Project against Economic Crime in Kosovo[*] (PECK)
www.coe.int/peck

Technical Paper

Interactive Statistics on Economic Crime in Kosovo

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[*] This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

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1.   Background

The present paper is the output of a two-day workshop on data collection, maintenance and reporting of statistics for assessment purposes organised in the framework of the PECK Project on 26-27 February 2014 in Pristina.

The need for such workshop stemmed from the findings of a comprehensive assessment of Kosovo's compliance with international standards in anti-corruption (AC) and anti-money laundering and combating the financing of terrorism (AML/CFT) areas carried out by the PECK Project on the basis of GRECO and Moneyval modelled methodologies specifically tailored for Kosovo. One of the deficiencies identified by the assessment was lack of statistics and/or lack of harmonisation of available statistics on economic crime between the reporting institutions.

The workshop brought together about 50 representatives of all relevant institutions, including 7 basic courts and prosecution offices in Kosovo and allowed for a discussion and exchange on the current state of play with regard to statistics in each respective institution, and good practices of producing reliable and unified statistics on economic crime based on the Dutch and UK practice.

2.   Basic principles

Using statistics is a way of describing the world in countable units and strictly defined 'colours' or characteristics. These characteristics and colours belong to countable 'entities'. The world of law enforcement consists in essence of entities such as criminal offences, offenders and ways these are handled by consecutive bodies which consist of police, prosecution service and the courts. Together they have to produce reliable and transparent insight into their performance. One of the ways to perform that is to produce statistics in such a way that the law 'enforcement world' is described in a precise and comprehensible manner.

This is a general simple principle which in the field of law enforcement is served by diverse agencies each tasked with a phase in the handling of criminal offences and offenders, and consequently each having a different perspective on using statistics. In terms of daily work this means that each agency develops its own database. As these agencies deal with basically the same counting units − offences and offenders − these databases should be interconnected. Whether that is the case is uncertain: each agency has its own internal routines and management requirements which may lead to idiosyncrasies of its database. These may impede the cross-agency development of a common database and as a result a unified description of the field of law enforcement. However, it should be noted that this is not a necessary outcome. Idiosyncrasies can exist next to an inter-agency shared core of common data: each institution can constitute its own dataset from which to compile the internal management information in order to assess and understand their own performance and position. However, that can be accomplished within a framework of common definitions and data-entry format: the general and particular do not need to contradict each other.

It is also relevant to determine at what point each of the various administrative datasets are considered to be recognised genuine 'statistics'. In the main, only data produced or assured by the official national statistics institution should be considered or published as formal statistics. All other datasets and related statistical presentations should be considered as 'management information' rather than official 'statistics'. By making this clear distinction users of statistics can have a justified confidence in the statistical presentations published as official. This does not mean that other datasets and the presentation of their analyses should be ignored. But they must be taken for what they are: internal management representations.
Therefore, for the criminal statistics, it may be necessary for the resources available to the statistics institution to be examined and, if relevant, improved or increased in order to ensure they are able to effectively coordinate the production and publication of those data. At the same

time all other institutions involved in the criminal processes should ensure that their databases are available and linked to the statistics institution. Ideally and in the end all agencies (police, customs, prosecutors etc.) should consider convergence of their recording and tracking systems to a single IT framework. This implies agreement on the definition of counting units (offences and offenders) and variables (characteristics and processing steps) allowing the various statistical products to be extracted at the various levels required. To achieve this outcome the agencies should examine their arrangements for recording to operate using standardised templates.

3.   Incident reference numbers and recording

Naturally, a counting unit is a single identity which cannot be changed without getting another counting unit as another identity. If this principle is not heeded the danger of double counting and database pollution arises. Though this sounds self-evident, it appears that various institutions dealing with separate processing phases of criminal cases allocate for each phase a different number: special controlling agencies such as customs, the police, prosecution and courts.

