

Corruption in Kosovo Public Administration

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Abstract:

Kosovo as many world countries is facing numerous challenges that are as a result of organized crime, corruption generally, including corruption in public administration. These harmful phenomena are causing dissatisfaction among citizens, especially due to the fact that the punishment of their perpetrators is marking stagnation and other big uncertainties. Corruption in Kosovo public administration is manifested in many different forms, but it dominates bribe accepting and abusing official position or authority. The consequences of corruption in public administration, though of different natures, mainly dominate those of economic-social character. This consequence demonstrates the main reflections on the state budget damage and in the loss of interest of international and local businesses to invest in Kosovo. The consequence of corruption continues to be also the flaws segment of country integration into relevant institutions of international character. Of course the biggest concern for the country with the weakest economy in Europe and the youngest population is the fact of not punishing corrupted people who belong to state and political high profile. Evident concerns are noticed also regarding the punishment of medium profile officials, which when accused minimum punishments are imposed to them. Therefore, in public and professional opinion is created the perception that Kosovo responsible state institutions, despite the assistance coming from EULEX, are powerless to win the fight against this social gangrene. In this regard, in order to return to the country economic, political and integration perspective is an immediate task of the responsible institutions to

exercise all legal responsibilities who guarantee efficient fight against corruption in general, especially corruption in public administration. During the preparation of this paper I have used historical-legal, dogmatic, comparison and theoretical analysis methods.

Key words: Kosovo, Corruption, punishment, public administration, public officers.

Introduction

Corruption in general and corruption in public administration as its integral part represents a harmful phenomenon with huge consequences for many countries and people all over the world. Of course, corruption consequences especially strike poor countries who have extremely limited state budgets such is the case with Kosovo. The consequences caused by corruption in public administration are of economic, political and psychological nature etc. This form of corruption damages the state budget, it affects in quality and legality of exercising public services, prevents capital investments, obstructs country's membership in international relevant institutions and when it is appeared at high levels and wide extent it creates the perception that is unbeatable. Kosovo continues to be a country with high level of corruption, whereas the fight against it is considered to be inefficient. It has marked an extent from the top of state pyramid to the foundations of that pyramid. There are numerous international reports, very serious proving this fact. This, and especially Kosovo interest and its citizens requires that the fight against corruption to be launched in governing and institutional priority generally. Within this article will be attempted to address the following issues: the meaning of corruption in general and corruption in public administration, the constitutive elements of corruption in public administration, some of the corruption forms in public administration and its consequences, the causes of corruption in public administration as well as the measures to combat it.

Theoretical treatment of these issues will be accompanied by a number of statistical data, their commentary and giving the suggestions for concrete solutions to the problems associated with the efficient fight against this phenomenon.

1. The meaning of corruption in general and corruption in public administration

In criminal legislation and legal literature until nowadays is not given any clear and full definition of the notion of corruption.¹ All this is considered to happen for at least two basic reasons: first because the word corruption is a relatively new expression, and the second due to the fact that still is not clear which entirely are criminal acts which would determine entirely the corruption crime figure.²

Despite this, I consider that by word corruption in general terms should be implied different forms of illegal actions which consist in request for giving bribes, accepting bribes, indirect bribery, illicit arbitration, influence trafficking, unlawful payment or requesting illegal gifts, payment of fees which are disproportionate to the services rendered, illegal actions during electoral process, illegal actions committed in order to secure evidence, expertise or false translation during court proceedings on purpose to be issued ordered judicial decisions, actions that target money laundering etc. carried out in order to achieve unlawful advantage.³

Finally, by the word corruption in public administration should be implied the illegal actions which violate normal functioning of state administration system, protected especially by criminal legislation. Such actions consist in taking money and other advantages, respectively in giving orders regarding

¹ Azem Hajdari, *Organized criminality*, Prishtina, 2006, pg. 130.

² Azem Hajdari, *Corruption criminal offences with special focus in Kosovo*, Prishtina, 2003, pg. 47-48.

