1,094 persons. BP in Pristina and BP in Ferizaj continue to be the only prosecution offices that have old cases dating from 2004 until 2010.

KLI has made the categorization of unsolved cases at the end of this reporting period, according to prosecution offices and applicants over the years. In table 8 are presented unsolved cases with persons at the end of this reporting period (September 30, 2015).

Unsolved cases with persons according to applicants over the years (September 30, 2015)	2004	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
ACA			10	16		12	19	88	84	112	50	391
TAK						2						2
Customs	4								9	1	6	20
EULEX						7	11	1	6			25
KPI								7	5	19	30	61
KP		7	10	14	3	21	23	35	177	201	177	668
Citizen						9	25	5	17	53	49	158
The injured party			1	1	1	7	5	1	28	73	108	225
Municipal Administration							1			2		3
Received by Comp.										45	50	95
Holder of property	1	7		8		4		13		13		46
Forestry Authority									2			2
Prosecutor with self-initiative							41		1	14		56
Unidentified							1					1
<b>Total:</b>	<b>5</b>	<b>14</b>	<b>21</b>	<b>39</b>	<b>4</b>	<b>62</b>	<b>126</b>	<b>150</b>	<b>329</b>	<b>533</b>	<b>470</b>	<b>1,753</b>

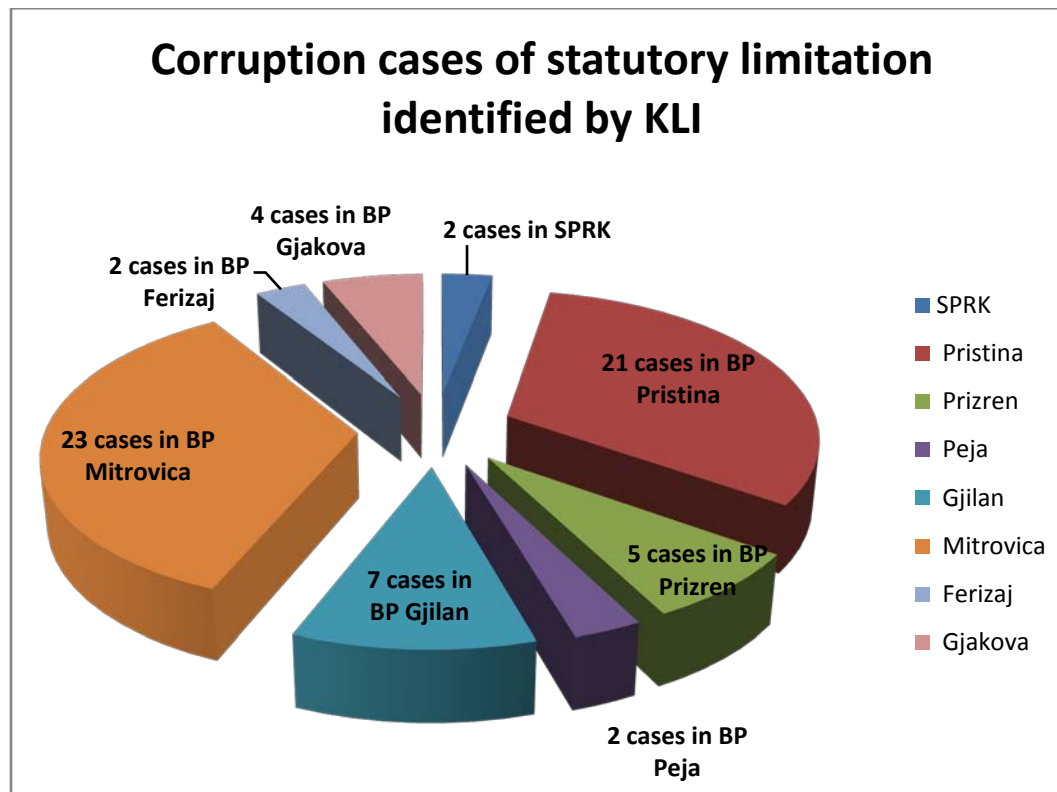
Table 8 – State of unsolved cases of corruption according to applicants on 30.09.2015

Kosovo Police continues to be the biggest applicant of corruption cases, which from a total of 1,753 persons involved in such cases, has filed criminal reports for 668 persons. ACA continues to be the second biggest applicant with a total of 391 persons, followed by the injured party with 225 persons, citizens with 158 persons, KPI with 61 persons, etc.

## **VII. FAILURES OF PROSECUTORS IN TREATING CORRUPTION CASES**

### **I - CASES OF STATUTORY LIMITATION OF CRIMINAL PROSECUTION**

KLI within the monitoring of performance in accordance with the Law in Access to Public Documents and the Law on Personal Data Protection has required from all prosecution offices the prosecutorial acts involving the decisions of prosecutors to dismiss the criminal reports and decisions for the termination of investigations. The purpose of providing these acts is to analyze the legal deadlines to decide on the cases of corruption. During the analysis of these acts, from the entry into force of the Action Plan until September 30, 2015, KLI has identified 66 cases of statutory limitation of corruption cases through prosecution offices. The phenomenon of the statutory limitation remains extremely worrying and not addressed by the prosecution offices. In the chart below are presented corruption cases of statutory limitation in all prosecution offices, including also SPRK, as the new prosecution office in the prosecutorial system.



**Chart 3 - Corruption cases that have reached the statutory limitation in prosecution offices identified by KLI including cases from the entry into force of the Action Plan until September 10, 2015**

KLI on the following presents all cases for which has provided legal acts from all the prosecution offices in accordance with the positive legislation.<sup>78</sup>

<sup>78</sup> Provision of prosecutorial legal acts by KLI is done through special requirements for each prosecution office in accordance with the Law on Access to Public Documents and the Law on Personal Data Protection. Acts are provided in different periods of time from April to Nievember 2015 .

## I - STATUTORY LIMITATION OF CRIMINAL PROSECUTION CASES SPECIAL PROSECUTION OF THE REPUBLIC OF KOSOVO

1. Case number PPS.55/2013 determined on 14.07.2015. *Termination of investigation ruling* concerning the criminal offences: “Organized crime” under Article 283 paragraph 1 in conjunction with paragraph 2, “Entering into harmful contract” under Article 291 paragraph 1 in conjunction with paragraph 2, “Fraud in office” under Article 341 paragraph 1 in conjunction with paragraph 3 (Provisional Criminal Code 2004), “Unlawful construction work” under Article 368 paragraph 1 in conjunction with paragraph 3 of the CCRK.”<sup>79</sup>

### BASIC PROSECUTION IN PRISHTINA

1. Case number PP.973-4/208 determined on 14.08.2015. *Termination of investigation ruling* in view of the fact that the period of statutory limitation of criminal prosecution has expired. Criminal offence: “Abusing official position or authority”<sup>80</sup>
2. Case number PP.II.1069/2014 determined on 15.01.2015. *Termination of investigation ruling* in view of the fact that the period of statutory limitation of the criminal offence has expired. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK.<sup>81</sup>
3. Case number PPI.576/2014 determined on 29.09.2015. *Termination of investigation ruling* against person NN, in view of the fact that the period of absolute statutory limitation of the criminal offence has expired. Criminal offence: “Abusing official position or authority” under Article 339 paragraph 1 of the CCRK.<sup>82</sup>

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<sup>79</sup>Note: Based on the ruling reached on 14.07.2015, SPRK has terminated the investigation for the above mentioned criminal offences, in view of the fact that the period of statutory of limitation for criminal prosecution has expired.

<sup>80</sup>Note: Based on the ruling reached on 14.08.2015, concordant with Article 158 paragraph 1, subparagraph 1.3 of the CPCRK, BP in Pristina has terminated the investigation for the criminal offence “Abusing official position or authority” under Article 422 paragraph 1 in conjunction with Article 31 of the CCRK, in view of the fact that the period of relative statute of limitation for criminal prosecution has expired.

<sup>81</sup>Note: Based on the ruling reached on 15.01.2015, concordant with Article 158 paragraph 1, subparagraph 1.1, BP in Pristina has terminated the investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK, in view of the fact that the period of statutory of limitation for criminal prosecution has expired.

<sup>82</sup>Note: Based on the ruling reached on 29.09.2015, concordant with Article 158 paragraph 1 subparagraph 1.3., BP in Pristina has terminated the investigation for the criminal offence “Abusing official position or authority” under Article 339 paragraph 1, in view of the fact that the period of absolute statute of limitation for the criminal offence has expired.

4. Case number PP. 424/2001 determined on 10.09.2015. *Dismissal of criminal report ruling* in view of the fact that the period of statutory limitation of the criminal offence has expired. Criminal offence: “Abusing official position or authority” under Article 422 of the CCRK.<sup>83</sup>
5. Case number PP.740-4/2008 determined on 09.09.2015. *Dismissal of criminal report ruling* set forth by the Economic Crimes Unit, in view of the fact that the period of statutory limitation of criminal prosecution has expired. Criminal offence: “Abusing official position or authority” under Article 422 of the CCRK.<sup>84</sup>
6. Case number PP. II. 529-4/2011 determined on 14.09.2015. *Dismissal of criminal report ruling* set forth by the Investigation Directorate for Economic and Corruption Crimes in Pristina, in view of the fact that the period of statutory limitation of criminal prosecution has expired. Criminal offence: “Trading in Influence” under Article 345 paragraph 1 in conjunction with paragraph 3 of the CCK.<sup>85</sup>

## BASIC PROSECUTION IN PRIZREN

1. Case number PP. 102/2015 determined on 01.06.2015. *Dismissal of criminal report ruling* in view of the fact that the period of statutory limitation of criminal prosecution has expired. Criminal offence: “Abusing official position or authority” and “Falsifying official documents”.<sup>86</sup>

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<sup>83</sup>Note: Based on the ruling reached on 10.09.2015, BP in Pristina concordant with Article 82 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” under Article 422 of the CCRP, in view of the fact that the period of absolute statute of limitation for the criminal offence has expired.

<sup>84</sup>Note: Based on the ruling reached on 09.09.2015, BP in Pristina concordant with Article 82 paragraph 1, subparagraph 1.2. of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” under Article 422 of the CCRP, in view of the fact that the period of statutory of limitation for criminal prosecution has expired.

<sup>85</sup>Note: Based on the ruling reached on 14.09.2015, BP in Pristina concordant with Article 82 paragraph 1 and 2, subparagraph 1.2. of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Trading in influence” under Article 345 paragraph 1 in conjunction with paragraph 3 of the CCRK, in view of the fact that the period of statutory limitation for criminal prosecution has expired.

<sup>86</sup>Note: Based on the ruling reached on 01.06.2015, BP in Prizren, concordant with Article 82 paragraph 1 subparagraph 1.1. and Article 83 paragraph 2 and 5 of the CPCRK had decided to dismiss the criminal report set forth by a few citizens from the village N.N., for the above mentioned criminal offences, in view of the fact that the period of statutory of limitation for criminal prosecution has expired.

## BASIC PROSECUTION IN MITROVICA

1. Case number PPN.I.14/2015 determined on 02.03.2015. *Dismissal for initiating investigation ruling* in view of the fact that the period of absolute limitation of criminal prosecution has expired. Criminal offence: "Abusing official position or authority".<sup>87</sup>
2. Case number PP.I.212/2015 determined on 29.06.2015. *Dismissal of criminal report ruling* in view of the fact that the period of absolute limitation of criminal prosecution has expired. Criminal offence: "Abusing official position or authority".<sup>88</sup>

## BASIC PROSECUTION IN GJAKOVA

1. Case number PPN/I. 38/2013 determined on 30.06.2015. *Official note: The investigation shall not be initiated* in view of the fact that the period of absolute statute of limitation of the criminal prosecution has expired. Criminal offence "Falsifying official documents".<sup>89</sup>
2. Case number PP/I.222/14 determined on 15.01.2015. *Dismissal of criminal report ruling* in view of the fact that the period of absolute statute of limitation of the criminal prosecution has expired. Criminal offences: "Abusing official position or authority" under Article 339 paragraph 1, "Legalization of False Content" under Article 334 paragraph 2 in conjunction with paragraph 1, "Contracting for Disproportionate Profit from Property" under article 270, "Issuing unlawful judicial decisions" under Article 346 and "Organized Crime" under Article 274.<sup>90</sup>

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<sup>87</sup> Note: Based on the ruling reached on 02.03.2015, PB in Mitrovica concordant with article 82 paragraph 1 subparagraph 1.2 of the CPCRK, has terminated the investigation for the criminal offence "Abusing official position or authority" in view of the fact that the period of absolute statute of limitation for criminal prosecution has expired.

<sup>88</sup> Note: Based on the ruling reached on 29.06.2015, BP in Mitrovica concordant with Article 82 paragraph 1 subparagraph 1.2, had decided to dismiss the criminal report for the offence "Abusing official position or authority" in view of the fact that the period of absolute statute of limitation for criminal prosecution has expired.

<sup>89</sup> Note: Based on the ruling reached on 30.06.2015, BP in Gjakova had terminated the investigation for the criminal offence "Falsifying official documents" in view of the fact that the period of absolute statute of limitation for criminal prosecution has expired.

<sup>90</sup> Note: Based on the ruling reached on 15.01.2015, BP in Gjakova concordant with Article 82 paragraph 1 subparagraph 1.2. and 1.5 had decided to dismiss the criminal report for the offences "Abusing official position or authority" under Article 339 paragraph 1, "Legalization of False Content" under Article 334 paragraph 2 in conjunction with paragraph 1, "Contracting for Disproportionate Profit from Property" under article 270, "Issuing unlawful judicial decisions" under Article 346 and "Organized Crime" under Article 274 in view of the fact that the period of absolute statute of limitation for criminal prosecution has expired.

## II – CASES OF BREACHING THE PRESCRIBED PERIODS OF TIME CONCERNIN DECISION MAKING

In the following we have displayed cases of criminal reports dismissal that do not comply with the provisions of the new Criminal Procedural Code. In comparison with the antecedent criminal procedure that was applied until 1 January 2013, the new criminal procedure has emphasized strict prescribed periods of time of decision making concerning the criminal reports. KLI has analyzed all judicial acts received by every Prosecution Office in the country (time period 1 April-30 September 2015) and has identified violations made by the prosecutors concerning on how much they have acted in accordance with the prescribed periods of time related to criminal reports. Breaching the provisions of the Criminal Procedural Code, results with violation of the fundamental human rights, retaining the citizens as subjects of criminal evidences of the prosecution in those cases when there is no legal basis for starting a criminal investigation against them. Following are the identified cases of prescribed periods of time that have been breached by the prosecutors in corruption cases in every Prosecution Office of the country.

### SPECIAL PROSECUTION OF THE REPUBLIC OF KOSOVO

1. Case number PPS.69/2015 determined on 17.09.2015. *Dismissal of criminal report ruling*. Criminal offence “Organized Crime” under Article 283 and “Abusing official position or authority” under Article 422 of the CCRK.<sup>91</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Special Prosecution of the Republic of Kosovo on 27.10.2014, whereas on the other hand the Prosecution had decided to dismiss it on 17.09.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, SPRK had granted a decision almost 325 days after its submission date.*

2. Case number PPS.27/2015 determined on 23.06.2015. *Dismissal of criminal report ruling* set forth by the police. Criminal offence “Abusing official position or authority” and “Entering into harmful contract”.<sup>92</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Special Prosecution of the Republic of Kosovo on 03.04.2015, whereas on the other hand the Prosecution had decided to dismiss it on 23.06.2015. Even though the provisions of the Criminal*

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<sup>91</sup>Note: Based on the ruling reached on 17.09.2015, SPRK concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the criminal offences, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>92</sup>Note: Based on the ruling reached on 23.06.2015 PSRK concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the above mentioned criminal offences, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

*Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, SPRK had granted a decision almost 81 days after its submission date.*

## **BASIC PROSECUTION IN PRISTINA**

1. Case number PP.II.1069/2014 determined on 15.01.2015. **Termination of investigation ruling** in view of the fact that the period of statutory limitation of the criminal offence has expired. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK.<sup>93</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 04.02.2014, whereas on the other hand the Prosecution had decided to initiate the investigation on 16.12.2014. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Pristina had granted a decision almost 315 days after its submission date.*

2. Case number PPI.576/2014 determined on 29.09.2015. **Termination of investigation ruling** against N.N. person. Criminal offence “Abusing official position or authority” under Article 339 paragraph 1 of the CCRK.<sup>94</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 18.06.2009, meanwhile the Prosecution had decided to initiate the investigation on 10.09.2014. The treatment related to this criminal report has lasted for 1909 days after its submission. Whereas with the new Criminal Procedural Code entering into force after 1 January 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, because it had dismissed the criminal report after 618 days counted from 1 January 2013.*

3. Case number PP.II.6876/13a determined on 21.09.2015. **Dismissal of criminal report ruling** set forth by ACA. Criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK.<sup>95</sup>

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<sup>93</sup>Note: Based on the ruling reached on 15.01.2015, BP in Pristina concordant with Article 158 paragraph 1 subparagraph 1.1. of the CPCRK, BP in Pristina has terminated the investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence and that the period of statutory of limitation has expired.