It was apparent that while the initial number remained on the case, it presents a challenge to develop datasets in each other agency to track and follow the results from the initial report through to the final disposal of the case. In order to fully understand the volumes of crimes being reported or discovered and subsequently the actions taken by each successive agency, it is imperative that there is a standardised arrangement for the initial recording of all crimes and this initial recording is retained through all phases of the law enforcement system.

This should prevail across all the agencies that might identify crimes or receive/exchange reports of crimes (police, customs, FIU etc.) as well as the Prosecution Service and the Courts. This requirement should ideally be embodied in the relevant legal codes or regulations for each agency or body. This applies across all types of crime not just economic crime.

To begin the process, the agency which initially receives a report about a potential criminal event should record all reports it receives around all matters including those which have an uncertain criminal law status. There should be a dataset which sets out the extent of the total numbers of reports made and each report should be allocated an (police) incident reference number so they can be identified and counted. Thereafter all those incidents which are deemed to be crimes must then be allocated a unique crime reference number.

As stipulated above (paragraph (2)) this number should be maintained through the entire judicial processing system. At each point where a decision is made to either take the case forward or to take no further action a statistical count can then be made. This count indicates the results from each stage of the process. In addition, a breakdown along other variables can provide a more detailed picture of the activities and performance of the relevant agency combined with characteristics of the criminal offence and the perpetrator(s).

This arrangement should also apply to all the other agencies concerned. For example, Customs should also record all incident reports and all cases they deal with irrespective of the decision they make around how to resolve the matter. Each institution should supply their resulting datasets to the Statistics Agency to allow them to develop statistics setting out the analysis of criminal activity and the actions taken in a defined time span.

4.   Person identification number

The previous section elaborated the crime reference number. The next main important 'counting unit' is the person involved. Once any person is identified as a suspect related to the incident he/she should be allocated a name reference number which must be unique to the person and

directly linked to that person's name and date of birth. That name number should then be attached to the crime number to which it relates. This implies that at this reporting stage a composite number is created: the incident plus person number. This is the basis for the development of a national database of 'nominals' which can be searched by any of the relevant agencies so that whenever a suspect is identified they can check to establish whether he/she has previously been a suspect or offender in a previous case or a case running in another court district. If that is the case the pre-existing nominal number can then be attached to the new incident/crime.

5.   Case identification number

If the reported incident and the connected suspect are not dismissed or dealt with by another non-prosecutorial modality (reprimand, warning, damage compensation), what by then has become a 'case' will be submitted to the Public Prosecution Service (PPS). The PPS plays a central role in the law enforcement system: it is the receiver of all cases which the police (or special law enforcement agencies, such as the customs) do not terminate themselves and it is the 'gatekeeper' to the courts −given its discretionary power not to indict.

At the level of the PPS processing the submitted case gets a case number which is added to the composite crime reference and name number. As is the case with the unique crime and name reference number, the case number remains the same in the successive phases of case handling: the courts of first and higher instances.

6.   Cross-referencing

In most of the cases the situation is that there is one crime reference number, one name number and one case number in cases in which one person committed one transgression which may lead to one case (number). However, in economic crime matters and (grand) corruption such one-to-one connections between the identification numbers are not a usual occurrence. Economic criminals may have committed a series of offences, while in each offence two or more suspects may be involved. Also at the level of prosecution and trial there may be some complexity concerning numbered incidents and defendants. In one case a multiple of perpetrators may go on trial for a number of offences. The arrangement should be such that these are connected in a way that a search with a criminal reference number leads to the connected recorded suspects (name numbers) and case numbers which in its turn lead to the outcome: dismissal, acquittal, sentences and punishments. Likewise, a search with a case number must lead to the person identification number(s) and the criminal reference number(s).

7.   Suggested format for a unique Crime Reference Number (CRN) system

Given an agreement on the principle to adopt a unified data collection system for law enforcement agencies based on the reference number assumptions mentioned in the previous sections, a proposal for a system is elaborated in this section. It draws heavily from the statistical system being used in the Netherlands enriched by the reference number principle of the UK.