³ Azem Hajdari, *Corruption a phenomenon that challenges Kosovo's future*, *Kosova Sot*, 06 January 2012, pg. 12.

the money taking and certain advantages from public officials of state administration which do not belong, or more than belonging for carrying out the work which they are in charged, constituting regular activity, or for performing works without having legal cover.⁴

2. Some of the most expressed forms of corruption in public administration

Manifestation forms of corruption in public administration are numerous and varied. They are such due to the nature, but also due to consequences and other circumstances characterizing this form of corruption. Within this paper, because of its nature and other influencing factors, will be discussed only about accepting bribe, abusing official position or authority and misappropriation in office.

2.1. Accepting bribes

Accepting bribe is committed in cases when the official person for himself or another person solicits or accepts money or any other advantage related to the exercise or non-exercise of official duty.⁵ The perpetrator action of this criminal offence according to the article 428 paragraph 1 of Kosovo Criminal Code is specified in an alternative way and consists in: requesting any undue gift or advantage⁶, accepting undue gift

⁴ Azem Hajdari, *Corruption criminal offences*,..., pg. 90-91.

⁵ Ismet Elezi, *Criminal Law, The special part*, Tirana, 2002, pg. 377.

⁶ The requesting of gift or advantage for himself or another person it may be done orally or in writing, or in any other way. In this case the official person suggests to a particular person that for performing an action which is not allowed to be performed, or refraining from acting which should be performed, the condition is to give an amount of money or benefit to official person.

or advantage⁷, or accepting an offer or promise for any undue gift⁸ or advantage.⁹

The undue gift or advantage may be requested or accepted directly or indirectly, by mediation of another person, in such cases is not important the number of people who have mediated and if are personally known the recipient and giver of the undue gift. The offence is considered to be committed by the fact the undue gift is requested, is accepted the undue gift or is accepted the offer or promise that the undue gift or advantage will be given.

The perpetrator of this criminal offence can only be the official person which for instance requests an undue gift for performing any work that is related to the exercise of his competencies and the offence can only be committed intentionally. The legislator for committing this criminal offence, depending on its form, has foreseen punishment by imprisonment up to six (6) months to twelve (12) years.

Based on the numerous reports of various local and international organizations in public and professional opinion is created the persuasion for a high presence of this criminal offence in Kosovo, especially in recent years. This fact is already proven by official statistics. Thus, according to Kosovo Judicial Council data including years 2008-2012 in total of 1457 corruption resolved cases 412 of them belong to the criminal offence accepting bribes.¹⁰ In fact, the number of cases for which

⁷ Acceptance of the gift or advantage may be done by taking the gift, by declaring that accepts the gift, by giving the consent to send the gift in a particular place etc.

⁸ Gift is considered any kind of material value (money, securities, car, apartment etc.) given to any person without compensation, whereas as other benefit may be for instance the employment of any official person's relative, enabling to get any loan with better conditions etc.

⁹ Accepting the promise that will be given a gift or any other benefit is expressed in cases when official person accepts the promise that after conducting any official service which he is supposed to conduct, or conducting any official service which according to the law he was not supposed to conduct, will be given the gift or any other benefit.

¹⁰ Kosovo Judicial Council reports over the way of resolving judicial cases for the period of time 2008-2013.

the State Prosecutor has filed an indictment for accepting bribes is much higher and for the abovementioned period includes the figure of 648 people charged. It must be emphasized the fact that some of these cases are pending, whereas a considerable number were dismissed for lack of evidences, statutory limitation on criminal prosecution etc. In line to high presence of criminal offence accepting bribes should be seen also the State Prosecution report according to which only during the four-month period (November 2013 - February 2014) were filed 83 indictments against 196 suspected people for involvement in corruption, concretely for accepting bribes. Among these persons is emphasized to be included eight Kosovo's government officials, six Kosovo Police officials, six officials from Kosovo Tax Administration, a mayor, two vice-mayors and two directors.¹¹

This situation, but especially the fact that a considerable number of criminal offences accepting bribes remain undiscovered is estimated to be a true concern for Kosovo society already tired from difficult social situation. Therefore, it is required increased engagement of police, prosecution and courts that such cases to treat with priority and to perpetrators to be imposed a deserved punishment.