<sup>94</sup>Note: Based on the ruling reached on 29.09.2015, BP in Pristina concordant with Article 158 paragraph 1, subparagraph 1.3 of the CPCRK, has terminated the investigation for the criminal offence “Abusing official position or authority” view of the fact that the period of statutory of limitation has expired.

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 09.09.2013, whereas on the other hand the Prosecution had decided to dismiss it on 21.09.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Pristina had granted a decision almost 742 days after its submission date.

4. Case number PPN/I.44/2014 determined on 10.09.2015. **Official note for the dismissal of criminal report.**

**KLI:** Based on the official note, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 25.02.2014, whereas on the other hand the Prosecution had decided to dismiss it on 10.09.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Pristina had granted a decision almost 562 days after its submission date.

5. Case number PP/I.1066/2014 determined on 14.09.2015. **Dismissal of criminal report ruling** set forth by N.N. Criminal offence “Abusing official position or authority” under Article 422 of the CCRK.<sup>96</sup>

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 13.10.2014, whereas on the other hand the Prosecution had decided to dismiss it on 14.09.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the of the criminal report, BP in Pristina had granted a decision almost 336 days after its submission date.

6. Case number PP.651/14 determined on 28.07.2015. **Dismissal of criminal report ruling** set forth by N.N from Pristina. Criminal offence “Abusing official position or authority” under Article 339 paragraph 3 in conjunction with paragraph 1 of the CCRK.<sup>97</sup>

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<sup>95</sup>Note: Based on the ruling reached on 21.09.2015, BP in Pristina concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>96</sup>Note: Based on the ruling reached on 14.09.2015, BP in Pristina concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” , in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>97</sup>Note: Based on the ruling reached on 28.07.2015, BP in Pristina concordant with Article 82 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” under Article 339 paragraph 3 in conjunction with paragraph 1 of the CCK, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 13.06.2014, whereas on the other hand the Prosecution had decided to dismiss it on 28.07.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Pristina had granted a decision almost 410 days after its submission date.

7. Case number PP.925-1/2011 determined on 20.04.2015. **Dismissal of criminal report ruling** set forth by N.N citizen. Criminal offences “Abusing official position or authority” under Article 422 and “False report or charge” under Article 390 paragraph 1 and 2 of the CCRK.<sup>98</sup>

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 09.12.2011, meanwhile the Prosecution had decided to dismiss it on 20.04.2015. The treatment related to this criminal report has lasted for 1227 days after 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, because it has dismissed the criminal report after 840 days counted from January 1, 2013.

8. Case number PP.II.529-4/2011 determined on 14.09.2015. **Dismissal of criminal report ruling** set forth by the Investigation Directorate for Economic and Corruption Crimes in Pristina. Criminal offence: “Trading in Influence” under Article 345 paragraph 1 in conjunction with paragraph 3 of the CCK.<sup>99</sup>

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 26.05.2011, meanwhile the Prosecution had decided to dismiss it on 14.09.2015. The treatment related to this criminal report had lasted for 1571 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, because it has dismissed the criminal report after 987 days counted from January 1, 2013.

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<sup>98</sup>Note: Based on the ruling reached on 20.04.2015, BP in Pristina concordant with Article 82 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” under Article 339 and “False report or charge” under Article 390 paragraph 1 and 2 subparagraph 1.2 of the CCRK, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>99</sup>Note: Based on the ruling reached on 14.09.2015, Based on the ruling reached on 14.09.2015, BP in Pristina concordant with Article 82 paragraph 1 and 2 subparagraph 1.2 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Trading in influence” under Article 345 paragraph 1 in conjunction with paragraph 3, in view of the fact that the period of statutory of limitation for criminal prosecution has expired.

9. Case number PP.740-4/2008 determined on 09.09.2015. **Dismissal of criminal report ruling** set forth by the Economic Crimes Unit. Criminal offence “Abusing official position or authority” under Article 422 of the CCRK.<sup>100</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 17.12.2006, meanwhile the Prosecution had decided to dismiss it on 09.09.2015. The treatment related to this criminal report had lasted for 3186 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, because it has dismissed the criminal report after 982 days counted from January 1, 2013.*

10. Case number PPI.1354/2014 determined on 25.06.2015. **Dismissal of criminal report ruling** set forth by N.N. citizen. Criminal offence “Trading in Influence” under Article 431 of the CCRK.<sup>101</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 29.12. 2014, whereas on the other hand the Prosecution had decided to dismiss it on 25.06. 2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Pristina had granted a decision almost 178 days after its submission date.*

11. Case number PP.424/2001 determined on 10.09.2015. **Dismissal of criminal report ruling** set forth by N.N. citizen. Criminal offence: “Abusing official position or authority” under Article 422 of the CCRK.<sup>102</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 10.10.2001, meanwhile the Prosecution had decided to dismiss it on 10.09.2015. The treatment related to this criminal report had lasted for 5080 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, because it has dismissed the criminal report after 983 days counted from January 1, 2013.*

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<sup>100</sup>Note: Based on the ruling reached on 09.09.2015, BP in Pristina concordant with Article 82 paragraph 1, subparagraph 1.2. of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” under Article 422 of the CCRP, in view of the fact that the period of statutory of limitation for criminal prosecution has expired.

<sup>101</sup>Note: Based on the ruling reached on 25.06.2015, BP in Pristina concordant with Article 82 paragraph 1 subparagraph 1.2 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Trading in influence” under Article 431 of the CCK, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>102</sup>Note: Based on the ruling reached on 10.09.2015, BP in Pristina concordant with Article 82 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority” under Article 422 of the CCRP, in view of the fact that the period of absolute statute of limitation has expired.

12. Case number PP/II.4014/2014 determined on 11.03.2015. **Termination of investigation ruling** for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK.<sup>103</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 29.05.2014, whereas on the other hand the Prosecution had decided to initiate the investigation on 17.09. 2014. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Pristina had granted a decision almost 111 days after its submission date.*

13. Case number PP.II.969/2014 determined on 19.01.2015. **Termination of investigation ruling** for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 2 of the CCRK.<sup>104</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 29.01.2014, whereas on the other hand the Prosecution had decided to dismiss it on 17.09.2014. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Pristina had granted a decision almost 231 days after its submission date.*

14. Case number PP.5203/2014 determined on 23.02.2015. **Termination of investigation ruling** for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK.<sup>105</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Pristina on 10.07.2014, whereas on the other hand the Prosecution had decided to initiate the investigation on 24.10.2014. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Pristina had granted a decision almost 106 days after its submission date.*

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<sup>103</sup>Note: Based on the ruling reached on 11.03.2015, BP in Pristina concordant with Article 158 paragraph 1, has terminated the investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>104</sup>Note: Based on the ruling reached on 19.01.2015, BP in Pristina concordant with Article 158 paragraph 1, has terminated the investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>105</sup>Note: Based on the ruling reached on 23.02.2015, BP in Pristina concordant with Article 158 paragraph 1, has terminated the investigation for the criminal offence “Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations” under Article 437 paragraph 1 of the CCRK, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

## BASIC PROSECUTION IN PRIZREN

1. Case number PP.1319/10- II determined on 12.01.2015. **Dismissal of criminal report ruling** set forth by the Investigation Unit for Economic and Corruption Crimes. Criminal offence “Accepting bribes”.<sup>106</sup>

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Prizren on 25.05.2010, meanwhile the Prosecution had decided to dismiss it on 12.01.2015. The treatment related to this criminal report had lasted for 1692 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, because it has dismissed the criminal report after 742 days counted from January 1, 2013.*

2. Case number PP.151/2015 determined on 18.09.2015. **Termination of investigation ruling** for the criminal offence “Abusing official position or authority”.<sup>107</sup>

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Prizren on 27.04.2015, whereas on the other hand the Prosecution had decided to initiate the investigation on 18.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Prizren had granted a decision almost 52 days after its submission date.*

3. Case number PPN. 417/2014 determined on 16.06.2015. **Dismissal of criminal report ruling** set forth by certain citizens N.N. Criminal offence “Abusing official position or authority”.<sup>108</sup>

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Prizren on 29.10.2014, whereas on the other hand the Prosecution had decided to dismiss it on 16.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Prizren had granted a decision almost 230 days after its submission date.*

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<sup>106</sup>Note: Based on the ruling reached on 12.01.2015, BP in Prizren concordant with Article 82 paragraph 1, subparagraph 1.1. and Article 83 paragraph 2 and 5 of the CPCRK, had decided to dismiss the criminal report for the criminal offence, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>107</sup>Note: Based on the ruling reached on 18.09.2015, BP in Prizren concordant with Article 158, has terminated the investigation for the criminal offence, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>108</sup>Note: Based on the ruling reached on 16.06.2015, BP in Prizren concordant with Article 82 paragraph 1, subparagraph 1.1. of the CPCRK, had decided to dismiss the criminal report for the criminal offence, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

4. Case number PPN.418/2014 determined on 16.06.2015. *Dismissal of criminal report ruling* set forth by certain citizens N.N. The criminal offence is not specified.<sup>109</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Prizren on 24.11.2014, whereas on the other hand the Prosecution had decided to dismiss it on 16.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Prizren had granted a decision almost 204 days after its submission date.*

### **BASIC PROSECUTION IN PEJA**

1. Case number PP.I.350/14 determined on 08.06.2015. *Dismissal of criminal report ruling* set forth by a citizen N.N. Criminal offence “Abusing official position or authority”<sup>110</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Peja on 27.10.2014, whereas on the other hand the Prosecution had decided to dismiss it on 08.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Peja had granted a decision almost 224 days after its submission date.*

2. Case number PP.I.422/14 determined on 13.05.2015. *Dismissal of criminal report ruling* set forth by a lawyer N.N. Criminal offence “Abusing official position or authority”<sup>111</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Peja on 19.12.2014, whereas on the other hand the Prosecution had decided to dismiss it on 13.05.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Peja had granted a decision almost 145 days after its submission date.*

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<sup>109</sup>Note: Based on the ruling reached on 16.06.2015, BP in Prizren concordant with Article 82 paragraph 1, subparagraph 1.1. of the CPCRK, had decided to dismiss the criminal report for the criminal offence, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>110</sup>Note: Based on the ruling reached on 08.06.2015, BP in Peja concordant with Article 82 paragraph 1, subparagraph 1.1. of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority”, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>111</sup>Note: Based on the ruling reached on 13.05.2015, BP in Peja concordant with Article 82 paragraph 1, subparagraph 1.1. of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority”, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

3. Case number PPN.I.134/15 determined on 08.09.2015. *Dismissal of criminal report ruling* set forth by N.N citizen. Criminal offence “Abusing official position or authority”.<sup>112</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Peja on 29.12.2014, whereas on the other hand the Prosecution had decided to dismiss it on 08.09.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Peja had granted a decision almost 253 days after its submission date.*

4. Case number PP-I.167/14 determined on 22.01.2015. *Partial termination of investigation ruling* for the criminal offence “Abusing official position or authority” and “Breach of trust”.<sup>113</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Peja on 16.04.2014, whereas on the other hand the Prosecution had decided to initiate the investigation on 29.10.2014. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Peja had granted a decision almost 196 days after its submission date.*

5. Case number PP./I.232/14 determined on 06.05.2015. *Termination of investigation ruling* for the criminal offence “Abusing official position or authority”<sup>114</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Peja on 22.07.2014, whereas on the other hand the Prosecution had decided to initiate the investigation on 09.02.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Peja had granted a decision almost 202 days after its submission date.*

## **BASIC PROSECUTION IN MITROVICA**

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<sup>112</sup>Note: Based on the ruling reached on 08.09.2015, BP in Peja concordant with Article 82 paragraph 1, subparagraph 1.1. of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority”, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>113</sup>Note: Based on the ruling reached on 22.01.2015, BP in Peja concordant with Article 158 paragraph 1 subparagraph 1.1. of the CPCRK, had decided to partially terminate the investigation in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>114</sup>Note: Based on the ruling reached on 06.05.2015, BP in Peja concordant with Article 158 paragraph 1 subparagraph 1.1. of the CPCRK, had decided to terminate the investigation for the criminal offence “Abusing official position or authority” in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

1. Case number PP-II. 339/2013 determined on 10.04.2014. **Dismissal of criminal report ruling** set forth by the Regional Investigation Office in Mitrovica. Criminal offence “Abusing official position or authority”.<sup>115</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Mitrovica on 02.08.2013, whereas on the other hand the Prosecution had decided to dismiss it on 10.04.2014. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Mitrovica had granted a decision almost 251 days after its submission date.*

2. Case number PP. I. 212/2015 determined on 29.06.2015. **Dismissal of criminal report ruling** set forth by the Investigation Directorate for Economic and Corruption Crimes in Mitrovica. Criminal offence “Abusing official position or authority”.<sup>116</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Mitrovica on 14.05.2015, whereas on the other hand the Prosecution had decided to dismiss it on 29.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Mitrovica had granted a decision almost 46 days after its submission date.*

## **BASIC PROSECUTION IN GJILAN**

15. Case number PP.I .16/2015 determined on 24.06.2015. **Dismissal of criminal report ruling** set forth by N.N. citizen. Criminal offences “Misappropriation in office” under Article 425 paragraph 2 in conjunction with paragraph 1 and “Tampering with evidence” under Article 397 paragraph 1 of the CCRK.<sup>117</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Gjilan on 12.01.2015, whereas on the other hand the Prosecution had decided to dismiss it on 24.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo*

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<sup>115</sup>Note: Based on the ruling reached on 10.04.2014, BP in Mitrovica concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority”, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>116</sup>Note: Based on the ruling reached on 29.06.2015, BP in Mitrovica had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority”, in view of the fact that the period of statutory of limitation for criminal prosecution has expired.

<sup>117</sup>Note: Based on the ruling reached on 24.06.2015, BP in Gjilan concordant with Article 82 paragraph 1 subparagraph 1.1. of the CPCRK, had decided to dismiss the criminal report for the above mentioned criminal offences in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjilan had granted a decision almost 153 days after its submission date.

2. Case number PP/I. 150/2015 determined on 07.10.2015. **Dismissal of criminal report ruling** set forth by Kosovo Police, Police Station in Gjilan. Criminal offence “Abusing official position or authority” under Article 422 paragraph 1 of the CCRK.<sup>118</sup>

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Gjilan on 10.08.2015, whereas on the other hand the Prosecution had decided to dismiss it on 07.10.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjilan had granted a decision almost 58 days after its submission date.

3. Case number PP.I .84/2015 determined on 29.06.2015. **Dismissal of criminal report ruling** set forth by N.N. citizen. Criminal offence “Abusing official position or authority” under Article 422 paragraph 2 of the CCRK.<sup>119</sup>

**KLI:** Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Gjilan on 04.05.2015, whereas on the other hand the Prosecution had decided to dismiss it on 29.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjilan had granted a decision almost 56 days after its submission date.