Though the title of this section points at the Crime Reference Number (CRN) system as a shorthand, it is actually a 'CRN +' system, as it also encompasses the prosecution and the courts where the case identification number and the name reference numbers are more usual for tracing cases and reporting on the performance of the PPS and the judiciary. In this section suggestions for all three are elaborated and an indicative approach is outlined to the development of a consistent statistical tracing and analytical system which could be applicable to all the law enforcement and criminal justice institutions in Kosovo.

a. The core crime reference number

The proposed registration number with which each record starts is the following:

KP│010114│01│0001

where KP is the Kosovo Police, 010114 is the date of recording, 01 is an identifier to indicate the specific police station or police department and 0001 is a unique specific sequential number.

This could then be applied to all other agencies for example:

KC│020114│02│0001

Here KC is Kosovo Customs and the other parts the same as above. Similar codes could then be added for other agencies such as law enforcement authorities.

b. The name code

Next the name reference number must be added, that is, if one or more suspects have been identified, which is usually the criterion of 'crime solved' (even if it may later be falsified by the prosecutor or the court). Like the initial reference the person number is unique and will therefore remain the same through all the processing phases. A code must be designed such that the chance of one name code referring to two individuals will be minimal. The date of birth and two letters −e.g. the first letter of the first and family name −could form a suitable code. For example:

KP│010114│01│0001│29031991KZ

For the recording of Kelmend Zeka, born on 29-03-1991, reported to be connected to a criminal event on 01-01-2014 in Pristina.

c. The case number

Once a report about a criminal event has entered the Public Prosecution Service, it gets a case number. Like the name and crime numbers, the initial case number will remain invariable up to the last instance and execution of an imposed sentence and/or confiscation. However, during the process this invariability may be compromised because the prosecution or the court may decide to fuse one case with another or the reverse, one case may be split into two or more cases. The statistical provision for this contingency is to maintain the original number next to the new case numbers. This allows analysts to trace an initially registered case and defendant(s) through all phases of processing till the finalisation.

d. Additional variable clusters

The identification numbers (crime, name and case) above help to trace and track perpetrators and cases through the system, but their statistical meaning will be limited. A number of important variables have to be added to obtain sufficient content for a meaningful analysis of the patterns of crime, perpetrators and the efforts of police, PPS and the courts.
There are four groups of variable clusters which matter for carrying out analyses based on the three reference numbers:

1. criminal offence data;
2. person variables;
3. process steps and phases;
4. decision outcomes.

1. Criminal offence data

Naturally, there is no criminal statistic without crime data. However, crime data are not easy to capture unambiguously: the Criminal Code is not written for statistics and its complexity is a nightmare for statisticians. To reduce this complexity it is a common practice to use the section (article) numbers of the Criminal Code with the simplification of only adopting the full numbers and not the sub-sections. For example, if section 300 CC stands for theft and sections 300 a – c concern the aggravated forms of theft, only '300' may be used as a code for all forms of theft. Of course, one can decide differently: if burglary is an important mode of aggravated theft it can be given a separate code.

When more offences are involved, it is usual to (a) put the offence with the highest maximum punishment as the first code and (b) to restrict the insertion of the following offences to three or four crime categories.

There is no general rule for designing the crime variable clusters and decisions on their content will require some study and pragmatic choices to strike right balance between 'information richness' and efficiency: too many details are unworkable, too few lead to loss of information.

Without intending to provide an exhaustive list, the following data could be taken into consideration:

- First and last date of recorded offence;
- Number of concurrent offences;
- Nature of concurrent offences (offence code);
- Date of arrest;
- Place of commitment;
- Damage (sum);
- Illegal profit (sum);
- Number of victims;
- Nature of victims;
- Status of commitment: attempt or completed act.

2. Person variables

Person variables are important for the analysis of the perpetrators in relation to the crimes committed as well as the criminal processing by the prosecutor as well as the courts. Knowledge of the perpetrator population is also important for designing a prevention policy as well as for getting insight into the outcomes of decision making by prosecutors and courts.
It is important to restrict the person variables to those which can be scored with a sufficient level of reliability. The following data categories may be taken into consideration:

- Age (is already in the name key);
- Place of residence;
- Nationality;
- Gender;
- Country of birth;
- Employment status ((un)employed);
- Education level (last finalised training);
- Profession (standard code list);
- Criminal record (yes/no);

- Year of previous conviction;
- Offence type of previous conviction.