2.2. Abusing official position or authority

Abusing official position or authority consists in undertaking illegal actions by official persons, during the exercise of official position or authority, undertaken with the intent to acquire any unlawful benefit for himself or another person or to cause damage to another person.¹²

According to the article 422 paragraph 1 of Kosovo Criminal Code the basic form of this criminal offence is

¹¹ Kosovo Prosecutorial Council action plan for corruption cases and filed indictments against those suspected to have committed offences linked to corruption. "Zëri" 15 March 2014.

¹² Afrim Shala, Special part of criminal law with cases from judicial practice, Gjilan, 2010, pg. 348.

committed by abusing official position or authority,¹³ by exceeding the limits of official authorizations¹⁴ and by not executing his or her official duties.¹⁵

Abusing of official position mostly includes the actions consisting in intentionally or knowingly violating a law relating to the official's office, duties or employment; intentionally failing to perform any mandatory duty as required by law; accepting any gift, fee or advantage of any kind as a result of the performance of an official duty unless the acceptance of the gift, fee or advantage is permitted by law; misusing government property, services, personnel, or any other thing of value belonging to the government that has come into the official's custody or possession by virtue of the official's office or employment; intentionally subjecting another person to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful and intentionally denying or impeding another in the exercise or enjoyment of any legal right, privilege, power, or immunity.

The perpetrator of this criminal offence can be only the official person and it can be committed only intentionally. For committing this criminal offence the legislator has foreseen that the perpetrator shall be punished by imprisonment up to six (6) months to five (5) years.

¹³ Abusing official position or authority exists if official person during the exercise of official duty performs actions within its authorizations, but does not undertake those actions in the interest of duty, with the intent to acquire any benefit for himself or another person unlawful material benefit or to cause damage to another person.

¹⁴ Exceeding the limits of official authorizations exists in the cases when the official person undertakes official duties which are allowed by the law but does not belong within its official authorizations, but those actions are in competence of another person, or under the jurisdiction of a completely different service.

¹⁵ Non-execution of officials duties exists in the cases when the official person does not perform official obligation which must perform it, or that action is performed in the manner by which cannot be achieved the goal that must be achieved. This form of criminal offence is committed when for instance the official person does not make the decision which he is obliged to make it.

Among the criminal offences of corruption nature the criminal offence of abusing official position or authority in Kosovo, observed in the context of period of time 2008-2013, it turns out to be the most common criminal offence. In this regard, according to Kosovo Judicial Council data from 1457 cases tried for corruption 522 cases have been qualified as criminal offences of abusing official position or authority.¹⁶ In fact, according to State Prosecution data regarding this criminal offence during the abovementioned period were filed 744 indictments. As it turns out also regarding this criminal offence, a number of indictments filed are pending, another number is rejected by some of them had withdrawal of the indictment by the state prosecutor due to the lack of evidences.

Also, the dark number of this type of criminal offence is estimated to be large, because it is considered that a number of cases were not filed at all by citizens. Reasons for this may be different, but they mostly are related to the fear for possible consequences that may be face citizens who file such cases.

2.3 Issuing unlawful judicial decisions

This criminal offence consists in performing of illegal actions which are expressed in making the unlawful decisions intended to acquire any benefit for himself or another person (by accepting gifts or other benefits) or to cause damage to another person.¹⁷

This criminal offence damages the normal functioning and the state authority, as well as the legitimate interests of natural and legal persons, protected by Criminal Codes from criminal acts.¹⁸

The actions characterizing the figure of this criminal offence consist in issuing the unlawful judicial decisions. Such

¹⁶ Kosovo Judicial Council reports regarding the manner of resolving judicial cases for the period of time 2008-2013.

¹⁷ Compare: Ismet Salihu, *Criminal Law, Special part*, Prishtina, 2011, pg. 532.

¹⁸ Azem Hajdari, *Corruption criminal offences,...*, pg. 82-83.

criminal offences are for instance the acceptance of benefits and gifts in order to release a person from detention.¹⁹

The perpetrator of this criminal offence can be only the judge, whereas the offence is considered to be committed when the unlawful judicial decision is issued. This criminal offence can be committed only intentionally and the perpetrator shall be punished by imprisonment up to six (6) months to three (3) years.

