

Preventing and Combating Corruption in Kosovo

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Abstract

Corruption poses a serious threat to all states, particularly to new democracies in transition. It entails the abuse of power for personal or group gain, whether in the public or private sector. The damages inflicted by corruption on society are enormous and highly detrimental. This criminal occurrence undermines state institutions and impoverishes the masses. Consequently, one of the primary challenges facing state mechanisms, especially within the justice system, is the prevention and combat against corruption and other criminal activities. This presents a long-term challenge for institutional mechanisms, especially in countries at various stages of political, social, and economic transition, such as Kosovo

Keywords: *Corruption, Combat, Prevention, Criminality, Court*

INTRODUCTION

Corruption is any form of abuse of power for personal or collective benefit, whether in the public or private sector. Corruption exists if the principle of impartiality is deliberately violated in the case of the decision, with the aim of acquiring some good - favor. Acquiring favors, per instance, gaining personal benefits for the one making the unilateral decisions, can take different forms. It is common for corruption to mean the embezzlement of money (this form of corruption is most often named as bribery), although personal benefit can also mean expensive gifts or doing some counter-favor.

Corruption as a harmful social and criminal occurrence is present in almost all stages of state development. This criminal occurrence is an occurrence that has seriously attacked the political, social and economic systems of countries with a fragile justice system. For this reason, corruption is characterized as one of the most negative social occurrences. Taking into account the characteristics of the perpetrators of the criminal offenses of receiving and giving bribes, the complexity of legal-criminal situations, the different forms of committing and concealing these crimes, there are many obstacles and difficulties in their detection. General information about this type of crime is of particular importance for the detection, prevention and combating of criminal offenses that are directly related to corruption. So, corruption is a general occurrence and a serious threat to society, and especially to countries that are going through the transition phase. Kosovo is not immune from this criminal occurrence either, which is still going through a general transition, and in particular its justice system is still fragile and this has influenced that it has not yet been possible to control this harmful and criminal occurrence in Kosovar society.

METHODS

The issue of preventing and combating corruption in Kosovo has been approached from a criminological perspective. The methods employed in this research paper are rooted in criminological sciences, including the survey-observation method, statistical analysis, the study of individual cases, and the examination of national and international evidence on criminality.

Utilizing a combination of qualitative and quantitative methodologies, the research aims to recognize, address, and analyze the occurrence of corruption. Through these methods, efforts have been made to propose relevant preventive and repressive measures to prevent and combat this criminal occurrence.

Strategies for Preventing and Combating Corruption

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Corruption such as bribery is present throughout the history of the state and society. It has always been considered as an inappropriate and harmful social occurrence. Corruption, according to the rule, is especially expressed in periods of crisis of certain societies, but also alongside the strengthening of the state, the development of business activities, the meddling of the state in the economy and the bureaucratization of society. Corruption has become one of the most important problems of organized states, because despite important legal efforts and mundane or temporary anti-corruption actions, it has become more widespread and reinforced. This means that corruption is almost impossible to eradicate. For this, in recent times, against criminality, it has been characterized as one of the biggest social evils (Vuković, 2003: 7).

We will succeed in preventing and combating corruption only if we are ready to draw bold conclusions about specific cases of corruption and highlight the shortcomings of Kosovo's state institutions in relation to this criminal occurrence. Depending on the emerging corrupt case, the first investigative actions and other actions may also be economic - financial, urban planning, technological expertise, as well as the questioning of the person, etc. All these actions are verified, getting to know the structure and character of the activity of the body or institution where the corrupt crime occurred, etc.

The verification is done through several investigative actions, such as the questioning of witnesses and, if necessary, confronting them, the questioning of the defendant, various expertises, starting with financial, economic, criminalistic, urbanistic, etc. During the investigation phase of the crime - abuse of office, the causes and circumstances that influenced the commission of this corrupt act are revealed.

Corruption crimes in the exercise of duty are generally committed in the workplace, but exceptionally also outside it, but which are always related to financial interests or certain benefits for state or public officials. Competent state institutions have the obligation to build a policy or strategy for the prevention of factors that influence the commission of this crime, on a national and local scale (Rinvest, 2005).