4. Case number PP/I .59/2015 determined on 15.06.2015. **Dismissal of criminal report ruling** set forth by the injured party. Criminal offence “Abusing official position or authority” under Article 422 paragraph 1 and “Damaging another person’s property” under Article 344 paragraph 1 of the CCRK.<sup>120</sup>

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<sup>118</sup>Note: Based on the ruling reached on 07.10.2015, BP in Gjilan concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the above mentioned criminal offences, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>119</sup>Note: Based on the ruling reached on 29.06.2015, BP in Gjilan concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the above mentioned criminal offences, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>120</sup>Note: Based on the ruling reached on 15.06.2015, BP in Gjilan concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the above mentioned criminal offences, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Gjilan on 27.03.2015, whereas on the other hand the Prosecution had decided to dismiss it on 15.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjilan had granted a decision almost 80 days after its submission date.*

5. Case number PP.I.84/2015 determined on 29.06.2015. **Dismissal of criminal report ruling** set forth by N.N. citizen. Criminal offences “Fraud” under Article 335 paragraph 3, “Impersonating an official” under Article 417 paragraph 2 and “Unlawful collection and disbursement” under Article 435 paragraph 1 of the CCRK.<sup>121</sup>

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Gjilan on 04.05.2015, whereas on the other hand the Prosecution had decided to dismiss it on 23.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjilan had granted a decision almost 50 days after its submission date.*

6. Case number PPH-I-41/2015 determined on 22.05.2015. **Termination of investigation ruling** for the criminal offence “Abusing official position or authority” under Article 422 paragraph 1 of the CCRK.<sup>122</sup>

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Gjilan on 02.03.2015, whereas on the other hand the Prosecution had decided to initiate the investigation on 30.04.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjilan had granted a decision almost 59 days after its submission date.*

## **BASIC PROSECUTION IN GJAKOVA**

1. Case number PP/I.14/2015 determined on 30.03.2015. **Dismissal of criminal report ruling** set forth by N.N. citizen. Criminal offence “Abusing official position or authority”.<sup>123</sup>

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<sup>121</sup>Note: Based on the ruling reached on 29.06.2015, BP in Gjilan concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the above mentioned criminal offences, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>122</sup>Note: Based on the ruling reached on 22.05.2015, BP in Gjilan concordant with Article 158 paragraph 1, subparagraph 1.1 of the CPCRK, has terminated the investigation for the criminal offence in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Gjakova on 06.02.2015, whereas on the other hand the Prosecution had decided to dismiss it on 30.03.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjakova had granted a decision almost 52 days after its submission date.*

2. Case number PP/I .29/2015 determined on 19.05.2015. **Dismissal of criminal report ruling** set forth by the injured party. Criminal offence “Abusing official position or authority”.<sup>124</sup>

*CLI: Based on the ruling, it is confirmed that the criminal reports were submitted in the Basic Prosecution in Gjakova on 27.10.2014 and 28.10.2014, whereas on the other hand the Prosecution had decided to dismiss them on 19.05.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjakova had granted a decision almost 204 days after its submission date.*

3. Case number PP/I. 240/2014 determined on 02.06.2015. **Dismissal of criminal report ruling** set forth by N.N. citizens. Criminal offence “Abusing official position or authority”.<sup>125</sup>

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Gjakova on 14.10.2014, whereas on the other hand the Prosecution had decided to dismiss it on 02.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjakova had granted a decision almost 231 days after its submission date.*

4. Case number PP/I .75/2015 determined on 01.06.2015. **Dismissal of criminal report ruling** set forth by N.N. citizen. Criminal offence “Abusing official position or authority”.<sup>126</sup>

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<sup>123</sup>Note: Based on the ruling reached on 30.03.2015, BP in Gjakova concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority”, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>124</sup>Note: Based on the ruling reached on 19.05.2015, BP in Gjakova concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority”, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>125</sup>Note: Based on the ruling reached on 02.06.2015, BP in Gjakova concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority”, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Gjakova on 16.05.2014, whereas on the other hand the Prosecution had decided to dismiss it on 01.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Gjakova had granted a decision almost 380 days after its submission date.*

## **BASIC PROSECUTION IN FERIZAJ**

1. Case number PP.I. 84.A.885-2/15 determined on 28.08.2015. **Dismissal of criminal report ruling** set forth by N.N. citizen. Criminal offences “Abusing official position or authority” under Article 422 paragraph 1, “Falsifying documents” under Article 398 paragraph 2, “Legalization of false content” under Article 403 and “Violating rights of employment and unemployment” of the CCRK.<sup>127</sup>

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Ferizaj on 27.01.2015, whereas on the other hand the Prosecution had decided to dismiss it on 28.08.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Ferizaj had granted a decision almost 213 days after its submission date*

2. Case number PP.I.64/15 determined on 17.06.2015. **Dismissal of criminal report ruling** set forth by the Investigation Unit for Economic and Corruption Crimes in Ferizaj. Criminal offence “Falsifying official documents” under Article 434 paragraph 1 of the CCRK.<sup>128</sup>

*CLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Ferizaj on 13.05.2014, whereas on the other hand the Prosecution had decided to dismiss it on 17.06.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Ferizaj had granted a decision almost 400 days after its submission date.*

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<sup>126</sup>Note: Based on the ruling reached on 01.06.2015, BP in Gjakova concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the criminal offence “Abusing official position or authority”, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>127</sup>Note: Based on the ruling reached on 28.08.2015, BP in Ferizaj concordant with Article 82 paragraph 1 subparagraph 1.5 of the CPCRK, had decided to dismiss the criminal report for the abovementioned criminal offence, in view of the fact that there are other circumstances that preclude prosecution.

<sup>128</sup>Note: Based on the ruling reached on 17.06.2015, BP in Ferizaj concordant with Article 82 paragraph 1 subparagraph 1.5 of the CPCRK, had decided to dismiss the criminal report for the abovementioned criminal offence, in view of the fact that there are other circumstances that preclude prosecution.

3. Case number PP.I.198/14 determined on 07.04.2015. **Dismissal of criminal report ruling** set forth by the Investigation Unit for Economic and Corruption Crimes in Ferizaj. Criminal offence “Abusing official position or authority” under Article 422 paragraph 1 of the CCRK.<sup>129</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Ferizaj on 29.09.2014, whereas on the other hand the Prosecution had decided to dismiss it on 07.04.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Ferizaj had granted a decision almost 190 days after its submission date.*

4. Case number PPN/I. 379-1/07 determined on 28.08.2015. **Official note on the closure of the informative report** set forth by the IDECC in Ferizaj. Criminal offence “Abusing official position or authority” under Article 339 paragraph 3 in conjunction with paragraph 1 of the CCRK.<sup>130</sup>

*KLI: Based on the official note, it is confirmed that the criminal report was submitted in the Basic Prosecution in Ferizaj on 08.04.2010, meanwhile the Prosecution had decided to dismiss it on 28.08.2015. The treatment related to this criminal report had lasted for 1967 days from its submission. Whereas with the new Criminal Procedural Code entering into force after 1 January 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 Ferizaj has violated this legal prescribed period of time, because it has dismissed the criminal report after 872 days counted from 1 January 2013.*

5. Case number PPN/I. 49/2013 determined on 28.08.2015. **Official note on the closure of the informative report** set forth by the IDECC in Ferizaj. Criminal offence “Abusing official position or authority” under Article 339 paragraph 3 in conjunction with paragraph 1 of the CCRK.<sup>131</sup>

*KLI: Based on the official note, it is confirmed that the criminal report was submitted in the Basic Prosecution in Ferizaj on 21.02.2014, whereas on the other hand the Prosecution had decided to dismiss it on 25.08.2015. Even though the provisions of the Criminal Procedural*

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<sup>129</sup>Note: Based on the ruling reached on 07.04.2015, BP in Ferizaj concordant with Article 82 paragraph 1 subparagraph 1.1 of the CPCRK, had decided to dismiss the criminal report for the abovementioned criminal offence, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

<sup>130</sup>Note: Based on the official note on 28.08.2015, BP in Ferizaj concordant with Article 82 of the CPCRK, had decided to dismiss the criminal report for the abovementioned criminal offence, in view of the fact that there is no legal basis for initiating a criminal procedure.

<sup>131</sup>Note: Based on the official note on 28.08.2015, BP in Ferizaj concordant with Article 82 of the CPCRK, had decided to dismiss the criminal report for the abovementioned criminal offence, in view of the fact that there is no legal basis for initiating a criminal procedure.

*Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Ferizaj had granted a decision almost 550 days after its submission date.*

6. Case number PPN/I.141/14 determined on 07.08.2015. **Official note on the closure of the informative report** set forth by the IDECC in Ferizaj. Criminal offence “Abusing official position or authority” under Article 422 of the CCRK.<sup>132</sup>

*KLI: Based on the official note, it is confirmed that the criminal report was submitted in the Basic Prosecution in Ferizaj on 10.12.2014, whereas on the other hand the Prosecution had decided to dismiss it on 07.08.2015. Even though the provisions of the Criminal Procedural Code of Kosovo have emphasized for such cases, that the decision should be granted 30 days from the submission of the criminal report, BP in Ferizaj had granted a decision almost 240 days after its submission date.*

7. Case number PP.I.180-3/11 determined on 14.09.2015. **Termination of investigation ruling** concerning the criminal offence “Abusing official position or authority” under Article 339 paragraph 3 of the CCRK.<sup>133</sup>

*KLI: Based on the ruling, it is confirmed that the criminal report was submitted in the Basic Prosecution in Ferizaj on 15.06.2007, meanwhile the Prosecution had decided to initiate the investigation on 09.12.2013. The treatment related to this criminal report had lasted for 2367 days from its submission. Whereas with the new Criminal Procedural Code entering into force after 1 January 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 Ferizaj has violated this legal prescribed period of time, because it has dismissed the criminal report after 343 days counted from 1 January 2013.*

### III - INTERFERENCES IN THE INDIVIDUAL INDEPENDENCE OF PROSECUTORS REGARDING CORRUPTION CASES

KLI considers that the concerning situation regarding the non treatment of corruption cases, is proved by analyzing the trends of unsolved cases in prosecution offices, in which there are hundreds of unsolved criminal reports that were filed over the years and

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<sup>132</sup>Note: Based on the official note on 07.08.2015, BP in Ferizaj concordant with Article 82 of the CPCRK, had decided to dismiss the criminal report for the abovementioned criminal offence, in view of the fact that there is no legal basis for initiating a criminal procedure.

<sup>133</sup>Note: Based on the ruling reached on 14.09.2015, BP in Ferizaj concordant with Article 158 of the CPCRK, has terminated the investigation for the criminal offence “Abusing official position or authority” under Article 339 paragraph 3 of the CCK, in view of the fact that there is no reasonable suspicion that the person has committed this criminal offence.

decades. KLI has presented such an indication in the Chart no. 3<sup>134</sup>, where are identified 66 corruption cases of statutory limitation in prosecution offices. If we add to these cases also 880 persons to whom criminal reports were dismissed or investigations were terminated in corruption cases, it turns out that it takes years and decades to solve cases in criminal proceedings in the justice system.

On its findings from the monitoring process of prosecution offices regarding the treatment of corruption cases, KLI has expressed its concern regarding the manner of solving these cases and the large number of dismissed and terminated cases. Based on the statistics of the prosecution offices, it turns out that the dismissal and termination of corruption cases have become to be a worrying phenomenon in almost of all prosecution offices, where over 50% of them dismiss or terminate cases.

Due to this reason, KLI in its periodic reports has recommended the KPC to establish a Committee composed of prosecutors with experience in order to analyze this phenomenon, and to draft a report on the findings and the reasons of why such a large number of cases in prosecution offices end up by dismissing the criminal charges or terminating investigations.

The aim of KLI's recommendation was for KPC to analyze the situation, to assess the quality of criminal reports in order to identify if the preparation of the criminal reports by the applicant is poor or there is lack of professionalism by the prosecutors who treat those cases, or other reasons which can be identified in practice. Based on these findings, KPC would be able to develop successful policies to fight corruption, to learn from the mistakes that were made in practice so far, and to address the problem in an institutional manner. KLI has recommended establishing this committee in accordance with the applicable law because the Committee would have responsibility only in the assessment of closed cases by the decisions of prosecutors, and every assessment or analysis of this committee could not be considered as interference in the work of prosecutors and their independence guaranteed by the Constitution and the law.

The Chief State Prosecutor on October 6, 2015,<sup>135</sup> has issued the Decision number A.nr.404 / 2015, for the establishment of an Supervisory Committee for criminal corruption cases, composed by the Deputy Chief State Prosecutor, Sevdije Morina and three prosecutors from the Office of the Chief State Prosecutor, Besim Kelmendi, Lulëzim Sylejmani and Laura Pula. The duty of this

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<sup>134</sup> Note: Based on the Decision dated 14.09.2015, BP in Ferizaj, based on the article 158 of the CPC, terminated investigations for criminal offence, Missuse of the official duty or authorization, from article 339, paragraph 3 of the CP, with reasoning that there is no reasonable doubt that the individual has committed criminal offence

<sup>135</sup> The decision of the Chief State Prosecutor Mr. Aleksandër Lumezi, for the Appointment of the Supervisory Committee for corruption cases; [http://www.psh-ks.net/repository/docs/Nr\\_997\\_2015-Vendim-Emerimi\\_i\\_Komisionit\\_mbikeqyres\\_per\\_rastet\\_penale\\_te\\_korrupsionit\\_\(5\).pdf](http://www.psh-ks.net/repository/docs/Nr_997_2015-Vendim-Emerimi_i_Komisionit_mbikeqyres_per_rastet_penale_te_korrupsionit_(5).pdf)

Commission is to visit all prosecution offices and to require by each prosecutor the corruption cases in which they were working, in order to assess the actions that were taken by them. After the verification, the Commission is obliged to prepare a report to the Chief State Prosecutor.

KLI has never recommended and does not agree to establish and strengthen such a Committee, ("to require by each prosecutor the corruption cases in which they were working, in order to assess the actions that were taken by the case prosecutors") to which is given an unlawful mandate and which is in contradiction with the spirit and independence guaranteed by the Constitution and the Law, to prosecutors who treat these cases.

KLI considers that the mandate of this Committee is unlawful and this directly affects the independence of decision-making by prosecutors.<sup>136</sup> The interference to have access to a case, to get the case from a prosecutor and to appoint it to another one, are legal rights foreseen exclusively for the Chief State Prosecutor, and only for individual cases, and such a thing can be done through a special reasoned decision in a writing form, but this right could never be delegated to someone else, as in this case to the Committee. Such interferences by the Committee, may be done only in certain cases and specific circumstances, but no way to a category of criminal offenses, as in this case to corruption offenses, for which KLI considers that as such it interferences in the independence of prosecutors in corruption cases, and this independence is guaranteed by the Constitution, the Law on KPC, Law on SP and international standards.<sup>137</sup>

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<sup>136</sup> "Guarantees of non-interference into the work individual prosecutor, determine that in most cases the decision to prosecute will be made simply on the basis of whether there is sufficient evidence to prosecute. Exceptionally, there may be cases where a prosecution would risk causing damage to wider interests, social, economic or relating to questions of security. Where such public interest questions arise, care should be taken not to violate the rule of law, and while the prosecutor may think it wise to consult with persons having a special expertise, he or she should retain the power to decide whether a prosecution is in fact in the public interest. If the prosecutor can be subject to an instruction in such a case, then that instruction should be reasoned and where possible open to public scrutiny." REPORT ON EUROPEAN STANDARDS AS REGARDS THE INDEPENDENCE OF THE JUDICIAL SYSTEM:PART II - THE PROSECUTION SERVICE, Adopted by the Venice Commission at its 85th plenary session (Venice, 17-18 December 2010), Pg. 11. See the link

[http://www.coe.int/t/dghl/cooperation/capacitybuilding/Source/judic\\_reform/europeanStandards\\_en.pdf](http://www.coe.int/t/dghl/cooperation/capacitybuilding/Source/judic_reform/europeanStandards_en.pdf)

<sup>137</sup> Chapter II, Fundamental Principles, Article 3, Independence and Impartiality of State Prosecutor. Law on State Prosecutor. The Republic of Kosovo Assembly. September 30, 2010. See the link [http://www.psh-ks.net/repository/docs/Ligji\\_per\\_prokurorin\\_e\\_shtetit\\_\(shqip\).pdf](http://www.psh-ks.net/repository/docs/Ligji_per_prokurorin_e_shtetit_(shqip).pdf)

## VIII. THE ACCOUNTABILITY OF PROSECUTORS

### a) Failures in the Tracking Mechanism on corruption cases

Also during this reporting period (July, August and September 2015), KLI has identified the cases registered on delay in the Tracking Mechanism, non-registered cases in the category of received cases or cases registered directly to the category of solved cases, also cases which did not appear at all in the register of data in the Tracking Mechanism, even though those existed in the previous register. Such cases were identified in the PP category of the data.