Based on the Kosovo Judicial Council data during the period of time 2008-2013 for committing this criminal offence were punished 58 judges.²⁰ This indication proves that this criminal offence, observed in digit terms, in comparison to two other types of criminal offences it turns out to be less present. However, comparing this with the number of judges (estimated very small) and other public officials in Kosovo (estimated to be over 180.000) the number of corrupt judges is estimated to be relatively high and with major consequences for the new state and big problems regarding the rule of law.

2.3. Some other types of corruption criminal offences in public administration

In legal literature are elaborated numerous areas which in the contemporary conditions are committed corruption criminal offences. Such areas, among others considered: taxes where in Kosovo during the period 2008-2013 corruption criminal offences were present in total of 175 cases, customs where these criminal offences were present in total of 101 cases and tenders with a presence of 288 cases.²¹

Overall, based on the Kosovo Judicial Council data, in Kosovo during the period of time 2008-2013 were tried for corruption offences 1457 persons, of whom for corruption in

¹⁹ Ibid, pg. 83.

²⁰ Kosovo Judicial Council reports regarding the manner of resolving judicial cases for the period of time 2008-2013.

²¹ Kosovo Judicial Council reports regarding the manner of resolving judicial cases for the period of time 2008-2013.

Kosovo public administration were punished 502 persons. This is a high and worrying number, because these criminal offences are damaging even more the functioning of public administration, which is evaluated as a necessity of time in order to obstruct and fight this form of corruption.

3. Some of the consequences caused by corruption in public administration

Corruption in any country whatever forms it may appear, it causes a numerous consequences, often incalculable. The consequences that corruption causes generally, including corruption in public administration may be of socio-economic, political, psychological nature etc. In the following of this paper will be discussed about these consequences.

3.1. The consequences of socio-economic nature

Although the consequences caused by corruption are of different types, the consequences of socio-economic nature are those who hit countries the most. In this regard, corruption in general and corruption in public administration represents the social phenomenon that extremely damages the state budget. "It hinders economic investments of potential local and international investors, the construction of modern road infrastructure, the widening of education and health network, the improvement of workers material situation financed from the state budget, retirees and those who need social assistance."²² These consequences especially hit states who have small national budget such is the case with Kosovo.

According to some predictions damage caused to Kosovo by corruption exceed several times the damage caused by other forms of classic criminality, and today they are evaluated to be millions of dollars. It is considered that only in the field of tendering, beneficiaries of tenders are obliged to pay in the

account of senior public officials 10-20 % of total monetary value of the tender. The damage here is evident because in the case of capital investments, these senior public officials influence that the tender to be given to the firm who offered the highest price and this is justified in the manner that other companies are not responsible. In this illegal business, according to the public and professional perceptions are included also senior international officials operating within international missions in Kosovo.²³ In this regard, it is worth it to mention the case of tenders in Kosovo Energy Corporation where in 2002 is estimated to have been acquired over 4.5 million EURO. Such abuses have been made also in the Post and Telecom of Kosovo and customs etc.²⁴

For the high level of corruption in Kosovo public administration have warned also the reports of different international organizations, but also those of country's civil society. In this regard, the report of international organization Transparency International published related to the situation of corruption in the world ranks Kosovo in place 110, with only 2.8 points, respectively in the worst position in Eastern Europe (The report in 2011). Also, according to the findings of Early Warning Report of the United Nations for development the degree of corruption presence constitutes one of the key challenges for Kosovo in the coming years (The report in 2011). Finally, the report of Freedom House in 2014 draws the remark for the high level of corruption in Kosovo judiciary.

Faced with this situation, it is a legal duty of leading institutional factors to undertake every measure allowed by the law and thus take the responsibility they have in fighting the corruption and all other forms of criminality in Kosovo, in order

²² Azem Hajdari, Corruption a phenomenon that challenges Kosovo future,..., pg. 12.

²³ Regarding the tender for printing biometric passports among the defendants is also german citizen Natalija Velju.

²⁴ Azem Hajdari, Corruption criminal offences,..., pg. 56.

to release the country once and for all from the existing insecurity.