Corruption is not only an internal issue of the countries that have a problem with corruption, but it is also part of the international interest. The following are recommended as permanent tasks of international cooperation in the legal sphere:

Bringing national legislation closer to international legislation, especially that which regulates the presence of the state in the economy;

Continuation of the process of accession, ratification and signing of international instruments in the criminal field;

Expanding and improving judicial cooperation with other countries through bilateral and multilateral agreements;

Creation of the judicial network system between Kosovar and foreign institutions in the field of legal and criminal matters;

Cooperation in the field of surrender of criminals and their extradition;

Cooperation in the transfer of criminal prosecution in criminal cases;

Cooperation for transfers of convicted persons;

Recognition and adherence to international agreements and conventions that regulate international relations in these areas;

International cooperation in investigations of corruption, financial crimes and money laundering, including the relevant institutionalized cooperation between international partners and the police, judicial police, financial police, prosecution, etc. (Gjonca, 2004: 297-298).

It should be emphasized that the Convention of the United Nations Organization against corruption exclusively foresees that all states are obliged to prevent corruption and the necessity of mutual cooperation. Therefore, local, regional and international cooperation against corruption cannot be successful if it is not organized and regulated in a unique way at the national and international level. The prevention and successful combat against

corruption in Kosovo requires an all-round treatment regarding the causes and forms of its appearance, as well as the institutional and social measures that must be taken against this criminal occurrence, where the scale of the "dark number" and "gray number" is very high level. Among the most basic elements of prevention and the combat against corruption in Kosovo can be singled out:

termination and permanent establishment of the country's political leadership and all their anti-corruption bodies;

Institutional organization and cooperation at the local, regional and international level against corruption;

Ensuring the accountability of all officials in the state administration, government, political party, who are implicated in corruption;

Further reform of the police, prosecution and judiciary in the direction of the advanced organization of specialized bodies for the fight against corruption;

The more active role of the mass media and non-governmental organizations in the prevention and fight against corruption, which cite that organized crime and corruption are worrisome threats, which the Kosovo authorities must address in a comprehensive and efficient manner (KIPRED, 2010).

Two institutional mechanisms are essential in helping to prevent and fight corruption in new democracies: a strong, aggressive, independent media and a vibrant and developed civil society with non-governmental organizations and public interest groups.

Prevention and Combating Against Corruption in Kosovo

The combat against corruption in Kosovo, is quite often complicated since, in many cases, different state entities are involved, be it public officials, prosecutors, judges, police, etc. Also, a situation dominated by a "dark number" makes prevention and the fight against corruption even more difficult, since it is known that "no" state official fights for himself if he is involved in corruption.

Information and Knowledge About the Presence of The Occurrence of Corruption in Kosovo Is Provided in Different Ways

Sometimes these can be provided on the basis of external manifestations and the way of life of certain persons (enormous spending on hotels and motels, buying luxury cars, building shopping centers, building neighborhoods with luxury houses, villas, etc.). Public rumors, reports of citizens about the commission of these criminal offenses can also be useful in the process of their discovery. Even, collecting data for other criminal offenses such as misuse of official authorizations, falsification of official documents, etc. data on receiving or giving bribes can be provided (Latifi & Beka, 2013: 220).

Corruption in Kosovo is intertwined in single-source tenders from the ministries of the government of the Republic of Kosovo, which have increased during 2022. The value of single-source tenders has increased to 14 percent or over 78 million euros or 26 million euros more than in 2021. Single-source tenders allow misuse, therefore they should not be practiced. During the year 2022, the institutions of Kosovo (162), signed a total of 10,290 public contracts or 403 more public contracts than in 2021, worth 559 million euros (PRCP, 2023).

According to the Public Procurement Regulatory Commission (PPRC) report, it appears that the use of the negotiated procedure without publication of the contract notice (a source) has increased compared to 2021. This year, this type of procedure, which is not recommended and which is estimated to offer opportunities to misuses, has recorded an increase of 14 percent. 78 million and 569 thousand euros is the value of the contracts that were signed using the single-source tender procedure, while in 2019, when other governments were in power, their value was 68 million and 443 thousand euros. Whereas, the value of the contracts signed according to the open procedure during 2022 is €437,134,994.55, while according to the limited procedure during 2022 €18,584,229.24 (PPRC, 2023).