In the table below are presented PP cases and persons registered on delay, cases which did not appear in the register and cases registered at solved cases category.

The following table confirms the failures of the prosecution offices to register cases in the Tracking Mechanism, which since the functioning of this mechanism until September 30, 2015, have registered on delay or did not registered at all a total of 90 cases with 224 persons. During the monitoring of corruption cases, KLI has also found that 43 cases with 102 persons were not registered at all or do not exist in the register, while 13 cases with 32 persons were registered in the Tracking Mechanism only after these cases were solved in prosecutions. In total there are 146 cases with 358 persons, for which SP has failed to register these corruption cases in the Tracking Mechanism. Despite the fact that the Action Plan has foreseen the obligation of Chief Prosecutors to take actions against prosecutors and administrative staff who have failed to implement their obligations in treating and registering cases, in practice this has never happened.

Failures of Prosecution Offices in the Tracking Mechanism	Registered on delay		Do not exist in the register		Registered at solved cases		TOTAL	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
SPRK	9	59	8	24			17	83
BP Pristina	63	137	18	46	4	18	85	201
BP Prizren	1	1	7	12			8	13
BP Pejë	1	1	3	3			4	4
BP Gjilan	6	11	2	2	1	1	9	14
BP Mitrovica	1	1	3	11	2	6	6	18
BP Ferizaj	4	5					4	5
BP Gjakova	5	9	2	4	6	7	13	20
<b>TOTAL</b>	<b>90</b>	<b>224</b>	<b>43</b>	<b>102</b>	<b>13</b>	<b>32</b>	<b>146</b>	<b>358</b>

**Table 9 – Cases when the Tracking Mechanism was not respected**

KPC itself has found the failures regarding registration of corruption cases, through the Prosecutor Performance Review Unit, by establishing (February 2014) the Verification and Supervision Committee of corruption cases in prosecution offices.<sup>138</sup> The results of the work of this Committee have brought to light a big irresponsibly of a chain of officials in prosecution offices, starting from prosecutors to the support staff officials, who had not respected the rules of the Tracking Mechanism for the registration of corruption cases in the database. These findings and recommendations of the Committee were approved at the KPC meeting, held on February 25, 2014, where it was issued the decision no. 45-2014.<sup>139</sup>, through which all of Chief Prosecutors were obliged to initiate disciplinary actions against those who have failed to respect the rules for the registration of corruption cases in the Tracking Mechanism. Despite the numerous violations that were identified by the Committee and the decision of KPC to take

<sup>138</sup> The report of the Verification and Supervision Committee in charge of compiling the data, approved by the Kosovo Prosecutorial Council on March 5, 2014. See the link

[http://www.psh-ks.net/repository/docs/Raporti\\_i\\_Komisionit\\_per\\_mbikqyrjen\\_dhe\\_verifikimin\\_e\\_te\\_dhenave\\_statistikore.pdf](http://www.psh-ks.net/repository/docs/Raporti_i_Komisionit_per_mbikqyrjen_dhe_verifikimin_e_te_dhenave_statistikore.pdf)

<sup>139</sup> The Decision no. 45/2014, approved on February 25, 2014 by KPC. See the link

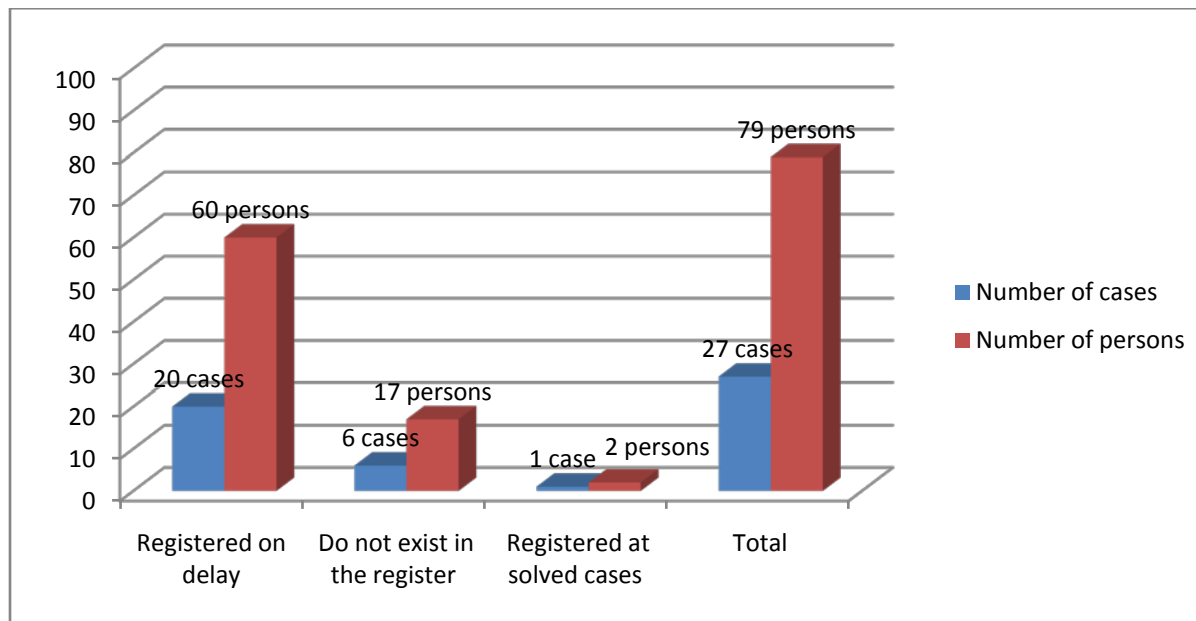
[http://www.psh-ks.net/repository/docs/Nr.221.2014-Vendim-Aprovohet\\_Raporti\\_i\\_Njesitit\\_ne\\_luftimin\\_e\\_Korrupsio....pdf](http://www.psh-ks.net/repository/docs/Nr.221.2014-Vendim-Aprovohet_Raporti_i_Njesitit_ne_luftimin_e_Korrupsio....pdf)

measures against the responsible persons, Chief Prosecutors have never taken any actions to implement this decision, respectively they have not initiated disciplinary proceedings against any prosecutor or employee for their failures. By noticing the hesitation of Chief Prosecutors to hold accountable their officials, in the meeting held on April 25, 2014 <sup>140</sup>, KPC has taken a decision by which Chief Prosecutors of BPs and SPRK should report regarding the implementation of the decision no. 45-2014 of the date February 25, 2014.

Through this decision, KPC has require responsibility directly from the Chief Prosecutors, for the non-punishment of their prosecutors and officials who have not registered corruption cases. KLI expresses its double concern about Chief Prosecutors who have not implemented the decision of the highest body in the prosecutorial system, KPC, but also expresses the concern about the non-implementation of the decision by KPC, to punish Chief Prosecutors if they did not punish their prosecutors and employees for the identified violations. This reaction is a continuation of KLI's reactions to KPC, which is failing to address the most of important issues on the implementation of its decisions related to fighting corruption in Kosovo.

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<sup>140</sup> The Decision no. 472-2014, approved on April 25, 2014, by KPC. See the link [http://www.psh-ks.net/repository/docs/Nr.472.2014-Vendim-Zbatimi\\_i\\_Vendimit\\_KPK.Nr.45.2014,\\_lidhur\\_me\\_Raportim....pdf](http://www.psh-ks.net/repository/docs/Nr.472.2014-Vendim-Zbatimi_i_Vendimit_KPK.Nr.45.2014,_lidhur_me_Raportim....pdf)



**Chart 4 - Cases when the Tracking Mechanism was not respected**

Based on the data presented in the table above, during the last three months, respectively during the months (July, August and September) KLI has identified a total of 27 cases and 91 persons, which were registered on delay, which did not exist in the register or which were registered at solved cases. Based on the graph above, KLI finds that prosecution offices have registered 20 cases with 60 persons on delay in the Tracking Mechanism, 6 cases with 17 persons did not exist at all in the register and 27 cases with 79 persons were registered at solved cases.

### b) Disciplinary investigations against prosecutors as a result of KLI monitoring findings

From the entry into force of the Action Plan until September 30, 2015, KLI has published six (6)<sup>141</sup> periodic monitoring reports, also an analytical report<sup>142</sup> about the failures and challenges of prosecution offices in treating corruption cases. After the publications of periodic reports, KLI findings on the treatment of corruption cases by prosecutors, have served to ODC, which according to its official duty has initiated preliminary investigations for all of these cases. As a result of published reports by KLI, ODC has treated 93 corruption cases in preliminary investigations, 25 corruption cases were involved in disciplinary investigations, 17 cases were involved in disciplinary investigations, 9 reports were sent from ODC to the Disciplinary Committee of the Prosecutorial Council for disciplinary proceedings. According to the published reports by KLI, in 4 cases the disciplinary investigations treated by ODC were completed with findings, to 4 cases the disciplinary investigations are in the investigation proceeding, 39 cases were refused, 4 cases were refused after the preliminary investigation, and 29 cases are in the stage of deciding by ODC.

During the years 2014 and 2015, ODC has addressed 25 reports to the Disciplinary Committee of KPC, about the alleged violations of prosecutors. From these 25 cases, 9 of them were as a result of KLI findings in its published reports.<sup>143</sup> This means that 36% of the reports presented by ODC to the Disciplinary Committee of KPC, are as a result of KLI findings.<sup>144</sup>

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<sup>141</sup> From the entry into force of the Action Plan, KLI has published six (6) periodic monitoring reports, which can be downloaded via this link:

(<http://kli-ks.org/publikime/>)

1) Musliu B. and Gashi A. "Corruption in Kosovo: *Evaluation report on efficiency of the prosecutorial system in implementing the Action Plan on corruption cases*", published on March 28, 2014, Pristina.

2) Musliu B. "Corruption in Kosovo 2: *A comprehensive assessment report on effectiveness of the prosecutorial system in implementing the Action Plan on corruption cases*", published on September 5, 2014, Pristina

3) Musliu B. and Nimoni G. "Corruption in Kosovo 3: *A comprehensive assessment report on effectiveness of the prosecutorial system in implementing the Action Plan on corruption cases*", published on December 26, 2014, Pristina.

4) Musliu B. and Nimoni G. "Corruption in Kosovo 4: *A comprehensive assessment report on effectiveness of the prosecutorial system in implementing the Action Plan on corruption cases*", published on April 8, 2015, Pristina

5) Musliu B. and Nimoni G. "Corruption in Kosovo 5: *A comprehensive assessment report on effectiveness of the prosecutorial system in implementing the Action Plan on corruption cases*", published on June 25, 2015, Pristina.

6) Musliu B. and Nimoni G. "Corruption in Kosovo 6: *A comprehensive assessment report on effectiveness of the prosecutorial system in implementing the Action Plan on corruption cases*", published on November 20, 2015, Pristina.

<sup>142</sup> Musliu B. "Seeking a way to fight corruption: *Between two fires, persecution and failure*", published on August 18, 2015, Pristina.

<sup>143</sup> Note: In 2014, were received a total of 140 submissions about prosecutors, by which, after a preliminary investigation were undertaken actions such: 84 submissions were refused, 30 disciplinary investigations about prosecutors were initiated, from which resulted with 6 reports in the Prosecutorial Disciplinary Committee and 9 investigations for prosecutors were completed without finding any alleged improper behavior, while were taken 3 disciplinary decisions by the Committee. During 2015 (January - November) were received a total of 97 submissions by which, after a preliminary investigation were undertaken actions

<b>CASES OF INVESTIGATIONS FROM THE OFFICE OF THE DISCIPLINARY COUNSEL, INITIATED BY KLI REPORTS</b>									
<b>KLI published reports</b>	Subjects involved in preliminary	Subjects involved in disciplinary	Cases involved in disciplinary	Disciplinary investigations addressed	Disciplinary investigations completed	Disciplinary investigations in the	Refused subjects	Refused cases after the preliminary	Cases in the deciding stage
<b>Corruption in Kosovo - I -</b>	26	21	14	6	4	4	5	1	
<b>Corruption in Kosovo - II -</b>	16	1	1	1			15	1	
<b>Corruption in Kosovo - II -</b>	29								29
<b>Corruption in Kosovo -IV-</b>	22	3	2	2			19	2	
<b>Total:</b>	93	25	17	9	4	4	39	4	29

**Table 10 - Cases of ODC investigations after the publications of KLI reports**

such: 62 submissions dedicated to prosecution offices were refused, 27 disciplinary investigations to prosecutors were initiated, from which resulted with 19 reports in the Prosecutorial Disciplinary Committee and 5 investigations for prosecutors were completed without finding any alleged improper behavior, while were taken 9 disciplinary decisions by the Committee. Official data from the Office of the Disciplinary Counsel. November 2015.

<sup>144</sup>"Reports on KLI findings have served to ODC to identify the alleged improper behavior. The cooperation with KLI has been consistently good. We consider that KLI findings in its reports, the disciplinary investigation proceeding and disciplinary proceedings in the Prosecutorial Disciplinary Committee, have led prosecutors to be accountable and to improve their work, as a result of these findings ", citation from the Director of the Office of Disciplinary Counsel, Mr. Zef Prendrecaj. November 2015.

## IX. TRIAL MONITORING IN CORRUPTION CASES

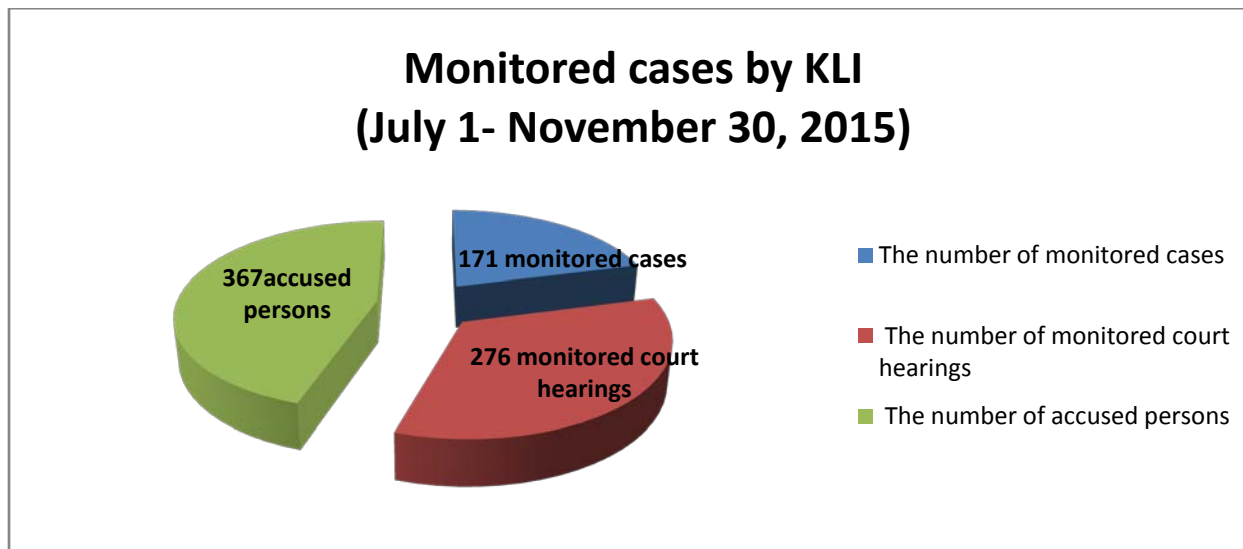
From June 2015, KLI has started the implementation of the project to monitor cases of corruption in the judicial system. KLI's monitors have visited all the Presidents of BCs <sup>145</sup> during June, and required information about the identification of all corruption cases, including the appointment of cases and information about the stage of the proceedings for each case. Except BC in Pristina, which is the largest court in the Republic of Kosovo and which has taken more time to identify cases of corruption, other courts have managed to identify easily these cases. The identification of corruption cases and the obtain of the court hearings schedule have been and remain a constant challenge for the monitors of KLI.<sup>146</sup>

From July 1, 2015 until November 30, 2015, KLI monitors have monitored 276 court hearings, where are involved 171 cases with 367 persons. See the chart below.

