

Police and Fighting Corruption. Kosovo Case

FITIM SHISHANI

PhD. Candidate, Department of Criminal Law,
University of Prishtina, Kosovo

Abstract:

This paper argues the level of corruption in Kosovo and the Kosovo Police's struggle against this dangerous phenomenon for the society. The major economic, social and political developments taking place in Kosovo and the region certainly affect the appearance of different forms of crime, especially the organized crime and corruption. As a relatively new organization, the Kosovo Police is on the front line in terms of fighting corruption in Kosovo. The paper presents concrete tasks and structural organization of the police in combating corruption. Further, the paper presents some results of the Kosovo Police's work in dealing with corruption. There are some recommendations at the end of the paper for future police work so that the results in combating corruption in Kosovo are still more evident.

Key words: Kosovo Police, Department of Investigation, Corruption, Official Corruption, Kosovo.

1. INTRODUCTION

The Kosovo Police is a public service within the scope of the Ministry of Internal Affairs enforcing the law and public order. It was established on 6 September 1999. At that time, the OSCE Mission in Kosovo in accordance with United Nations Resolution 1244, opened the police school and started training candidates for members of the Kosovo Police. This service was run by the International Police for a long time almost in every

segment, even though their role was allegedly to be monitors. Powers and duties of the Kosovo Police, its organization and other issues related to the activities and actions of the police, are governed by the Constitution of Kosovo, the Law on Police No.04/L-076.¹ This law entered into force in March 2012. In the strategic documents of the Kosovo Police, a mission and vision is foreseen to provide law enforcement in a professional and efficient manner. Strategic objectives of the Kosovo Police are to protect life and property, maintain peace and public order, prevent and detect crime, protect human rights and freedoms and treat all citizens equally without distinction of race, color, religion, gender, and age. Naturally, the vision is to provide a competent, reliable police service to the people of Kosovo. Honesty, professional integrity, responsibility, accountability, self-restraint, etc., are some of the values proclaimed by the Kosovo Police.² However, despite the police's engagement, corruption in Kosovo is endangering the core values of our civilized democratic society, then bringing the dilemma of respecting the law, the equality of citizens before the law, violation of rights and freedoms of citizens. Due to the social risk of this phenomenon, the state is trying to fight any form of corruption successfully. The fight against corruption has very often dominated the statements of high officials of the Kosovo Government, including the Kosovo Police. They pledge every day for a rule of law and zero tolerance to corruption. In the national aspect of the fight against corruption, we consider that Kosovo should continue with the measures to disclose bank account secrecy, to increase state control in every institution of the state, improve services to citizens, but also to improve the role of public media in the anti-corruption activity. The Transparency International organization, in the corruption perception index for 2016, ranked Kosovo in the 95th place with 36 points among the 176 countries included in the report³.

¹ Article 1 of the Law on Police, No.04/L-076.

² <http://www.kosovopolice.com/sq/vizioni-misioni>, 14.03.2018.

³ <https://www.evropaelire.org/a/28502123.html>, accessed 14.03.2018.

However, one year after, (2017), Kosovo recorded an improvement in public perception of corruption.

According to the findings of the Corruption Perceptions Index published by Transparency International, this positive performance enabled Kosovo a 10-nation breakthrough in the overall rankings, from 95th place (2016) to 85th place (2017).⁴

2. DUTIES AND POWERS OF THE KOSOVO POLICE IN FIGHTING CORRUPTION IN KOSOVO

Corruption is a serious problem for many countries in the world. This finding does not save Kosovo either. It is difficult to find a definition that would be universally accepted, but we think that the definition of corruption according to Interpol expert group on corruption⁵ is a realistic finding: "corruption is any act or omission by individuals or public or private organizations in violation of the law or trust for profit." Duties and powers of the Kosovo Police are defined in Article 10 of the Law on Police No.04/L-076. Apart from the protection of life, property and security to the citizens of Kosovo, then the protection of fundamental rights and freedoms of all persons etc. other duties such as prevention and detection of crime and perpetrators, investigation of criminal offenses and their perpetrators, that is, of corruptive offenses are foreseen.⁶ The Criminal Code of Kosovo stipulates the official corruption and offenses against official duty in Chapter XXXIV.⁷ Criminal acts against the official duty are unlawful violations that hinder the regular functioning of public services performed by official persons in the exercise of their official duty or in relation to official duty. Therefore, today, this form of committing criminal

⁴https://www.transparency.org/news/feature/corruption_perceptions_index_2017#regional accessed 14.03.2018.