The value of the contracts signed according to the design competition procedure, during the year 2022, is €877,422.00, and according to the competitive procedure with negotiations, during the year 2022, it is

PREVENTING AND COMBATING CORRUPTION IN KOSOVO

€12,458,937.25, while according to the negotiated procedure without publication of the contract notice, it is €78,569,183.51, and the value of the contracts signed according to the price quotation procedure, during the year 2022, is €8,990,362.60. Meanwhile, according to the minimum value procedure, the value of the signed contracts, during the year 2022, is €2,402,784.75 (PPRC, 2023).

The above research shows that in Kosovo, the more one-source contracts are tied, the more the state budget is damaged, since the cost for the works, namely the services provided, is higher, since the illegal benefit in the form of bribes (corruption) is also calculated in the price). So, when there are fewer companies competing for each open tender, then it means that companies do not believe that contracts are awarded according to certain legal criteria, per instance, according to the lowest price and the highest quality. Thus, private companies are convinced that connections, favoritism and unfair competition determine who is awarded the tender for a job or service.

Solving and overcoming the problems presented as an obstacle in the detection, prevention and fight against corruption is achieved by serious treatment of this problem, such as:

Analysis of the existing state of this occurrence;

Obligations of political activity and general goals in this field;

Specific measures against organized crime and corruption in particular;

Formation of specialized anti-corruption institutions;

Full cooperation of detection, investigation and trial bodies;

Legislative regulation of special authorizations of certain bodies and organizations in detecting and fighting corruption;

Effective implementation of the law and measures in the control of institutions;

Programmed systemic corruption program;

Good governance, administration and full legality in the performance of the function of justice bodies, police, customs, inspections, municipal government bodies;

The scientific and professional approach to detecting and fighting corruption, educating the public and mobilizing the media in preventing and fighting organized crime and corruption in particular, per instance, discussions about corruption are becoming more active in Kosovo over the years. After unemployment and poverty, citizens perceive corruption as the main challenge (UNDP, 2012: 11).

Contemporary criminal science, with the research and measures it deals with, is clearly oriented towards crime prevention (Latifi & Demolli, 2019; Latifi et al, 2012). Therefore, the problem of preventing and fighting corruption must be treated, programmed and fought differently from other crimes. Corruption is carried out and "lives" through officials, representatives of power, political parties, governmental and non-governmental institutions and bodies in Kosovo. This occurrence is intertwined in the field of employment, licensing, tenders, obtaining documents and official permits in various fields of private interest, in trade, economy, education, health, police, parliament, government, ministry, etc. The investigation and other measures in discovery, trial and execution of punishment belong to the bodies of discovery, prosecution and judgment that are established with special procedures, with professional, political and constitutional responsibilities (Latifi & Beka, 2013: 224).

According to official statistics, in the first six months of 2014, the Kosovo police, for the criminal offense of corruption and bribery, handled a total of 19 cases, where 6 people were charged and 6 people were arrested. For the criminal offense of bribery in the first six months of this year, 30 cases were handled, where criminal charges were filed against 10 people and 6 people were arrested. Meanwhile, for the criminal offense of corruption and abuse of official position, the Kosovo police have handled 236 cases, where 106 people have been charged and 34 people have been arrested. However, during the first six months of 2014, the Prosecutor's Office of Kosovo, for the criminal offense of corruption and accepting bribes, had a total of 53 cases in which

53 people were implicated, of which 13 of them were resolved, although the cases were still unresolved. there are 19 subjects left.

For the criminal offense of corruption, bribery, the prosecution had cases involving 55 people, of which 24 cases were resolved and 16 of them remained unresolved. Even, for the criminal offense of corruption and abuse of official position, in the highlighted period, the Kosovo prosecutor's office had a total of cases involving 1244 people, of which only 372 were resolved while 1065 cases remained unresolved. During the six-month period of 2014, the courts of Kosovo for the criminal offense of corruption and bribery had a total of 171 cases involved, of which only 20 were resolved, while 77 remained unresolved. For the criminal offense of corruption and bribery, 87 people were implicated, of which 8 cases were resolved and 44 remained unresolved, while for abuse of office there were cases where 619 people were implicated, of which 93 were resolved while 573 remained unresolved.