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<sup>145</sup> KLI interview with the President of the BC in Pristina, Mr. Hamdi Ibrahim; President of the BC in Mitrovica Mrs. Kada Bunjaku Perçuku; President of the BC in Prizren, Mr. Ymer Hoxha; President of the BC in Ferizaj, Mr. Bashkim Hyseni; President of the BC in Peja, Mrs. Elmaze Syka; President of the BC in Gjilan Mr. Zyhdi Haziri, President of the BC in Gjakova, Mr. Vaton Durguti. June, July, November 2015.

<sup>146</sup> BCs still do not have an efficient and effective system of updating the database of the schedule of court hearings in general, in particular regarding cases of corruption. Initially, KLI has established communication through the Presidents of BC's and then through the spokespersons of these courts, who have informed KLI's monitors about schedule of court hearings related with corruption cases. However, this practice has not functioned in the best way, especially in the beginning, because the spokespersons have provided KLI's monitors with incomplete information about the schedule of court hearings, which have caused problems in the monitoring process as a lack of the information. This communication has been daily advanced and we have a more efficient access to information related to the schedule of court hearings related to corruption cases. KLI is using the positive legislation in order to have access to all the necessary information about these cases, but in a near future, this form of communication with the judiciary will be advanced with the formalization of a Memorandum of Understanding between the KLI and the KJC.

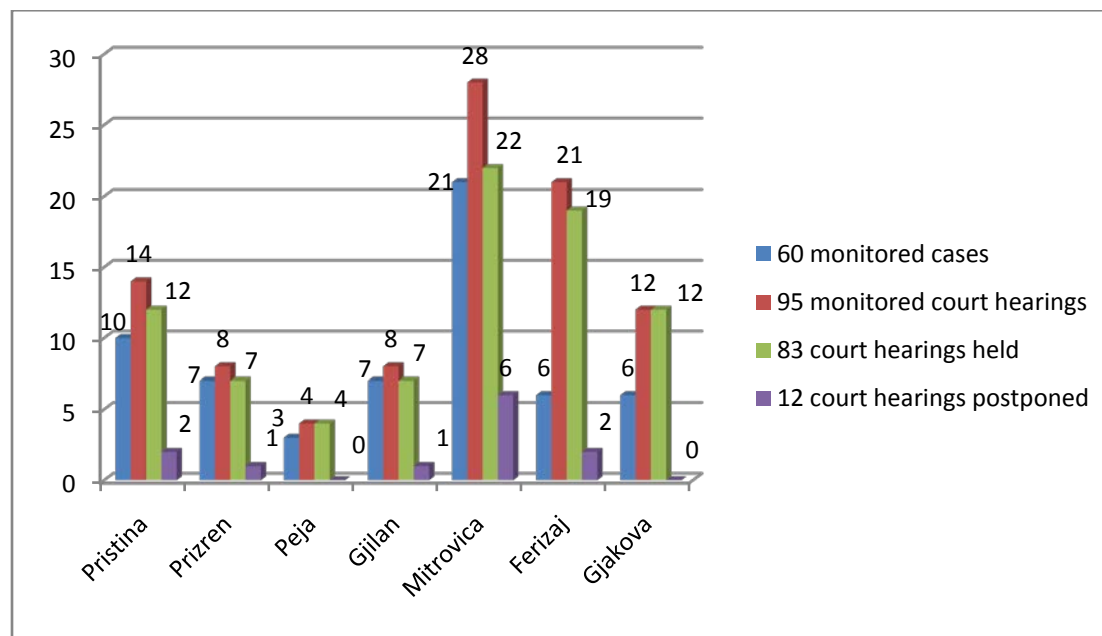


**Chart 5 - The state of unsolved corruption cases for each court until 30.09.2015**

From 276 monitored court hearings by KLI, 85 hearings of corruption cases were held in the BC in Pristina, 29 hearings in the BC in Prizren, 25 hearings in the BC in Peja, 45 hearings in the BC in Gjilan, 30 hearings in the BC in Mitrovica, 42 hearings in the BC in Ferizaj and 20 hearings in the BC in Gjakova. Due to the challenges of providing schedule of court hearings on corruption cases during this period of time, it is possible that more court hearings were held, but KLI was not informed to monitor them.

**a) The analysis of monitored cases during these three months (July 1 - September 30, 2015)**

In this report, the subject of research and analysis are the monitored corruption cases during the period July, August and September 2015, while other cases will be addressed in the next report. Regarding this quarter (July, August, September 2015), KLI has monitored 95 court hearings, including 60 corruption cases with 117 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 01.07.2015 until 30.09.2015**

Throughout the process of monitoring court hearings by KLI, during those three months (July, August, September 2015), were identified various irregularities. From 95 monitored hearings, 85 of them were held, while as a result of the failure to meet the legal conditions for holding the hearings, 12 of them were postponed. The reasons for the postponement of 12 hearings are:

- The absence of the defendant (4)
- The failure of the prosecution offices to submit the case files (3)
- The absence of the prosecutor (2)
- The absence of the Trial Panel (1)
- The absence of the injured party's lawyer (1)
- The absence of the injured party and the witness (1)

Meanwhile, also in the hearings that were held, irregularities were observed. From 83 hearings, 38 of them have been delayed over 15 minutes late: 5 in BC in Pristina, 2 in BC in Prizren, 1 in BC in Peja, 6 in BC in Gjilan, 11 in BC in Mitrovica, 7 in BC in Ferizaj and 6 in BC in Gjakova. As the most common reasons of delays were the delays of the Judge / Panel, Prosecutor, Lawyers at some cases and Witnesses.

Throughout the process of monitoring were also noted other irregularities that have impeded the proceedings of court hearings, among which are: the usage of mobile phones by the parties participating in the proceedings, the disuse of court dress by the parties who are obliged to wear it, the coordination between Police and the Court to bring the defendant in the court hearing, difficulties in simultaneous translation from a foreign language in Albanian and vice versa, which cause confusion to the judge and the prosecutor.

#### **b) The duration of court proceedings**

The prolongment of solving cases for years in judicial institutions remains to be the biggest failure of this system in implementing the rights of the citizens of the Republic of Kosovo<sup>147</sup>, which are guaranteed by the Constitution of the Republic of Kosovo<sup>148</sup>. Failures in treating corruption cases have appeared at all levels of the justice system, including the prolongment's of the Police, Prosecution Offices and Courts. Of course, the challenges of old cases affect to cases of all natures, not only to corruption cases. However, based on the national priorities formalized in laws, strategies and concrete action plans to fight corruption with an absolute priority, it turns out that the same has remained priorities only in paper but not in practice.

The lack of concrete results in fighting corruption is related to many factors. Among the key factors is the political interference in the judiciary powers. KJC and KPC continue to be supported minimally regarding the budget requests.<sup>149</sup> The lack of the sufficient budgetary resources, prevents the independently exercise of the functions by KJC and KPC and this can be considered as a direct

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<sup>147</sup> The Annual Work Report 2014,no.14. Pg. 137. The Ombudsperson. Pristina 2015. See the link [http://www.ombudspersonkosovo.org/repository/docs/RAPORTI\\_2014\\_-\\_SHQIP\\_932837.pdf](http://www.ombudspersonkosovo.org/repository/docs/RAPORTI_2014_-_SHQIP_932837.pdf)

<sup>148</sup> Article 31 "Right to Fair and Impartial Trial". Constitution of the Republic of Kosovo. June 15, 2008.

<sup>149</sup> Despite the increased budgetary requirements, KJC budget has continuously declined. Compared with 2015, KJC budget has declined in 2016. In 2015, KJC has required 22,054,181 Euros, while were approved 20,465,770 Euros. Budgetary cuts were applied also in 2015, when KJC has required 22,729,606 Euros, while only 21,288,771 Euros were approved. By reviewing the budget, in 2015 the budgetary cuts were applied to KJC at two categories: to the budget line "wages and salaries" by reviewing, the budget was cut from 1,041,626 Euros, but not also to the positions and to the budget line "goods and services" by reviewing, the budget was cut from 164.449 Euros, despite the request to increase the budget of this category. Official data from the Secretariat of the Kosovo Judicial Council. November 2015.

KPC

political interference in these institutions. The lack of the budgetary resources, impact the efficiency and effectiveness of the justice system, by enabling to have a sufficient number of prosecutors and judges.<sup>150</sup> This concerning fact has always been part of the prosecutorial and the judicial systems, which every year were loaded with inherited unsolved cases. Another important factor is the lack of efficiency of the systems to hold accountable prosecutors and judges who consistently have failed to meet their legal obligations.

While the Criminal Code and the old Criminal Procedure Code, have not foreseen limits in some stages of the criminal proceedings to solve cases, the Criminal Code and the new Criminal Procedure Code, have foreseen strict legal deadlines in treating cases at each stage of the criminal proceeding. All this advancement in the criminal justice was done in accordance with international standards for the protection of freedoms and human rights. However, such a change was not supported by the necessary resources that would enable the proper implementation of these laws. In order to respect the deadlines in treating cases during criminal and judicial proceedings, there needs to be large resources to respond in the requests addressed in prosecution offices and courts. KLI assesses that the advancement of the criminal legislation is not in accordance with the existing circumstances and conditions of the justice system and there was lack of the political will to make the positive necessary changes in order to enable the implementation of codes in practice. Otherwise, if we would have such a will of legislative and executive powers, the judicial power would have the chance to prove itself, by recovering itself to implement the freedoms and rights of citizens, by implementing efficiently the provisions of these two codes, to treat cases in a reasonable time in accordance with international standards.

In all of its periodic monitoring reports published in 2014 and 2015, KLI has presented the real state of corruption cases, which are treated in the justice system, specifically in the prosecutorial system. In prosecution offices were found corruption cases that have been denounced for decades and were still not treated by prosecutors. Only in the past six months of monitoring prosecution offices, KLI has identified 12 corruption cases which have reached the statutory limitation. While, during the two years period of monitoring, KLI has identified 62 corruption cases in prosecution offices, that have reached the statutory limitation, which is an issue discussed above in this report<sup>151</sup>.

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<sup>150</sup> Requested budget from KPC for 2016, was 9.527.066.00 Euro while are approved 8.013.619.00 Euro, KLI interviews with the Heads of Judicial Council and Prosecutorial Council of Kosovo, seven Presidents of the Basic Courts, seven Chief Prosecutors of the Prosecution Offices, Acting Chief Prosecutor of the Special Prosecution of the Republic of Kosovo. September, November 2015.

<sup>151</sup> See above the treatment of this issue in the Chapter VII. "Failed of prosecutors in treating corruption cases"

The approach of holders of prosecutorial and judicial functions over the issue of unsolved cases in years, on the pretext of the small number of prosecutors, has already become a rhetoric response, which is also approved by the heads of the prosecutorial<sup>152</sup> and judicial systems<sup>153</sup> The heads of prosecutorial and judicial systems, agree that the state policies and the policies of the KPC and KJC to treat with priority corruption cases, have failed to be implemented by the prosecution offices<sup>154</sup> and courts<sup>155</sup>. The failure to comply with the legal time limits and policies for combating corruption offenses, affect in the violation of rights and freedoms and also in the amnesty of persons involved in corruption. In order to address this issue not only regarding corruption cases but also regarding other criminal offenses, it is necessary for the Ministry of Justice to consider the establishment of a working group consisting of representatives and experts from the law enforcement institutions in Kosovo and other significant stakeholders, in order to review the criminal justice. The review of the Criminal Justice should include a thorough analysis of adopted laws and their implementation by institutions in practice, should identify the problems and challenges that appear in practice, and should make concrete proposals to improve the services by the justice institutions.

Through monitoring the treatment of corruption cases in prosecution offices and courts, including all stages of criminal proceedings, for the first time KLI has presented the real state of a corruption case from the file of the criminal report to the verdict announcement. From all 60 monitored cases in 95 hearings of seven BCs, KLI has identified violations in all criminal proceedings in these corruption cases. KLI has set several indicators to measure the time for treating a case, at each stage of criminal proceedings: 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*

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<sup>152</sup>“... I think that the small number of prosecution is not a justification. We are using the argument of the small number of prosecutor since 2000. We cannot say that corruption cases are not being treated because of the small number of prosecutors. We have cases of corruption to which it was not taken any procedural action yet. And we cannot say the problem is the small number of prosecutors but it is the negligence of prosecutors. We have cases where the statutory limitation has expired and the period of the statutory limitation start to flow with a single procedural action. So these excuses of the small number of prosecutors are unacceptable to me” citation of the Chief State Prosecutor, at the same time the Chairman of KPC Mr. Aleksandër Lumezi. The 100th meeting of Kosovo Prosecutorial Council, held on 26.06.2015. See the link in the youtube channel of “Betimi për Drejtësi” TV program (<https://www.youtube.com/watch?v=JgngHpVQW38>)

<sup>153</sup> KLI interview with the Chairman of KJC Mr. Enver Peci. November 2015.

<sup>154</sup> Chief State Prosecutor, at the same time the Chairman of KPC, Mr. Aleksandër Lumezi. The 100th meeting of Kosovo Prosecutorial Council, held on 26.06.2015 and 106th KPC meeting held on 08.10.2015.

<sup>155</sup> KLI interview with the Chairman of KJC, Mr. Enver Peci. November 2015.

*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 60<sup>156</sup> corruption cases monitored during these three months July, August and September 2015. KLI findings showed that prosecutors and judges have constantly violated the legal deadlines foreseen by the Criminal Procedure Code.

The profile of defendants in these 60 monitored cases, is mainly low and medium and 4 persons belonging to the high profile persons. Among 177 defendants in these 60 monitored cases are included: 12 businessmen, 5 officials of ministries, 7 bank officers, 5 police officers, 25 citizens, 1 security guard, 1 construction worker, 2 mayors, 1 procurement officer, 2 school directors, 1 judge, 2 experts, 11 municipal directors, 15 municipal officials, 3 teachers, 1 procurement manager, 2 tax inspectors, 1 creditor analyst, 2 NGO directors, 1 NGO cashier, 2 former municipal advisors, 1 member of KJC, 1 chairman of PRB, 1 municipal manager, 1 municipal advisor, 1 doctor, 1 nurse, 3 customs officers, 1 procurement director at the ministry, 2 municipal inspectors 1 hospital director, 1 supervisor in a company, 1 employee of an insurance company and 1 correctional officer.

In the table below, KLI has presented all indicators of certain criminal proceedings stages and the average of the spend time at each stage<sup>157</sup>.