3.2. The consequences of political nature

The realities of contemporary life prove for the close existing relationship between corruption in one side and economy, business, tenders, political life etc, on the other side. The experience proves that the corruption perpetrators in public administration in many countries have powerful influence into political life course. “This situation affects directly also in the presence of social turmoil and different government crisis. It causes stagnation in economic development, in political and institutional reforms, obstacles and difficulties in the integration of country in international institutions and organizations, antipathy towards such state “problematic” etc. In fact, the corruption, especially when it is linked with persons who exercise high public functions, it causes also the loss of hope for citizens regarding the country's perspective and theirs, because it is created the impression that is unbeatable.”²⁵

Already it cannot be removed the doubts about the impact of corruption in government crisis including different countries in Europe and wider. The extreme problems accompanying Kosovo during elections and the progress of establishing central power, but also of local power are evidence of high presence of corruption in country's public administration. How can it be differently explained the struggle that is taking place for the prime minister position from political parties which in elections remained in the third or fourth place, respectively the uncompromising struggle that is taking place from leaders of political parties to be part of the government. “In fact, the data conducted by Anti-Corruption Agency prove for great increase of senior state officer's wealth during the time they exercise functions of state responsibility. Thus, according to this Agency the wealth of President of

²⁵ Ibid, pg. 57.

Kosovo Supreme Court it turns out to be over 1 million EURO. Such is estimated to be also the wealth of some judges, prosecutors and some holders of ministerial position.²⁶

3.3. The consequences of psychological nature

Besides the socio-economic and political consequences corruption causes also psychological consequences. The fact that perpetrators of corruption criminal offences mostly appear official persons, it affects to a part of the public opinion to be created the impression that this criminality is unbeatable. The cases of affairs and scandals concerning the doubts for corruption in public services and corporations, infrastructure construction, in printing of biometric passports²⁷ and the fact of not bringing before justice all of those persons for which exist the reasonable doubt that they have committed corruption criminal offences are factors who exercise direct psychological effect in different categories and groups of citizens. This affects in a low level of citizen's participation in elections and other political processes, to the extent that to some individuals may stimulate motives to seek possible ways to be linked with affairs and scandals of this nature.²⁸

4. Some causes of corruption in public administration

In committing corruption in public administration affect numerous and varied factors. As main factors who affect in committing this form of corruption are considered:

1. The low salaries of employees in public administration;
2. Disrespect of laws and regulations for maintaining normal functioning of state bodies and public services activities; and

²⁶ Anti-Corruption Agency shed light justice people assets, Kosova Sot (29 June 2014), Prishtina, pg. 5.

²⁷ Regarding the tender for printing of biometric passports is estimated to be misused over 2 million Euro of state budget.

²⁸ Azem Hajdari, Corruption criminal offences,..., pg. 57-58.

3. Poor activity of state bodies and public services.

4.1. The low salaries of employees in public administration

Corruption in public administration similar as criminality in general have their causes in direct and concrete socio-economic conditions of people's life in a certain country. This fact is proven in the best way by numerous researches conducted in a number of countries with a low level of economic development. Here especially are specified the cases of Bulgaria, Albania, Serbia etc. According to these researches one of the corruption causes in public administration of these countries was and it continues to be the very low level of incomes that employees realize in state bodies and public services.²⁹

As is known, according to a report of World Bank in 2013 in Kosovo 29 % of the population live in extreme poverty with only one Euro per day as well as employees incomes are estimated to be very low.³⁰ Therefore, is considered that the low level of salaries regarding Kosovo public and state administration employees is one of the social factors that have great weight in the presence of corruption in public administration. Consequently, a better salary for employees of public administration it may be an important stimulation that can lead in the decrease of corruption level among Kosovo public administration employees. But, this measure must be accompanied by a number of other measures, because the experience proves that the high salary is not always a guarantee of eliminating corruption in this sector. Regarding this it is sufficient to take a look the situation related to Italy.

²⁹ Ibid, pg. 99.

³⁰ According to the report of Kosovo Statistical Agency the average of personal incomes in Kosovo is under 200 Euro. The report was published in November 2013.