⁵ <https://www.interpol.int/Crime-areas/Corruption/Corruption>.

⁶ See Article 10, paragraph 1, subparagraphs 1.1., 1.2, 1.3, 1.4, 1.5. of the Law on Police, No.04/L-076.

⁷ See Articles 422-437 of the Criminal Code of Kosovo, No.04/L-82, that entered into force on 1st January 2013.

offense is considered to be of a high degree of risk for the society as it damages the moral values of the society. Based on the naming of these offenses - *official corruption and offenses against official duty*, the main element of these offenses is the violation of official duty by official persons through the unlawful use of official position and powers (Salihu, Zhitia, Hasani, 2014:1203). Such criminal offenses represent a great evil for Kosovo society. Violation of the official duty, as a fundamental characteristic of these criminal offenses is the violation of the integrity of an official person and the profession he/she exercises. Poor and corrupt administration in Kosovo is a major threat to society.

A corrupt administration undermines the image and authority of power, weakens the institution's progress, then loses the trust of citizens and as such can cause general uncertainty. But a great harm would certainly be achieved if the state bodies, including police or administration in general because of corruption, become indifferent or tolerant to criminals, linking it with the perpetrators. In this case, lawfulness would not exist.

2.1. Organization of Kosovo Police in the fight against corruption

The organization of the Kosovo Police is regulated by the Law on Police No.04/L-076. The Police is organized at central and local levels. The General Police Directorate is the central level responsible for the entire Republic of Kosovo. The local level includes the Regional Police Departments responsible for the regions comprised of certain municipalities, police stations responsible for local police in each municipality and police substations, responsible for local police within certain areas of a municipality. ⁸ The General Directorate of Police is headed by

⁸ Article 32 of the Law on Police, No.04/L-076.

the General Director and consists of departments, according to respective fields.⁹ These departments are as follows:

- a) Department of Operations;
- b) Department of Investigation;
- c) Department of Borders;
- d) Department of Support Services;
- e) Department of Human Resources.¹⁰

The Investigation Department with its units is responsible to prevent and combat corruption. The Kosovo Police's readiness to fight corruption can be noticed also in the objectives of the Investigation Department, as the primary objective is described as capacity building in combating crime, especially in combating organized crime and corruption.¹¹ Particular focus is given to capacity building through training, enhancing equipment and cooperation between local law enforcement agencies and international cooperation on information exchange, merger of criminal cases, confiscating assets acquired through criminal acts, arresting suspects, destroying criminal groups and providing evidence to justice.¹² The Department of Investigations within the Kosovo Police in its scope includes the Department for Investigation of Economic Crimes and Corruption. As a specialized directorate for the prevention, investigation and detection of criminal offenses against economy, finance and corruption, it creates pro-active conditions and engagement, using modern technology to successfully combat this phenomenon. The main activity of the Directorate for Investigation of Economic Crimes and Corruption is the investigation of cases provided for in the Criminal Code of the Republic of Kosovo and other sub-legal

⁹ See Article 33 of the Law on Police No.04/L-076.

¹⁰ <http://www.kosovopolice.com/>, accessed on 15.03.2018.

¹¹ <http://www.kosovopolice.com/sq/departamenti-i-hetimeve>, accessed on 15.03.2018.

¹² Ibid.

acts.¹³ In order to successfully combat corruption in Kosovo, the Kosovo Police incorporated the so-called "Anti-Corruption Task Force" in 2010 within the Department of Investigation, which acts as a unit specialized within the Department of Investigation aiming to prevent, investigate and detect criminal acts against economy, finance and corruption. This anti-corruption task force was established based on the Government's decision No.02/110 dated 26/02/2010 on investigating sensitive cases of corruption and financial character, for which the Special Prosecutor's Office of the Republic of Kosovo is competent.¹⁴ The public in Kosovo expects from Kosovo Police to maintain its professional integrity, continue to trust the police further and cooperate with police structures in preventing and combating corruption. But the precondition for such a thing, for the cooperation of citizens with the police, is not having corrupt police officers.¹⁵

2.2. Official corruption and offenses against official duty in Kosovo in the period 2014 - 2017 and police actions

Reported cases of criminal offenses of official corruption and criminal offenses against official duty for the period 2014-2017 and the concrete work of the police in relation to these cases for this period, are presented in this paper. The data shows a large number of cases reported in 2014, especially for offenses: *abuse of official position or authority, bribery, falsification of official documents, profit from official duty*. In 2015, a slight decrease

¹³ Ibid.