In the first stage was analyzed the time spent from the submission of the criminal report until the decision to initiate the investigations. To 39 corruption cases, for which KLI has gathered the data, it turns out that prosecutions have spent on average 159 days from the submission of the criminal report until the decision to initiate the investigations. Based on the new criminal procedure, from the time of filing the criminal report, the prosecutor must decide within 30 days whether to initiate an investigation or dismiss the criminal report.<sup>158</sup> This limitation of the time limit has not been foreseen by the old criminal procedure

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<sup>156</sup> Note: KLI has faced a numerous challenges in gathering the data for all monitored corruption cases. In certain cases judges have hesitated to provide information about the dates required by KLI relating the dates from the criminal report until the appointment of the main trial. At some cases they have requested to the monitors to ask for this information to prosecutors of cases. In certain cases the prosecutors have been very cooperative, but there have also been cases hesitation to provide the dates of initiation of these legal actions by the prosecution offices. However, KLI has created a solid database for measuring the time spent during all stages of criminal proceedings.

<sup>157</sup> Note: The measures for each indicator in each stage differ in terms of the number of cases. KLI has measured and analyzed only to those cases for which monitors have managed to provide the completed data about the each stage of the criminal procedure set in indicators.

<sup>158</sup> Article 82, "Dismissal of Police Criminal Report". 1. The state prosecutor shall issue a decision dismissing a criminal report received from the police or another source within thirty (30) days if it is evident from the report that: 1.1. there is no reasonable suspicion that a criminal offence has been committed; 1.2.

and this has led to the possibility of abuse by prosecutors, who have not taken any legal actions for decades in treating criminal reports. The time period from the initiation of the investigations until the completion of investigations can last 24 months, but if the case is complicated the investigations can be extended by the court for six (6) months.<sup>159</sup> From the moment of the indictment being filed in the court until the scheduled of the initial hearing, the criminal procedure has foreseen a thirty (30) days time limit.<sup>160</sup> The second hearing must be appointed no less than thirty (30) days after the initial hearing, and no more than forty (40) days<sup>161</sup> after the initial hearing. After the second hearing, within 30 days must be appointed the main trial.<sup>162</sup> While, the main trial must last from 90 to 120 days, depending from the fact if the trial is led by a single judge of a panel of judges. This time limit may be extended by a reasoned ruling if there exist specific circumstances to do such a thing.<sup>163</sup>

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the period of statutory limitation for criminal prosecution has expired; 1.3. the criminal offence is covered by an amnesty or pardon; 1.4. the suspect is protected by immunity and a waiver is not possible or not granted by the appropriate authority; or 1.5. there are other circumstances that preclude prosecution. 2. The state prosecutor shall immediately deliver to the police a copy of the decision pursuant to paragraph 1 of this Article. 3. The state prosecutor shall notify the injured party of the dismissal of the report and the reasons for this within eight (8) days of the dismissal of the report. Criminal Procedure Code of the Republic of Kosovo. Republic of Kosovo Assembly. December 13, 2012.

<sup>159</sup> Article 159, "Time Limits of Investigation" 1. If an investigation is initiated, the investigation shall be completed within two (2) years. If an indictment is not filed, or a suspension is not entered under Article 157 of this Code, after two (2) years of the initiation of the investigation, the investigation shall automatically be terminated.

2. The pre-trial judge may authorize a six (6) month extension of an investigation under Paragraph 1 of this Article where a criminal investigation is complex, including but not limited to if there are four or more defendants, multiple injured parties have been identified, a request for international assistance has been made, or other extraordinary circumstances exist. 3. If a defendant has been arrested and is being held in detention on remand, the pre-trial judge shall not order an extension under Paragraph 2 of this Article or any extension of the detention on remand unless the state prosecutor demonstrates that the investigation is being actively conducted and any delay is beyond the control of the state prosecutor.

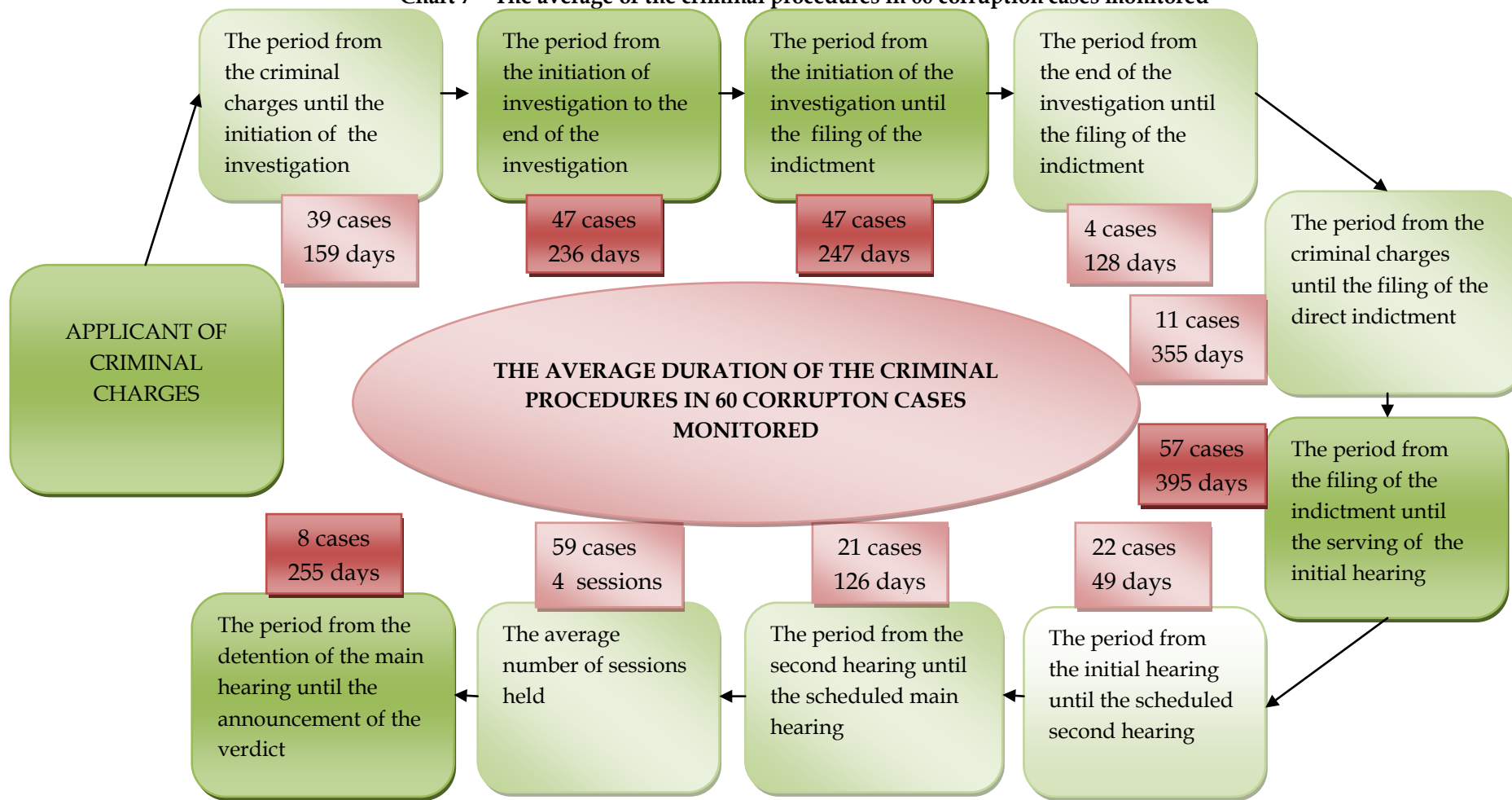
<sup>160</sup> Article 242, "Procedure for Filing the Indictment 1. Paragraph 4 and 5. 4. The single trial judge or presiding trial judge shall immediately schedule an initial hearing to be held within thirty (30) days of the indictment being filed. 5. If the defendant is being held in detention on remand, the initial hearing shall be held at the first opportunity, not to exceed fifteen (15) days from the indictment being filed". Criminal Procedure Code of the Republic of Kosovo. Republic of Kosovo Assembly. December 13, 2012.

<sup>161</sup> Article 245, "The initial hearing", paragraph 5. During the initial hearing, the single trial judge or presiding trial judge shall schedule a second hearing no less than thirty (30) days after the initial hearing, and no more than forty (40) days after the initial hearing. In the alternative, the single trial judge or presiding trial judge may only require the filing of motions by a date set no more than thirty (30) days after the initial hearing. Criminal Procedure Code of the Republic of Kosovo. The Republic of Kosovo Assembly. December 13, 2012.

<sup>162</sup> Chapter XIX, MAIN TRIAL, Article 285 Scheduling of Main Trial paragraph 2) 2. The single trial judge or presiding trial judge shall schedule the main trial to commence within one (1) month from the second hearing or the last order issued under Article 254 paragraph 5 of the present Code. December 13, 2012.

<sup>163</sup> Article 314, "Time to complete Main Trial"; 1. Unless the single trial judge or trial panel adjourns the main trial under Article 310 of the present Code, the main trial shall be completed within the following time limits: 1.1. if the main trial is before a single trial judge, the main trial shall be completed within ninety (90) days, unless the single trial judge issues a reasoned decision to extend the time for the main trial for one of the reasons in paragraph 2 of the present Article. 1.2. if the main trial is before a trial panel, the main trial shall be completed within one hundred and twenty (120) days, unless the trial panel issues

**Chart 7 - The average of the criminal procedures in 60 corruption cases monitored**



a reasoned decision to extend the time for the main trial for one of the reasons in paragraph 2 of the present Article. 2. The main trial may be extended by a reasoned decision under paragraph 1 of the present Article if there exist circumstances which require more time, including but not limited to: 2.1. there are an unusually large number of witnesses; 2.2. the testimony of one or more witnesses is unusually lengthy; 2.3. the number of exhibits is unusually big; or 2.4. the security of the trial requires the extension. Criminal Procedural Code of the Republic of Kosovo, the Assembly of the Republic of Kosovo .

3. The main trial may be extended for thirty (30) days for each decision under paragraph 1 of the present Article.

As noted in the table, the average duration of criminal proceedings in 60 corruption cases monitored from KLI, shows that prosecutors and courts at different stages of criminal law commit violation of legal deadlines provided in Criminal Procedure Code.

- In 39 cases of corruption monitored by KLI, results that the average of the treatment of the criminal charges from prosecutors is 159 days.
- In 47 cases of corruption monitored by KLI, results that the average of the treatment from initiation of investigation until the completion of the investigations is 236 days.
- In 47 cases of corruption monitored by KLI, results that the average of the treatment from the initiation of investigations until the filing of the indictment is 247 days.
- In 4 cases of corruption monitored by KLI, results that the average of the treatment from the completion of the investigations until the filing of the indictment is 128 days.
- In 11 cases of corruption monitored by KLI, results that the average of the treatment from criminal charges until the filing of the direct indictment is 355 days.
- In 57 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 395 days.
- In 57 cases of corruption monitored by KLI, results that the average of the treatment from the initial hearing until the scheduled second hearing is 49 days.
- In 21 cases of corruption monitored by KLI, results that the average of the treatment from the second hearing until the scheduled main hearing is 126 days.
- In 59 cases of corruption monitored by KLI, results that the average of the scheduled sessions for each case is 4 days.
- In 8 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 255 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 Mitrovicë, BP in Ferizaj, BP in Prishtinë and BP in Prizren. The average of the treatment of the criminal charges until the decision from the initiation of the investigation in the prosecution offices it has



BP in Mitrovicë for 10 cases monitored it took time 294 days.  
 BP in Ferizaj for 6 cases monitored it took time 179 days.  
 BP in Prizren for 6 cases monitored it took time 114 days.  
 BP in Prishtinë for 9 cases monitored it took time 107 days.  
 BP in Gjilan for 5 cases monitored it took time 59 days.

Prosecution offices who have spent most of the time in criminal investigations are BP in Ferizaj, BP in Pejë, BP in Prishtinë and BP in Mitrovicë. The average of the treatment from the initiation of the investigations until the completion of the investigations in the prosecution offices it has



BP in Ferizaj for 6 cases monitored it took time 329 days.  
 BP in Pejë for 2 cases monitored it took time 311 days.  
 BP in Prishtinë for 9 cases monitored it took time 310 days.  
 BPBP in Mitrovicë for 12 cases monitored it took time 279 days.  
 BP in Prizren for 7 cases monitored it took time 164 days.  
 BP in Gjilan for 7 cases monitored it took time 113 days.  
 BP in Gjakovë for 4 cases monitored it took time 106 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 Mitrovicë, BP in Ferizaj, BP in Prishtinë and BP in Prizren. The average of the treatment from the initiation of the investigation until the filing of the indictment in the

BP in Ferizaj for 6 cases monitored it took time 414 days.  
 BP in Pejë for 2 cases monitored it took time 311 days.  
 BP in Prishtinë for 9 cases monitored it took time 310 days.  
 BP in Mitrovicë for 12 cases monitored it took time 279 days.  
 BP in Prizren for 7 cases monitored it took time 164 days.  
 BP in Gjiilan for 7 cases monitored it took time 113 days.  
 BP in Gjakovë for 4 cases monitored it took time 107 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 Ferizaj and BP in Gjakovë. The average of the treatment from the completion of the investigation until the filing of the indictment in the prosecution offices it has

BP in Ferizaj for 2 cases monitored it took time 510 days  
 BP in Gjakovë for 2 cases monitored it took time 4 days.  
 Others BP in monitored cases filed the indictment through provided legal deadlines for conducting the investigations.

Courts who have spent most of the time from the filing of the indictment until the scheduled initial hearing are BC in Mitrovicë, BC in Gjilan and BC in Prishtinë. 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 Mitrovicë for 20 cases monitored it took time 733 days.  
 BC in Gjilan for 7 cases monitored it took time 311 days.  
 BC in Prishtinë for 10 cases monitored it took time kohë 274 days.  
 BC in Ferizaj for 6 cases monitored it took time 205 days.  
 BC in Pejë for 3 cases monitored it took time 159 days.  
 BC in Gjakovë for cases monitored it took time 121 days.  
 BC in Prizren for 5 cases monitored it took time 94 days.

Courts who have spent most of the time from the initial hearing until the scheduled second hearing are BC in Gjakovë, BC in Prizren and BC in Gjilan. 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 Gjakovë for 6 cases monitored it took time 72 days.  
 BC in Prizren for 4 cases monitored it took time 53 days.  
 BC in Gjilan for 5 cases monitored it took time 38 days.  
 BC in Prishtinë for 4 cases monitored it took time 38 days.  
 BC in Ferizaj for 2 cases monitored it took time 30 days.  
 BC in Pejë for 1 case monitored it took time 31 days.

Courts who have spent most of the time from the second hearing until the scheduled basic hearing are BC in Prishtinë, BC in Gjilan 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 Prishtinë for 3 cases monitored it took time 796 days.
- BC in Gjilan for 5 cases monitored it took time 165 days.
- BC in Ferizaj for 4 cases monitored it took time 114 days.
- BC in Gjakovë for 5 cases monitored it took time 73 days.
- BC in Prizren for 3 cases monitored it took time 58 days.
- BC in Pejë for 1 case monitored it took time 39 days.

