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Implemented  
by the Council of Europe

## **Project against Economic Crime in Kosovo<sup>1</sup> (PECK)**

### **Matrix on compliance with international standards in the anti-corruption (AC) area**

Based on the findings of the 1<sup>st</sup> Assessment Cycle

Status as of April 2014

ECCU-PECK-eng-4/2013

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<sup>1</sup> 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.

AR Cycle 1 - Recommendation	Implemented satisfactorily	Dealt with in a satisfactory manner	Partly implemented	Not implemented
<b>1. General overview of the current situation of corruption</b>				
i. (i) to undertake a periodical assessment of corruption risks, prior to any further revision of the strategic documents (Anti-corruption Strategy and Action Plan); (ii) to adopt a more integrated approach of ethical aspects through adequate integrity plans, with a view to extend preventive measures to the entire public sector, including local government; and (iii) to publish respective findings and thus to further define/adapt strategic priorities (paragraph 62);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. to ensure proper and effective implementation and monitoring of the new strategic framework against corruption for 2013-2017, as well as to implement the key outstanding measures from the previous Action Plan 2010-2011 (paragraph 72);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. (i) to streamline the legal framework related to prevention of the conflict of interest, by harmonising relevant legislation with the newly adopted Criminal Code; (ii) to review and clarify the institutional framework for the prevention of the conflict of interest, by adopting a set of guidelines which would enable efficient action during both the minor offence and criminal offence proceedings; (iii) to initiate debate on the re-definition of the KAA competencies, in light of the need for more efficient and effective prevention of corruption; and (iv) to progressively include tax authorities in the verification of declared assets, in order to improve the control of origin of assets and thus reduce the space for illegal enrichment (paragraph 79);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>2.1 Fundamental safeguards and corruption prevention - Judges</b>				
iv. to review the composition of the KJC in order to fully reflect the standard of independence of the judiciary as well as checks and balances between institutions (paragraph 114);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
v. to adopt clear and transparent criteria based on which the President can refuse a nomination of a judge or prosecutor as well as the ground for appealing this decision (paragraph 119);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
vi. to consider reviewing the probationary system of appointment of judges and prosecutors which envisages an initial 3-year term prior to final confirmation for tenure (paragraph 129);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
vii. to ensure the appropriate functioning of random assignment of cases as provided in the Regulation on internal organisation of courts (paragraph 141);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
viii. (i) to establish a transparent and unified system of maintaining and accessing information on case files which would include all stages of investigation, prosecution and adjudication; (ii) to enhance case management, reporting and accessibility of statistics in the judicial system, especially with regard to corruption and related offences, by notably ensuring better matching with prosecutorial services; and (iii) to improve the transparency of the criminal justice system vis-à-vis the wider public and media, in particular in the context of the prevention and fight against corruption (paragraph 144);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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ix. to update rules of ethics and professional conduct for judges by including proper guidance specifically with regard to conflicts of interest and related areas (notably the acceptance of gifts and other advantages, incompatibilities and additional activities) (paragraph 148);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
x. KJC adopts transparent guidelines regarding approval of exceptional outside engagement for judges, including clear justifications to be used when deciding to grant such exceptions (paragraph 157);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xi. (i) to establish a formal relationship between the ODC and State Prosecutor in order to enhance disciplinary and criminal investigation of judges and prosecutors and make mutual co-operation transparent; and (ii) to streamline and clarify the institutional framework and proceedings for disciplinary/criminal investigations against judges and prosecutors, including establishment of limitation period for disciplinary proceedings, in order to avoid unnecessary delays and overlapping of proceedings (paragraph 187);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xii. that interaction between the KAA and Prosecutor, as well as the judges in proceedings for minor and criminal offences are clarified through standard operating procedures on the conflict of interest, with regard to the entry into force of the new Criminal Code (paragraph 188);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>2.2 Fundamental safeguards and corruption prevention - Prosecutors</b>				
xiii. that KJC and KPC adopt clear and comprehensive vetting procedures (i) based on objective and transparent criteria; (ii) known in advance and (iii) that every decision be motivated accordingly (paragraph 209);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xiv. that KPC adopts guidelines concerning approval of exceptional outside engagement for prosecutors and establish a limit for the remuneration of such engagements (paragraph 220);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xv. to establish a formal relationship between the ODP and KPC (with due consideration to relationship between Chief Prosecutors and the ODC as well) in order to enhance disciplinary and criminal investigation of prosecutors, based on principle of transparency and openness, while keeping the secrecy of investigation and protection of personal data (paragraph 239);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>2.3 Fundamental safeguards and corruption prevention - Police</b>				