¹⁴ Ibid.

¹⁵ The Instruments Package on Police Integrity, the Geneva Center for Armed Forces Control (DCAF), 2012, Chapter 1, paragraph 2.4. defines police corruption as: "Direct or indirect request or acceptance by police personnel of money, valuables, gifts, favors, promises, rewards or benefits for himself/herself or any other person, group or entity in exchange for any act or omission (failure to act) committed or promised for omission, or inaction in the future during the performance or related to the performance of any or any police control function or related to it." This package was also handed over to Kosovo Police in 2012 by the DCAF.

can be observed in the misuse of official position or authority over the previous year (2014), embezzlement, bribery etc. but increases the number of cases reported for the criminal offense of exercising influence.¹⁶ In 2016, the number of cases reported for the criminal offense of misuse of official position or authority reaches the high figure (185).¹⁷ However, for many other criminal offenses we have the reported cases decreased in the Kosovo Police. The year 2017 generally represents a decrease in reported cases for the criminal offenses we have analyzed (*official corruption and criminal offenses against official duty*).

Table: 1

| CHAPTER XXXIV: OFFICIAL CORRUPTION AND CRIMINAL OFFENCES AGAINST OFFICIAL DUTY | 2014 | 2015 | 2016 | 2017 |
|--|------|------|------|------|
| 422 Misuse of official position or authority | 171 | 154 | 185 | 135 |
| 423 Misuse of official information | / | 1 | / | 1 |
| 424 Conflict of interest | 4 | 3 | 10 | 3 |
| 425 Embezzlement | 13 | 6 | 15 | 10 |
| 426 Deception | / | 2 | 7 | 1 |
| 427 Unauthorized use of assets | 1 | 1 | 1 | 2 |
| 428 Bribery (taking money) | 24 | 20 | 17 | 11 |
| 429 Bribery (giving money) | 40 | 41 | 29 | 33 |
| 431 Influence | 4 | 11 | 5 | 3 |
| 432 Unlawful issuance of court decisions | 1 | 1 | / | / |
| 433 Disclosure of official secrecy | / | 3 | 1 | 1 |
| 434 Falsification of official documents | 36 | 31 | 21 | 24 |
| 435 Unlawful collection and payments | 4 | 3 | 1 | 1 |
| 437 Failure to report or false report of assets, income, gifts, other material benefits or financial liabilities | / | 1 | 1 | / |

Based on the Kosovo Police data, the table below shows the concrete work of the police in relation to the number of received cases regarding the criminal offenses of corruption for the period of the above mentioned years (2014-2017).

Table: 2

| Year | Number of criminal charges | Number of persons against whom criminal charges were filed |
|------|----------------------------|--|
| 2014 | 198 | 449 |
| 2015 | 189 | 366 |
| 2016 | 181 | 330 |
| 2017 | 131 | 238 |

¹⁶ See Table No.1.

¹⁷ Ibid.

The data in Table 2 suggest that the number of criminal charges and the number of persons against whom criminal charges have been filed decreased from year to year. Normally, in criminal charges some persons may be involved, and after the decisions of competent Kosovo prosecutors' offices in the period 2014-2017, the Kosovo Police has also arrested people.

Table: 3

| Year | Number of suspects arrested |
|------|-----------------------------|
| 2014 | 165 |
| 2015 | 146 |
| 2016 | 139 |
| 2017 | 91 |

The data in Table 3 suggests that the number of arrested persons has fallen from year to year as a result of the police response to the fight against this dangerous social phenomenon. Due to the social risk of corruption, every country tries to successfully combat this phenomenon. Many countries see success in the fight against corruption in international cooperation and assistance under the Criminal Law (Extradition). The data we processed showed that the determination of the Kosovo Police to fight corruption is not lacking. However, Kosovo should engage the entire society in the fight against corruption broadly. Only the police with its activity is not enough to fight corruption in Kosovo. The success of the police depends greatly on how much citizens support it. Fighting corruption in Kosovo should not be seen as a duty of the police alone, but as an obligation of the entire society - its citizens. Therefore, corruption must be fought not only with repressive instruments, through legal punishments, but also through the influence on citizens' awareness of the damages they may have from corruption. (Horvatič & Leo 1999:197).