3. Process variables: dates and phases

In view of the tracking and tracing of cases, the process steps and the dates at which these have been taken are of great importance. It is essential to know when a case entered a processing phase and what kind of subsequent steps have been taken. For example, which actor took a specific step and how long did that last. Given the complexity of most Criminal Procedure Codes, some simplification is again required. Therefore only the main procedural 'milestones' are mentioned.

- Date entry/registration at the Public Prosecution Service + code of office;
- Custody (yes/no);
- First date of custody;
- Last day of custody;
- Date of receiving indictment by court;
- Code of the court of first instance;
- First and last date of trial;
- Appeal: date;
- First date of appeal trial;
- Last date of appeal trial;
- Date of finalisation.

4. Decision outcomes

Naturally, the case outcome is the most important law enforcement criterion variable: prosecution (or not), acquittal, conviction and the sentence meted out. For simplicity reasons this variable cluster has been separated from the procedural cluster (3) though technically they may be just adjacent.

- Decision of the PPS: dismissal, indictment or other modality;
- Date of PPS decision;
- In case of indictment: date;
- Type of decision court of first instance (list of codes, from acquittal to prison);
- Data of sentencing decision first instance;
- Fine: amount;
- Prison term;
- Date of sentencing decision higher instance.

This list of characteristics of the four variable clusters - crime, person, procedure and decision outcome - form together a large database containing always a selection from all things which happen between the commission of a crime and the eventual case finalisation. Whether to expand the variable clusters with more data categories is a matter of balancing information richness (load) versus its practical use and demand of insight into the performance of the law enforcement system. It should be underlined that every expansion of the data content requires an extra manual workload with a statistical chance of imprecision: the human error moment.

Best practice has shown that a manageable format for data processing will be an excel file, which can be converted into an SPSS file for more efficient and detailed analysis.

8. Potential for analysis

The practical usefulness of this composite tool is large. In the first place it allows the tracking and tracing of the 'whereabouts and fate' of the counting units: 'What happened with the perpetrator and what happened with his case?' But the use of the tool goes beyond finding suspect A in one of the many judicial offices. It allows to collect all suspects who were accused of a particular kind of crime, such as bribery, and to determine how long their cases lasted and what kind of sentence they received. A subsequent interesting refinement would be a comparison between the courts. If required a further analysis of subgroups can be carried out.

The tool is not rigid concerning the information wishes of the individual actors, be it police, prosecution or courts. As indicated in the introduction, idiosyncratic variables can be added as long as the agreed upon core variable clusters remain the same.

Needless to say the strength of such a tool depends on a common standardisation maintained by all actors who submit the (excel) forms to the National Statistical Office that is the institution which produces the national statistics. This requires a strict data management discipline and an ongoing control of the database purity by the work floor supervision of police and PPS.

9.   Summary of the main findings and recommendations of the Workshop on statistics (Pristina, 26-27 February 2014)

During the workshop the representatives of various institutions provided and openly shared the information on the current status of statistics in their respective institutions.. It would appear that in most cases the basic provisions are in existence to allow the resulting statistics to be produced to meet the needs of the various key stakeholders. Many of the findings listed below have also been covered in the suggested statistical arrangements set out in sections 2 to 8 of this paper:

9.1   Production Arrangements and Reporting

To produce reliable and useable statistics the administrative data sets must be established in a way which provides the ability to populate the necessary variables and fields. In order to fully understand the minimum level of data that should be captured each body and institution should also firstly fully understand the uses to which that data will be put both by themselves and by all the others. During the workshop, it was not always clear that each agency appreciated the interconnected nature of the various datasets and how they should work together. In order to overcome this, it would be helpful to look carefully back to the basic questions of what exactly the data should be aiming to tell users and what the ultimate objectives of the resulting statistics are. Each institution will need their own element of the overall dataset from which to compile the internal management information they need to assess and understand their own performance and position.