4.2. Disrespect of laws and regulations for maintaining normal functioning of state bodies and public services activities

The normal functioning of state bodies and public services activities is provided through certain laws and regulations. Kosovo currently possess a basic legal structure that makes possible a successful fight against corruption.³¹ Consequently, this legal structure needs additions and changes, and especially the Law on Public Procurement, in which are noticed some uncertainties related to the role of ministers and mayors in signing tendering contracts issues, because in practice are those senior state officers that mostly determine who will be given concrete tenders. The violations of these rules and regulations often open paths for committing corruption criminal offences. Persons in charged with specific duties in state bodies and public services have special responsibility in order to ensure normal functioning of their activity. All this responsibility is dedicated to the goal of preserving the state authority, public property, but also to the property and other interests of natural and legal persons.³²

Consequently, as corruption favorable conditions in public administration are considered actions or omissions of financial bodies and state control, including the police and prosecution, as well as not exercising on the right time and with quality of economic financial controls and state control over the use of cash and material means. Especially not exercising of control over customs, the activity of state bodies and municipality services it affects directly in appearance of corruption in public administration.

Disrespect of laws and regulations in order to maintain the normal functioning of state bodies and public services activities appears also in not taking the appropriate legal

³¹ Kosovo already has the Criminal Code, The Law against corruption, The Law on confiscation of property acquired by criminal offence, The Law on declaration of assets of senior public officials etc.

³² Azem Hajdari, Corruption criminal offences,..., pg. 108.

measures (administrative measures and punishments) from justice bodies and other bodies against all those persons who proved to have committed any of the corruption criminal offences in public administration.

4.3. Poor activity of state bodies and public services

Favorable condition in committing corruption in public administration undoubtedly represents poor job of police, prosecution and courts in detecting, prosecuting, arresting and convicting perpetrators of this corruption form.³³

Consequently, a successful fight against corruption in Kosovo public administration requires professional and teamwork of all factors involved in detecting of these criminal offences, prosecuting, arresting and convicting their perpetrators. This, based on the fact, that the manners of committing these criminal offences in current conditions are becoming increasingly sophisticated. In addition, the detection of these criminal offences and their perpetrators requires modern technological tools, tools which did not possess always Kosovo Police. This and other factors determine the issue of detecting key proofs and delay of investigations, respectively their merit in evidences that may not serve to the case. It is worth it to mention the fact that despite the achievements, Kosovo Police work continues to be followed by numerous problems in functioning of its activities.³⁴ It is considered that these problems have had their impact in the inefficient fight against corruption in public administration during the period of time 2008-2013.

A successful fight against corruption in public administration requires also making the right decisions against the accused persons for committing of these criminal offences.

³³ Compare: Ismet Elezi, *Criminal legal protection of property*, Tirana, 2002, pg. 173.

³⁴ Kosovo Police statistics prove that 1011 police officers so far have been fired. The reasons for this are of various natures, including their involvement in criminal activities.

Therefore, the weaknesses appeared in the courts activities may be in favour of committing these criminal offences. These weaknesses may be appeared in those cases when courts by unjust decisions release from the accusation corruption's perpetrators in public administration (such solutions for the period of time 2008-2013 Kosovo courts have tried 115 cases), under the pretext there is no sufficient evidences to prove the accusation, respectively by imposing them lenient sentences. Sadly this reality has followed Kosovo courts activity in 90 % of tried cases.

As other factors of committing corruption in public administration are considered also political and social circumstances, public media, the lack of relevant national anti-corruption mechanisms,³⁵ social environment etc.

5. Some of the measures for preventing and fighting of corruption in public administration

For preventing and combating corruption in public administration as well as the criminality in general during the historical development of human society were used different tools and methods. All measures used for combating corruption in public administration may be divided into: preventive and repressive measures.

5.1 Preventive measures

By the word preventive measures is understood the entirety of actions undertaken by a wide range of state entities and their goal is the prevention of criminality appearance as socio-pathological phenomena, through the elimination and fighting

³⁵ Kosovo except classical institutions (police, prosecution, courts and penitentiary institutions) in order to advance the fight against corruption has established also Anti-Corruption Agency and National council against corruption. The establishment of those and other mechanisms for instance Anti-Corruption Task Force at Special Prosecution, despite the good intent

of causes and conditions who determine it.³⁶ Preventive measures undertaken in order to obstruct the committing of corruption in public administration may be numerous and varied. Such measures may be of general and concrete nature.