CONCLUSION

The police as a public institution was established by the state and society to protect and guarantee the rights set forth in the law, in order to serve the individual and the community. In Kosovo, as in any other countries, police is on the front line in combating corruption and other negative phenomena. The pace of general developments in Kosovo society is very fast, so police should respond as an organization capable of fulfilling its mission. The results in combating corruption in Kosovo are evident. But the reality is that despite the police engagement in Kosovo, corruption is continuing to jeopardize the core values of our democratic society. This paper clearly identifies the readiness of the Kosovo Police to combat this dangerous social phenomenon. The police focus based on its internal organization regarding corruption is further strengthening the capacities through training police officers, enhancing equipment and cooperation between the local authorities of law enforcement agencies and international cooperation on information exchange, confiscating property acquired through criminal acts, arresting suspects, destroying criminal groups, etc. In the time period we investigated (2014-2017), the study reflects the number of cases received by the police regarding the corruption. Then, the actions the police has taken during this time to fight corruption by filing many criminal charges and involving a large number of suspects in these criminal reports. Naturally, there were also arrests based on the orders of competent Kosovo prosecutors' offices. However, for the Kosovo society the problem is the official corruption and criminal offenses against the official duty set forth in Chapter XXXIV of the Criminal Code of Kosovo. Violation of the official duty as a fundamental characteristic of these offenses is the violation of integrity of official persons and professions they exercise. Even the weak and corrupt administration in Kosovo remains a major threat to society. A corrupt administration undermines the image and authority of the state, weakens the progress of

institutions and loses citizens' trust. For the damage not to be greater, we are giving the following recommendations:

Kosovo Police or the administration in general because of corruption, should not be tolerant to criminals, linking with perpetrators of criminal acts;

Kosovo police maintains its professional integrity if it wants the public to trust the police further and cooperate in preventing and combating corruption;

Kosovo police continues to be a civic, friendly, helpful and trustworthy force for the public. Police should dominate the crime. It should create the public image that it is such. If it does not provide the citizens' assistance of being informed about the actions of the corrupt and denouncing the suspects, the police will find it difficult to perform its duties. But the prerequisite for such a thing, i.e. for the co-operation of citizens with the police is not having corrupt police officers.

REFERENCES

1. Peak, Kenneth J, Gaines, Larry K & Ronald W, Glensor. (2004) *Police Supervision and Management: In an Era of Community Policing* 2nd ed, Pearson Prentice Hall. New Jersey.
2. Swanson, R.C. Leonard Territo, Robert, W. Taylor. (2005) *Police Administration, Structures, Processes and Behavior*, Prentice Hall. New Jersey.
3. Salihu, Ismet, Zhitija, Hilmi, Fejzullahu, Hasan, (2014) *Komentari i Kodit Penal të Republikës së Kosovës*, Prishtinë.
4. Horvatić, Željko, Cvitanović, Leo (1999) *Politika suzbijanja kriminaliteta*, Zagreb.
5. Yzeiri, Bajram (2003) *Manaxhimi i Policisë*, Tiranë.
6. Shishani, Fitim (2006) *Roli i policisë në parandalimin e kriminalitetit*, Prishtinë.
7. Council of Europe, *The European Code of Police Ethics, Recommendation Rec (2001) 10* adopted by the Committee

- of Ministers of the Council of Europe on 19 September 2001 and explanatory memorandum, Council of Europe, Communication and Research Directorate Strasbourg.
8. Geneva Centre for the Democratic Control of Armed Forces, DCAF (2012), the Instruments Package on Police Integrity.
 9. Law on Police, No.04/L-076. (2012) Prishtinë.
 10. Criminal Code of Kosovo, No.04/L-82. (2013) Prishtinë.
 11. <http://www.kosovopolice.com/sq/vizioni-misioni>,
 12. <http://www.kosovopolice.com/sq/departamenti-i-hetimeve>,
 13. <https://www.evropaelire.org/a/28502123.html>,
 14. https://www.transparency.org/news/feature/corruption_perceptions_index_2017#regional,
 15. <https://www.interpol.int/Crime-areas/Corruption/Corruption>.