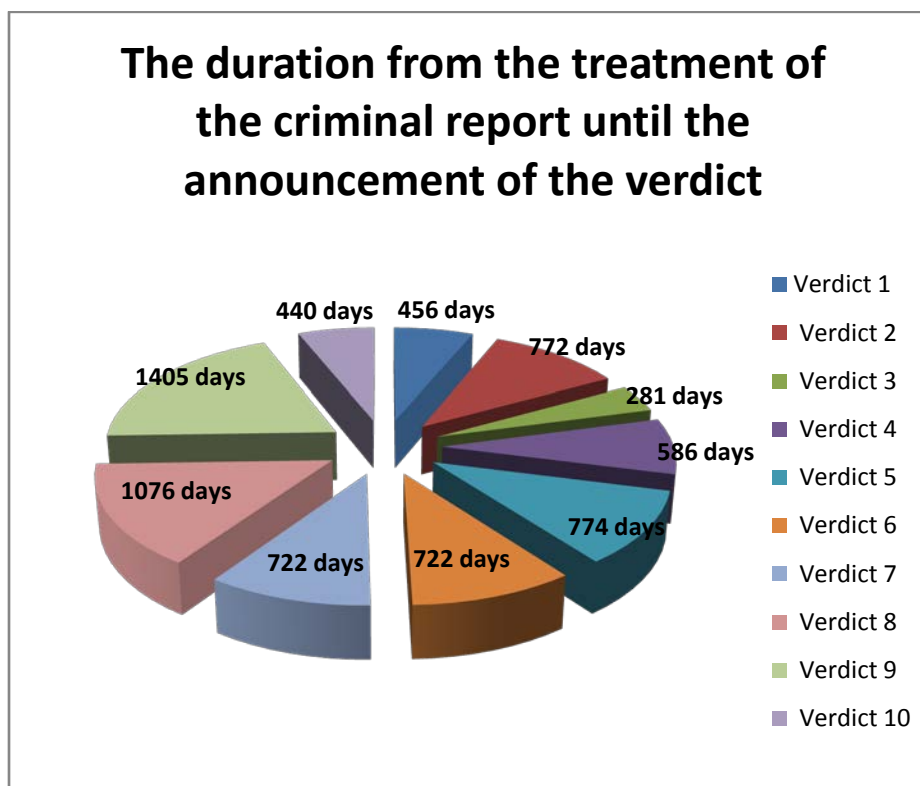
Courts who have spent most of the time from the scheduling of the main hearing until the announcement of the verdict are BC in Mitrovicë, BC in Gjilan and BC in Prishtinë. The average time period from the scheduling of the main hearing until the announcement of the verdict is:

- BC in Prishtinë for 1 case monitored it took time 525 days.
- BC in Pejë for 1 case monitored it took time 611 days.
- BC in Prizren for 1 case monitored it took time 447 days.
- BC in Gjilan for 1 case monitored it took time 209 days.
- BC in Gjakovë for 3 cases monitored it took time 177 days.
- BC in Ferizaj for 1 case monitored it took time 73 days.

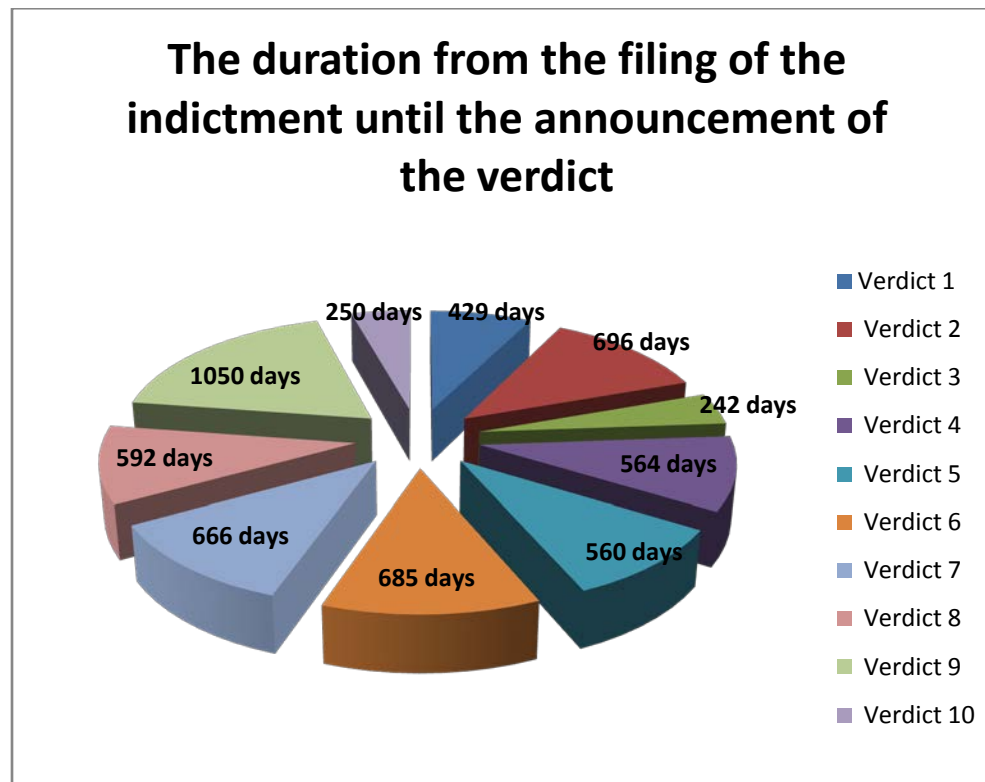
**c) The duration of the corruption cases until the announcement of the verdict ( 10 cases monitored by KLI)**

During the monitoring by KLI in 60 cases of corruption, the courts have declared 10 verdict 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 tables 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 8 - The duration from the treatment of the criminal report until the announcement of the verdict in 10 cases monitored by KLI**



**Chart 9 - The duration from the filing of the indictment until the announcement of the verdict in 10 cases monitored by KLI.**

Based in the two charts above, KLI has analyzed 10 cases which have been completed with first instance of the verdict during this period of monitoring ( July, August, September 2015). The following is the average of the duration in each stage of criminal proceedings, according to the indicators by KLI

- The average time of the criminal report until the initial of the investigations in 5 cases monitored it took time 109 days.
- The average time spent from the initial of the investigations until the completion of the investigations in 9 cases monitored it took time 88 days.

- The average time spent from the initial investigations until the filing of the indictment in 9 cases monitored it took time 88 days.
- The average time spent from the filing of the criminal report until the filing of the direct indictment it took time 190 days.
- The average time spent from the filing of the indictment until the scheduled initiation hearing in 9 cases monitored it took time 201 days.
- The average time spent from the initial session until the scheduled second hearing in 5 cases monitored it took time 77 days.
- The average time spent from the second hearing until the scheduled main hearing in 6 cases monitored it took time 145 days.
- The average number of sessions scheduled in 10 cases in which it is announced the verdict of the first instance it was 7 sessions.
- The average time spent from the scheduled main hearing until the announcement of the verdict in 9 cases monitored it was 159 days.
- The average time spent from the filing of the criminal report until the announcement of the verdict in 10 cases monitored it was 723 days.
- The average time spent from the filing of the indictment until the announcement of the verdict in 10 cases it was 573 days.

The case that has lasted longer from the filing of the criminal report until the announcement of the verdict in the first instance it took time 1405 days <sup>164</sup>, while the case which has taken the shortest time was 281<sup>165</sup>days.

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<sup>164</sup>KLI describes the details of this case from the filing of the criminal report until the announcement of the verdict. Basic Court in Prishtina – Serious Crime Department. Number of charges: PPKP no 144/13; Number of the indictment: PPS.nr.30/2010; Submission date of the criminal report: 15.11.2011; Applicant: Kosovo Police; Termination of the investigation ruling date: 10.12.2011; Termination of the completion ruling date: 05.11.2014; Filing of the indictment date: 05.11.2012; Initial hearing: There were two sessions: 28.03.2013 and 18.06.2013; Scheduled sessions dates: 14.04.2014, 13.05.2014, 14.05.2014, 27.05.2014, 28.05.2014, 04.06.2014, 05.06.2015, 16.07.2014, 17.07.2014, 18.07.2015, 12.09.2014, 26.09.2014, 30.09.2014, 04.11.2014, 12.12.2014, 05.01.2015, 23.01.2015, 16.02.2015, 17.04.2015, 22.06.2015, 24.06.2015, 31.07.2015, 17.09.2015. The panel consisted from two international judges and one local judge. Charged: N.K., A.Z., S.H., H.B. The announcement of the verdict date: 21.09.2015.

<sup>165</sup> KLI describes the details of this case from the filing of the criminal report until the announcement of the verdict. Basic Court in Ferizaj – Serious Crime Department. Number of charges: PKR. 258/14; Number of the indictment: PP.I.217/14; Submission date of the criminal report: 22.10.2014; Applicant: NJHKEK

While the case that has taken more time from the filing of the indictment until the announcement of the verdict in first instance it took 1050<sup>166</sup>days, while the case that has taken the shortest time was in 242<sup>167</sup>days.

KLI analysis regarding with the duration of the treatment of the corruption cases, as can be seen is limited only in ten cases which were monitored from researchers of KLI during the period of three months (July, August, September 2015). In reality the situation presented in these graphics do not represent the actual situation and the real time that one corruption case may take to be treated in the justice system, especially not at the stage from the filing of the criminal report until the dismissal of the criminal report, initial of the investigations, termination of the investigation or the filing of the indictment. In the next report, KLI will analyze a large number of corruption cases, which were monitored and are monitoring during this period report.

Regarding sentencing policy in these 10 corruption cases monitored in which the verdict has been announced in the first instance , results that the judges have applied a soft punitive policy . In the following it is a table that reflects the judgments of judges in these 10 corruption cases. See the table below

Imprisonment		Suspended sentence		Fine		Acquittal Verdict	Dismissal of Indictment- Statutory limitation
Person	Month	Person	Month	Person	Person	Month	Person
4	60	1	25	3	4	60	1

**Table 11 - Cases of judgment monitored by KLI**

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Ferizaj; Termination of the investigation ruling date: 22.10.2014; Termination of the completion ruling date: 30.12.2014; Filing of the indictment date: 31.12.2014; Initial hearing date: 20.01.2015; Second hearing date: 18.02.2015; Scheduled sessions date: 18.05.2015, 27.07.2015, 18.07.2015, 30.07.2015. The panel consisted from three local judges; Charged A.Z. The announcement of the verdict date: 30.07.2015.

<sup>166</sup> See footnote ? PPKP no. 144/13

<sup>167</sup> See footnote PKR. 258/14

The findings of KLI shows that over 13 persons against whom the verdict was announced in the first instance, the courts to 4 persons has announced imprisonment verdict, in total from five (5) years for all convicted persons, where one person is convicted with 26 months in prison, one person is convicted with 18 months and 2000 fine, one person with ten months, and one person with 6 months in effective prison.

While, the courts against a person announced with a suspended sentence, three persons are announced guilty and the imprisonment have been replaced with fine in high from 10950 euro. While 5 persons have been released with acquittal verdict, while against one person the indictment was dismissal because of the statutory limitation.

In percentage it appears that courts have sentenced to effective prison 4 persons from 14 persons accused, which means 28.57 % of charged persons. Courts have been released 5 persons from 14 accused persons, which means 35.71% charged persons.

Without prejudging the merits of the judicial decision in specific cases which are monitored by KLI, concern remains also the punitive policy regarding the cases of corruption. Such practice penalties, 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 can not 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.

#### **d) Penalties for corruption according to the tracking mechanism of KJC (nine months of 2015)**

The judicial system has not proven yet the commitment for implementing the policies of KJC, through which the treatment of cases is considered absolute priority<sup>168</sup>. Same as in the prosecutorial system and in the judicial system remains a challenge with priority handling of corruption cases<sup>169</sup>. The syndrome of unimplemented politics practice and decision of KPC does not change much as in KJC regarding the treatment of corruption cases. The number of unsolved cases should challenge the judges, which are charged with multiple subjects at work. The phenomenon of statutory limitation of corruption cases has not excluded neither the judges, which in the period time of 2001-2012 have issued decisions to reach the statutory limitation of 32 corruption cases.<sup>170</sup>In

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<sup>168</sup>Kosovo Judicial Council in 2012 has issued a decision to treat the corruption cases as a matter of absolute priority

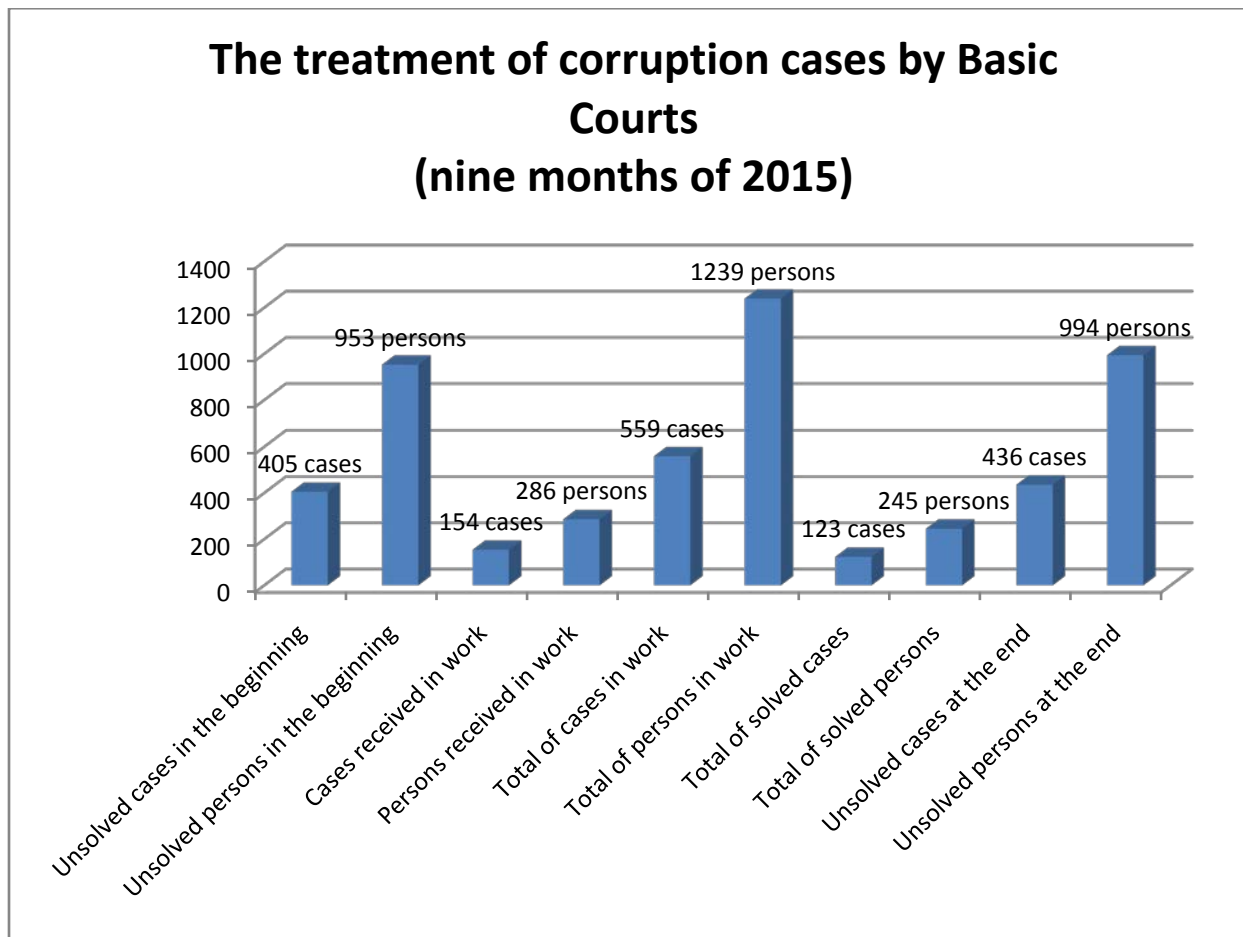
<sup>169</sup> KLI Interview with the Chairman of KJC, Mr. Enver Peci. November 2015.