During the workshop it was clear that the various institutions were producing their own data at different periodic frequencies and to different timetables. To allow proper and meaningful comparisons to be made it is important that the statistical institution determines the frequency and reporting period coverage for all official statistics publications and agrees with all the other bodies those frequencies and periods. Whilst the formal publication arrangements might only be for statistics to be published annually (for a standardised reporting year ideally in line with the fiscal year) all the data reported as statistics should be available disaggregated to at least monthly figures with relevant and reasonable breakdowns.

Summary of workshop findings and recommendation: The Statistics Agency to become the single body responsible for the oversight and production of statistics using a standardized reporting period and frequency across all sectors of the criminal justice system. Each agency to assess (in cooperation with each other) the minimum data fields and variables required to ensure that the statistics produced meet the needs of each other and of all ultimate users of the data.

9.2   Harmonisation of Identification Numbers and Recording

The various institutions mentioned during the workshop that the crimes once recorded as cases by the police having been allocated a reference number are then allocated a further number once passed to the prosecutorial services and then again when passed into the courts.

Summary of workshop findings and recommendations: A single unique crime reference numbering system to be developed across all agencies that can be used and tracked across the entire criminal justice system. All reports to be recorded by all agencies when received and each drop out point may then be counted.

9.3   Establishing a Basic National Minimum Data Standard

Throughout the workshop the various institutions explained that they hold or are developing quite extensive data sets to allow for information and statistics to be created. However,

understandably each agency has differing needs in terms of the information and data they need to hold. While there are certainly standard fields all bodies would need there will be many others unique to each body that is necessary to allow them to operate and meet their own objectives. Each body seems to be working hard and effectively to both produce meaningful statistics and to meet their own performance requirements. Now it needs a joined up approach to develop and support a single "end to end" process across the criminal justice system.

The key element of this is that all parties and agencies need to agree on a single method of counting that allows for the various data types variables to be treated in the same way in each agency. It is for all partied to consider and agree the optimum solution that best meets the needs of all but that also provides for a unified and integrated process.

Summary of workshop findings and recommendation: The various agencies are generally counting information about crimes and cases in different ways. They need to all agree on the same methodology and unit basis for counting which starts by considering what the core objective is; what you need to know and why you are collecting each piece of data. The various agencies should therefore consider how best to develop a single unified and integrated system building on the establishment of the single crime reference number against a standardised minimum national dataset. Ideally once agreed this dataset should be embodied in the legal code for the maintenance and collection of statistics. The compatibility of statistical data between different institutions would therefore be clearly improved.

The basic national minimum data standard should also take into account common and shared considerations that concern freezing, seizing and confiscation of assets that are proceeds of crimes.

9.4   Consideration of Case Solved

During the workshop it was said that each of the institutions had varying definitions and interpretations of when a case was deemed to be 'solved'. In practice this can only be said of a case where the offender(s) have been identified, traced and held to account for their actions. This would be either once a court has found them guilty and issued the relevant sentence or where at an earlier stage in the criminal justice system it is determined that the offenders either cannot be taken to court (for example they might have left Kosovo and be beyond the reach of the courts or it may be too costly and disproportionate to seek extradition) or where the legal process allows for offenders who admit their crimes to be dealt with directly by the police of some other agency. For example, it was mentioned in the workshop that the police inspectorate might investigate corruption allegations and might decide to punish the responsible officers by dismissing them from the police instead of taking them to court. Nonetheless these matters where they amount to crimes should still be recorded as crimes and included eventually in statistics with disciplinary action taken shown as the outcome.

As part of the consideration of a national minimum data set (as described above) it would be possible to include data fields that are completed at each step of the investigation to show when and why cases, whilst being considered as completed by the relevant agency, might not actually be solved. For example this could include provision for a variable to show cases where the police do not pass the case on to the prosecutors because they have not been able to identify a suspect.