Measures of general nature have to deal with the increase of civil servants welfare and those of public services, the increase of responsibility level at work, social environment change and its humanism, strengthening democracy and rule of law.³⁷

Whereas by special nature measures is implied measures undertaken by judicial bodies and other state and social entities of certain community. These measures regarding corruption in public administration should be focused on:

1. Issuing of relevant legislation;
2. Establishment of effective mechanisms against corruption;
3. Effective exercise of responsibilities by police, state prosecution and courts with the purpose of detecting, prosecuting, arresting and punishing perpetrators of these criminal offences;
4. Better work organization in security issues and re-socialization of prisoners in penitentiary institutions, in order to avoid cases of recidivism;
5. Advancement of international cooperation level between police, state prosecution and Kosovo courts to other states and specialized institutions for fighting crime (Interpol and Europol);
6. Advancement of state control services working level (inspections, audit authorities etc) in Kosovo public administration work etc.

accompanied their establishment proceedings, did not bring any advancement of fight against corruption generally neither corruption in public administration.

³⁶ Milan Milutinoviq, Criminal policy, Prishtina, 1987, pg. 388.

³⁷ Ibid, pg. 381.

It is evident that the implementation of these and other measures of this nature in Kosovo did not have a good performance during these transition years. In this regard, is estimated that undertaking such measures that would affect, among others also in the elimination of illegal businesses, the application of obligation to use fiscal cash for any business, the elimination of unlawful and corrupt decision-making etc is the best guarantee of long-term fighting corruption in Kosovo public administration.

5.2. Repressive measures

Repression is another form of social reaction against criminality. That job is entrusted mostly to bodies and specialized organizations, and in the first place state bodies (police, prosecutions, courts, punishment execution bodies etc). Repressive measures are foreseen by the law and as such are intended to protect life and other human values and society from criminal acts.³⁸

Repressive measures used to combat corruption in public administration can be of two types: the policy of detecting and prosecuting of corruption perpetrators in public administration and the policy of application criminal sanctions against their perpetrators.

5.2.1. The policy of detecting and prosecuting of corruption perpetrators in public administration

Detecting and resolving of corruption in public administration and its perpetrators is very important in combating this form of criminality. The detection of this criminal phenomenon is very significant also in decreasing of its dark number. It is considered that until now in Kosovo is not done enough in detecting corruption in public administration. The reasons for this are numerous and varied “Those first of all have to deal

³⁸ Azem Hajdari, *Corruption criminal offences,...*, pg. 124-125.

with the committing circumstances of this form of corruption,³⁹ but mostly by inadequate treatment of competent bodies regarding corruption in public administration and its perpetrators (negligence in detecting and fighting).⁴⁰

Apart from detecting and indicating corruption in public administration a key issue in order for justice to prevail against crime is the detection and bringing to justice its perpetrators. The results of this paper prove that in this regard, despite the results achieved, regarding police and prosecution work were manifested significant stagnations. These stagnations usually were expressed in the investigation of senior public officers (ministers, deputies, judges, prosecutors etc.) “Thus, according to the Kosovo Police data for the period of time 2008-2013 were filed 2467 criminal reports related to the corruption phenomenon in public administration. Among the investigated persons, according to the used data, (excluding this year cases which have been discussed above) were included only the names of a deputy prime minister (to whom the investigation was later dismissed) and a former minister, two prosecutors and three judges.”⁴¹

After detecting corruption perpetrators in public administration, in order for the fight against this form of corruption to achieve desired effects is indispensable that perpetrators be prosecuted and arrested. The results of this paper prove that during the period of time 2008-2013 for corruption in public administration were arrested 876 persons, of whom 754 were released after expiration of deadline from 48 hours of their arrest.⁴² The data used prove that so far for corruption in public administration are being held in custody 136 persons.

³⁹ Compare: Azem Hajdari, War crimes against civilian population in Kosovo during the period of time February 1998-June 1999, Prishtina, 2002, pg. 252.

⁴⁰ Azem Hajdari, Corruption criminal offences,..., pg. 127.

⁴¹ See Kosovo Police statistical data during the years 2008-2013.

⁴² See: Statistical evidence of State Prosecutor over indictments filed during the years 2008-2013.