<sup>170</sup> Kalaja B. "The statutory of limitation for corruption cases has expired". Preportr. According to this article in Preportr the statutory limitation of corruption cases by municipal courts (basic) is as follows:: 8 cases that have reached the statutory of limitation; Prishtina: 7 cases that have reached the statutory of limitation;

2014 Basic Courts have had in work in total 677 cases with 1348 persons. Of these cases the courts have solved 232 cases against 313 persons. During the year of 2015 it is not observed the positive trend in the treatment of corruption cases from the judges. See the table below:

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Gjakova: 5 cases that have reached the statutory of limitation; Kamenica: 5 lëndë të parashkuara; Istogu: 3cases that have reached the statutory of limitation; Lipjani: 1case that have reached the statutory of limitation; Theranda: 1case that have reached the statutory of limitation; Vushtrri: 1case that have reached the statutory of limitation; In total 32 corruption cases that have reached the statutory of limitation while 2007-2012 year See the link below:  
<http://preportr.com/sq/Siguri-dhe-Gjyqesi/Parashkruhen-lndt-e-korrupsionit-328>



**Chart 10 - The treatment of corruption cases by Basic Courts during nine months in 2015**

Basic Courts during the first nine months of 2015, have had work a total of 559 cases with 1239 persons in work. From all of these cases the courts have inherited from the previous year 2014, 405 cases with 953 persons, and during the nine months period have received 154 new cases with 286 persons involved. During the nine months period, courts have solved 123 cases with 245 persons. Since the end of September 2015, on courts have remain unsolved 436 cases with 994 persons. The table above shows that courts

have solved fewer cases (123) than they received(154). Also they have solved fewer cases of persons involved (245) than they received at work (286).

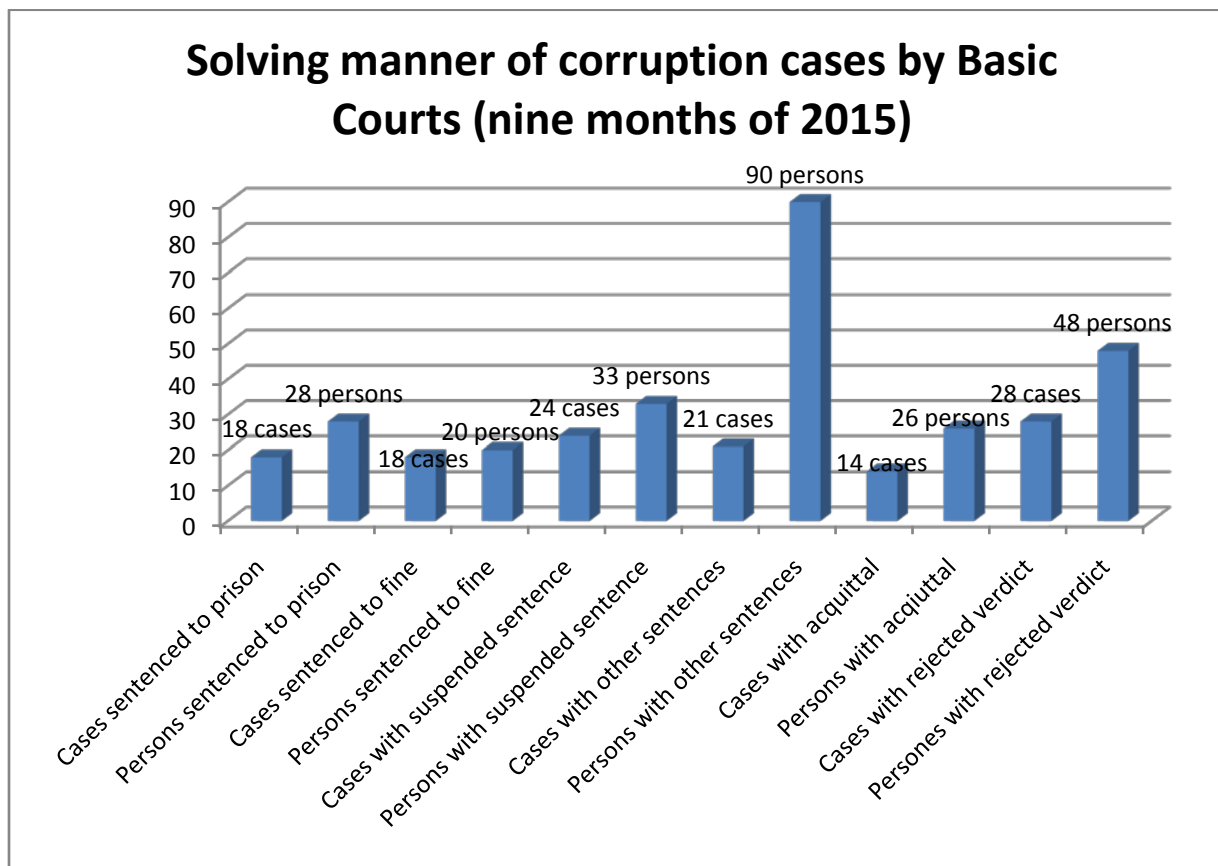


Chart 11 - Solving manner of corruption cases by Basic Courts during nine months in 2015

The court during the first nine months of 2015, out of 123 resolved cases with 245 persons, has reached the following decisions: 28 persons have been sentenced to prison, 20 persons have been fined, 33 persons have been convicted with a suspended sentence, 90

persons convicted with other sentences, 26 persons have been acquitted and against 48 persons the court has rendered a Rejection Judgment.

As displayed with this table, it is noticed that the same practice is applied throughout the first nine months of the year 2015, where the highest number of imposed penalties are fines and imprisonment, respectively 53 of them have been fined whilst 28 persons have been imprisoned. In percentage taking into consideration these three categories, turn out that the courts have announced their verdicts for 34.56% of convicted individuals, while 65.46% of persons have received suspended sentence or fines.

Following this trend of corruption cases treatment for the judicial system, KLI has analyzed the fragile issues and has given specific recommendations for the KJC.<sup>171</sup> KLI in cooperation with the KJC Head Chairman Mr. Enver Peci has drafted a proposal of an Action Plan for the KJC, related to prioritizing the treatment of corruption cases from courts. This Action Plan <sup>172</sup> has been approved in a meeting held by the KJC in September 25, 2015 and its implementation has started immediately from the courts. The first stage of this Action Plan defines the obligation of Court Presidents to identify corruption cases and to appoint them as an absolute priority. The implementation of this plan is being observed by KLI court monitors and crucial findings will be published in the next report.

## X. CONFISCATION OF ASSETS BENEFITED FROM CORRUPTION CRIMINAL OFFENCES

On January 21, 2014 with the sole purpose of increasing the efficiency of the prosecution of perpetrators, sequestration and confiscation of assets benefited from criminal offences, was signed cooperation memorandum<sup>173</sup> between KPC, KJC, Ministry of Justice, Ministry of Finance, Ministry of Internal Affairs, Central Bank, Anti-Corruption Agency and Kosovo Intelligence Agency.

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<sup>171</sup> b) Recommendation for the Kosovo Judicial Council. "1. KJC is recommended to draft an Action Plan that complies with the application of the decision to prioritize the treatment of the corruption cases by the courts. This plan is recommended to incorporate the identification and registration of all corruption cases that are being proceeded and to disaggregate them into old cases (to prevent the statutory of limitation of such cases) and according to the level of importance (high-level corruption cases)"

Musliu B." Seeking a way to fight corruption: Between two fires, persecution and failure (Analysis and recommendations regarding the implementation of the Action Plan for Fighting Corruption). Kosovo Law Institute, Pristina, August 2015. Click: <http://kli-ks.org/ne-kerkim-te-rruges-per-luftimin-e-korrupsionit-ne-mes-dy-zjarreve-persekutimit-dhe-deshtimit-2/>

<sup>172</sup>Decision for approving the Action Plan in order to solve corruption cases. Kosovo Judicial Council. September 25,2015

<sup>173</sup>Cooperation Memorandum, click: [http://ww.psh-ks.net/repository/docs/Nr.231.2014\\_-\\_Memorandum\\_Bashkepunimi\\_fin.pdf](http://ww.psh-ks.net/repository/docs/Nr.231.2014_-_Memorandum_Bashkepunimi_fin.pdf)

Through this memorandum the signatory parties have defined the principles and have expressed good will to create and vitalize the National Coordinator for Combating Economic Crimes (hereinafter NCCEC).

KPC according to the obligations derived from this memorandum of cooperation of November 27, 2013, adopted the Regulation on the establishment and functioning of NCCEC. Despite the agreement signed between the institutions above mentioned and establishing NCCEC, respectively prosecution of offenders and the sequestration and confiscation of the assets benefited from criminal offenses, results in confiscation of assets benefited from corruption criminal offenses, are missing and are still rare. Official information's received from the tracking mechanism of KJC for 2014 and nine months of 2015, show that there is no case were was confiscated any asset benefited by the criminal offense of corruption.

The perception of public opinion created through declarations by SP regarding to the confiscated of assets benefited by criminal offence of corruption, in reality is not real, even by its reports adopted by the KPC. KLI during monitoring and evaluating the implementation of the Action Plan of the prosecutorial system of fighting corruption by providing the information of seven Basic Prosecutions and SPRK, as well as interviews with Chief State Persecutor resulting with a very limited number of requests for sequestration and confiscated of assets benefited by criminal offenses of corruption.

KLI has required the official data from NCCEC on sequestrated and confiscated material benefits acquired by corruption criminal offences. The office of NCCEC has not been able to provide the data about the material benefits that were transferred to the state's budget, as e result of sequestration and confiscation from convicted persons who committed criminal offences.<sup>174</sup>

During the monitoring of indictments regarding corruption criminal offences, published by SP, KLI has found that in the case of the Municipality of Pristina, for which SPRK has filed the indictment, there it is stated that were confiscated from the defendants material benefits acquired by criminal offences that reach the amount of 111.740.00 euro, 2.600.00 dollar and one (1) apartment 76.3 m2. While, SPRK confirmed that regarding this concrete case, the material benefits acquired by criminal offences presented in the indictment, reach the amount of 28.503.922.00 euro, confiscation reach the minimum amount that does not exceed 200.000.00 euro, or neither 1 % of the total amount of the damage caused by the criminal offence.

While according to NCCEC report, which refers to all natures of criminal offenses, it turns out that in the first six months of 2015, prosecution offices have submitted requests on freezing or sequestration in the amount of 16.123.010,00 euro, while almost of all the prosecution offices have reported that they have not submitted requests on freezing or sequestration, except BP in Ferizaj, which in one case has submitted the request on sequestration that reach the approximately amount of 2.000.000 euro. Also, based

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<sup>174</sup> Communication via email between KLI and the National Coordinator for Fighting Economic Crimes, Mr. Shqipdon Fazliu. December 2015.

on NNCEC report approved by KPC, the total amount of confiscation of material benefits acquired by criminal offences, is not more than 64,487.65 euro.

## **XI. RECOMMENDATIONS**

1. The Ministry of Justice is recommended to establish a working group composed by representatives of MJ, KJC, KPC, judges and prosecutors with experience, external experts with experience and expertise on criminal law, experts from civil society in order to review the criminal justice. This working group is recommended to have the sufficient time in order to make an assessment about the current state related to criminal justice in Kosovo, to identify the problems that appear in practice by law enforcement bodies and to come out with a detailed report on the actions and steps that should be undertaken in order to have a fair implementation of the criminal law in Kosovo, to respect the human rights and freedoms, to increase efficiency, transparency and accountability. This review of the criminal justice is also recommended to include the operation and the results of all mechanisms or offices established through cooperation memorandums or any other strategic document in order to increase efficiency in combating corruption.
2. KJC is recommended to monitor in a proactive manner the Basic Courts regarding the implementation of their obligations arising from the Action Plan on treating corruption cases.
3. All the Basic Courts in Kosovo, especially the Basic Court in Pristina are recommended to treat corruption cases with absolute priority.
4. All the Basic Courts in Kosovo, especially the Basic Court in Pristina are recommended to treat with absolute priority cases submitted by SPRK, by making sure that the indictments submitted by this Prosecution Office would be treated in accordance with the time limits foreseen by the Criminal Procedure Code of Kosovo.
5. All the Basic Courts in Kosovo, should offer full transparency to the public, media and civil society in monitoring corruption cases in accordance with the applicable law.
6. KPC should implement its will and commitment in practice by undertaking concrete steps, expressed through the policies approved by the Council, regarding the fight against corruption in Kosovo.
7. KPC should establish an efficient mechanism of supervision and control of the work of SPRK and BPs regarding the treatment of corruption cases, by making sure to not interference in the individual independence of prosecutors during the treatment of corruption cases.

8. SP and KPC are recommended to undertake urgent measures foreseen by the law, in order to fight internal corruption within the prosecutorial system, respectively to stop the hitherto practices of prosecutors impunity, who have failed to implement the Action Plan.
9. KJC and KPC are recommended to establish a Committee composed by local and international persons, in collaboration with international partners that support Kosovo judicial and prosecutorial systems, in order to analyze all of the disciplinary cases in ODC, to which the statutory limitation may have been expired as a result of the amendments and supplements of the judicial laws. This Committee must prepare a detailed report regarding the number of cases to which the statutory limitation have expired, the nature of these cases, and the eventual responsibility of officials in ODC, regarding these cases.
10. SPRK is recommended to initiate urgent investigations regarding the recent appointments of independent boards and regulation authorities. SPRK must investigate the process of the appointment of these board members, in order to make sure that the procedures and applicable law were respected.
11. SPRK is recommended to treat only cases of high-level corruption and corruption cases which are more complex and sensitive.
12. The Chief State Prosecutor should annul the decision number A.nr.404 / 2015 of the date October 6, 2015, for the establishment of a Supervisory Committee for criminal corruption cases composed by the Deputy Chief State Prosecutor, Sevdije Morina and three prosecutors from the Office of the Chief State Prosecutor, Besim Kelmendi, Lulëzim Sylejmani and Laura Pula. This decision has foreseen that the duty of this Committee is to visit all prosecution offices and to require by each prosecutor the corruption cases in which they were working, in order to assess the actions that were taken by them. After the verification, the Committee is obliged to prepare a report to the Chief State Prosecutor. Such a decision is in contradiction with the spirit of the Law on State Prosecutor and it violates the independence of prosecutors in treating these cases, also this could be considered as a direct interference in the work of prosecutors.
13. KPC in cooperation with KJC, and institution and agencies that enforce the law should have more proactive role in increasing cooperation, communication and coordination regarding the treatment of corruption cases.
14. KPC is recommended to make an comprehensive assessment of the implementation of obligations arising from the Action Plan and the same must be fulfilled in the fields where were noticed obstacles in its implementation; A particular attention should be paid to the quality of dismissed criminal charges and cases where investigations were terminated, in order to solve this issue and to enable the establishment of adequate policies in combating corruption.

15. By the amendments and supplements of the Action Plan, KPC is recommended to make the classification of levels of corruption within prosecution offices; KLI has repeated this recommendation to three categories which will include:

- a. The category no. 1 is recommended to include corruption cases that are in the competences of SPRK, which should have an absolute priority. This category should include cases in which the suspected persons for committing corruption offences are officials who exercise a high lever function, as are defined in the Administrative Directive on defining senior level corruption, signed by the Chief State Prosecutor and the Chief Prosecutor of EULEX;
- b. The category no. 2 of corruption cases is recommended to include all cases where the monetary amount of abuse exceeds the value of 100.000 Euro and these cases should be treated with absolute priority;
- c. The category no. 3 of corruption cases is recommended to include all cases which were filed before 2013, to which it must be set a deadline of a maximally one year and within this year these cases must be completed;

16. KPC is recommended to prepare forms that will be included in the database, in which will be registered solved cases, including the profiles of persons to whom cases have been solved (whether criminal reports were dismissed, investigations were terminated or were filed indictments ) in order to enable the accurate identification of the results in combating corruption.

17. SP should identify cases that are related to public procurement and the same should be treated by prosecutors who have experience and anti-corruption experts in SPRK, in a close coordination of activities and actions between the case prosecutor, the police and other independent and specialized agencies in treating these cases.

18. KPC should organize mandatory trainings to all prosecutors regarding the implementation of obligations arising from the law, for the submission of requests on sequestration and confiscation of material benefits acquired by corruption criminal offences.

19. KPC should announce urgently a vacancy for the appointment of SPRK prosecutors, based on the procedures foreseen by the law, to fulfill the vacancy positions in this prosecution office.

20. KPC should announce urgently the vacancy for the appointment the Chief Prosecutor of SPRK.