During the period January - December 2022, the total number of cases in the Special Prosecutor's Office and in the seven basic prosecutions related to the criminal offenses of Chapter XXXIII of the Criminal Code of the Republic of Kosovo (Official corruption and criminal offenses against official duty) were 953 cases. The subjects carried over from the previous year (393 subjects), as well as the new subjects created during the year (560 subjects), contributed to this number. So, expressed as a percentage, 41% of the corruption cases of all courts that were at work during 2022 were carried over from the previous year, while 59% of the cases were new cases, created during 2022.

This figure shows that the flow of cases during 2022 in all basic and special prosecutions was higher than in 2021, where there were a total of 802 cases at work this year. So, in this year there was an increase in the flow of corruption cases by 17% (FOL, 2023: 11-12). Meanwhile, during the time period January - June 2023, the Prosecutor's Office of the Republic of Kosovo had 983 cases related to criminal offenses of corruption, of which 182 were resolved and 801 cases remained unresolved. The courts in Kosovo during the period January-June 2022 have made 26 decisions against those accused of the criminal offenses of the Corruption group, of which in 1 case the indictment is before the judicial examination, in 18 cases the accused was found guilty, in 6 cases the accused was acquitted and in 1 case the indictment was rejected (PCK, 2024: 12). Such a statistic shows the lack of efficiency of the prosecutorial and judicial system of Kosovo for this research period (FOL, 2023; 3).

It should be emphasized that the responsibility for corruption does not fall only to those who use public institutions for illegal enrichment, but also to the citizens themselves who give bribes, as well as to those who remain silent and justify these occurrences (Gashi, 2023; 272).

CONCLUSION

Corruption as a criminal occurrence is present during the entire period of the state's existence, severely infringing the basic values of society. This criminal occurrence has always been considered as inappropriate, harmful and seriously violates the best values of society. The occurrence of corruption primarily appears in periods of dominance of the "moral crisis of human society" and is encountered either in public or private institutions, as well as in their interactions.

Today, corruption has become one of the most important problems of states. Since there is no society where this criminal occurrence is not evident, the difference lies only in the level of occurrence, forms and causes of its manifestation. Therefore, eradicating this criminal occurrence is almost impossible, therefore minimizing its presence in society remains an essential obligation of all state and non-state mechanisms.

Sixteen years after independence, Kosovo is considered a state where corruption is considered a "normal" occurrence. This criminalized state is burdened even more, especially by the "dark number", which is large in size.

Various local and international reports regarding the level of corruption in Kosovo have clearly emphasized that corruption is widespread in the main institutions of the country and its high presence in the government, judiciary, police, etc., is worrying for this country. for more than two decades it is still in social, political, legal and economic transition. For these reasons, Kosovo finds it very difficult to move towards the European Union

without witnessing an effective fight against criminality, especially corruption and organized crime, which are quite prominent in Kosovar society.

Therefore, it is imperative that the bodies of the justice system in Kosovo join forces in order to increase efficiency in the general fight against corruption and organized crime, especially against the high profile of crime - "white collar crime". However, a successful fight against corruption cannot be reached at the desired level until the government (ministers, prime minister, deputy prime minister, ministers, political officers of the ruling party, etc.) issue public statements that seriously interfere with the independence of the justice system bodies, and in particular the prosecution, the Prosecution Council of Kosovo, the Judiciary and the Judicial Council of Kosovo.

This situation is aggravated even more when it is known that a number of ministers of the ruling party are accused and tried for various types of criminal offenses. In addition, it is also evident in the inefficiency, i.e. the lack of courage of some prosecutors and judges to deal with the high profile of corrupt officials and on the other hand dealing with small cases of corruption, thus shifting the attention of public opinion from high profile cases.

It is more than necessary to improve the existing capacities of Kosovo's institutions to fight high-profile corruption cases, which are also linked to various organized crime groups. Therefore, the confiscation of the property benefit obtained through a criminal offense is an important issue related to the prevention and fight against corruption and which should find many implementations in the Kosovar society.

Starting from the fact that the occurrence of corruption, if not fought in time, can boomerang back, defeating the state by installing a "corrupt system". It is considered that corrupt networks consist of criminal structures camouflaged in public administration, state bodies and various public institutions. Unfortunately, many facts impose the opinion that the state policy, by tolerating and not combating corruption even in its own ranks, is creating a corrupt system and thus, not only "legalizing" but also protecting corruption with the mechanisms of power, which are created exclusively for the prevention and combat against corruption

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