To achieve a more successful fight against corruption in public administration is required an advanced commitment of authorized bodies to combat crime (police, state prosecution, courts, Anti-corruption agency etc.) de-politicization in the work of these bodies, cooperation and professional teamwork which in matters dealing with the fight of this form of corruption are more than necessary.⁴³

5.2.2. The policy of application criminal sanctions against corruption perpetrators in public administration

Successfully combating corruption in public administration may contribute significantly, by applying the appropriate penal policy in the field of criminal sanctions application. “In this regard, the main role belongs to punishments imposed against perpetrators of criminal offences in criminal proceedings”.⁴⁴ In this case, is understood in adequate punishments, such that are in line with social dangerousness degree of the offence and its perpetrator.

Modest results of this paper prove that during the period of time 2008-2013 courts have punished by imprisonment 97 persons, which were punished by an average of 2 years and 3 months imprisonment; punishment by fine 231 persons; suspended sentence 163 and other punishments 11 persons. It is worth it to emphasize the fact that during this period of time has come to statutory limitation of 62 cases for which indictment has been filed.⁴⁵

These data prove that Kosovo courts against perpetrators of corruption in public administration have

⁴³ This is due to the fact that with commission of this form of corruption mainly deal high professional prepared persons, persons of high positions in state bodies and public services, which by using sophisticated committing methods leave no crime trace behind.

⁴⁴ Milan Milutinović, *Criminal policy,...*, pg. 258.

⁴⁵ See Kosovo Judicial Council data in the manner of resolving cases for the period of time 2008-2013.

applied relatively soft penal policy as well as in their job it has been noticed a considerable work negligence.

Bearing in mind the high level presence of corruption in Kosovo public administration, and especially the major consequences this form of corruption is causing to the country, especially in economic aspect, but also political and integrating ones I consider that courts regarding this phenomenon is supposed to aggravate to the maximum penal policies and given top priority to corruption cases. As long as this approach will be absent, the damage that Kosovo will incur will be very large, whereas the strength to fight this form of corruption could be weakened even more. Therefore, it is estimated to be the last time when institutional responsible people should declare a national interest the fight against corruption, regardless of who and how many would suffer from such fight.

Conclusion

Corruption in public administration represents a long history phenomenon. This form of corruption is present especially in modern societies expressed in new and very dangerous forms. This corruption, regardless of the appearance form, poses a serious crime that causes numerous social and psychological consequences etc.

In appearance of corruption in public administration affect many and diverse factors. From the results of this paper I came to conclusion that in the appearance of this form of corruption affect social-economic circumstances, non application of the existing legislation, the lack of appropriate legal framework and respective institutional mechanisms as well as other circumstances determining social life in a country or particular nation.

In this paper is ascertained that corruption in public administration causes numerous consequences, considerable material and financial damage. It damage directly the state budget, which obstructs economic investments, building

infrastructure, the improvement of workers material position financed by state budget and those who need social assistance. This type of corruption causes various governmental crisis, and psychological depressions as well as stimulation for criminal activity of individuals and criminal groups.

Corruption in public administration appears in different forms, but they mostly are manifested in accepting bribes, abusing official position or authority etc. During the analysis conducted regarding corruption forms in public administration is concluded that by their actions is damaged respectively is violated the regular activity of state and public bodies, is damaged the authority of these bodies and services in people, and is damaged and violated legitimate interests of nature and legal persons.

In prevention of corruption in public administration a special importance has the consolidation of democracy and rule of law as well as the de-politicization of state administration and public services. In order for this to happen is necessary that state bodies and public services to increase the efficiency of their work, including a greater efficiency of judicial bodies in combating crime.

In combating and preventing corruption in public administration the role of criminal legislation is very important, because by incrimination of dangerous behaviours, it affects preventively against citizens who refrain from committing criminal offences, and support the necessity for it to be efficient and implemented, in order to provide acting wide opportunities to criminal judicial bodies.

In fighting corruption in public administration is very important the appropriate punitive policy. This policy in Kosovo is estimated to be soft and insufficient in order to fight effectively this form of corruption. Therefore, I consider that an aggravation of punitive policy can be an important contribution in decreasing this form of corruption.