xvi. to introduce objective and transparent criteria for appointment/dismissal of the General Director of the Police in order to ensure operational independence of the Police (paragraph 254);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xvii. to introduce objective and transparent criteria for appointment/dismissal of the Deputy Directors and other senior level officials of the Police (paragraph 255);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xviii. to adopt guidelines for Police concerning the approval of exceptional outside engagement and establish a limit for the remuneration on such engagements (paragraph 259);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xix. to establish post-employment restrictions for police officers at all levels and appropriate arrangements be made for efficient supervision of the implementation of such regulations (paragraph 262);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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xx. to reinforce human capacity of the relevant police disciplinary and internal investigation bodies and keep the reliable track record of disciplinary and other actions taken with regard to police officers (paragraph 276);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>2.4 Fundamental safeguards and corruption prevention – Public Administration</b>				
xxi. i) to enhance transparency in public administration (including “e-government”) through implementation of a more proactive policy, proper strengthening of regulatory and institutional frameworks as well as periodical monitoring and reporting; and ii) that further steps should be undertaken to adequately implement access to public documents at both central and local levels (paragraph 288);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xxii. (i) to implement uniform rules for the transparent and impartial recruitment and promotion of public servants through inter alia proper announcement of vacant posts, fair competition between candidates and avoidance of conflict of interest; (ii) to increase the supervision and monitoring over the selection and promotion procedures of public officials; and (iii) to introduce appropriate screening procedures for checking data and integrity of candidates to positions in public administration (paragraph 304);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xxiii. (i) to adopt the Code of Ethics for civil servants as soon as possible; (ii) to consider extension of its application to uncovered categories of officials in the public administration; and (iii) to increase familiarity of public administration at all levels with ethical professional standards (through inter alia regular training, guides, advice) (paragraph 308);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xxiv. to work out guidelines about the behaviour and conduct of public officials when they receive gifts in order to complete the rules laid down in article 11 in law no. 04/L-050 on declaration, origin and control of property of senior public officials and on declaration, origin and control of gifts of all public officials (paragraph 311);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xxv. (i) to strengthen the control of the declarations of assets and interests in order to ensure proper implementation and monitoring; (ii) to intensify efforts to build capacity in individual institutions to prevent and detect conflicts of interest through close supervision and coordination mechanisms as well as by means of specific reference materials, guidelines and training; and (iii) an adequate and enforceable conflict of interest standard, including improper migration to the private sector (“pantouflage”) be extended to every person who carries out a function in the public administration (including managers and consultants) at every level of government (paragraph 320);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xxvi. to consider making wider use of rotation in sectors of public administration particularly exposed to a risk of corruption (paragraph 322);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xxvii. to establish and maintain a central periodical reporting of statistics on the use of disciplinary proceedings and sanctions in public administration (paragraph 332);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>2.5 Fundamental safeguards and corruption prevention – Members of Parliament</b>				
xxviii. that the Code of Conduct for members of parliament be revised and complemented with practical measures for its implementation, such as dedicated training, counselling and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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advice regarding ethical and corruption related issues (paragraph 351);				
xxix. to give to the KAA – or to another official body, in collaboration with the tax administration - the competence to make an adequate assessment of declared assets (paragraph 367);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xxx. measures be taken to ensure supervision and enforcement of the existing rules on conflicts of interest and disclosure of outside ties by members of parliament (paragraph 379);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>2.6 Financing of political parties and election campaigns</b>				
xxxi. to harmonise the legal provisions on political entities and campaigns financing in line with the legislation applicable to other candidates for election (local and national level, presidential election) (paragraph 403);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xxxii. to develop a comprehensive and unique website setting out legal and regulatory framework and providing relevant information on political entities periodical reports and other relevant information (paragraph 404);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xxxiii. to ensure that the definition of a 'contribution' to a political party as foreseen in Rule 01/2008 on registration and operation of political parties is consistently used in the legislative and regulatory framework concerning funding of political entities and electoral campaigns in order to include indirect resources (like for example services or in-kind donations) (paragraph 420);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xxxiv. to introduce a definition and regulation of the entities related to a political party (eventually) (paragraph 422);	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
xxxv. to set more precise conditions for requirements of the financial reports and the deadline(s) of the publication (paragraph 436);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xxxvi. to give to the Central Electoral Commission/the Office or the Anti-corruption Agency the mandate and the appropriate authority as well as the financial resources and specialised staff to effectively and proactively supervise the funding of political parties and election campaigns, to investigate alleged infringements of political financing regulations and, as appropriate, to impose sanctions (paragraph 442);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xxxvii. (i) to unify parties' reporting forms, in particular regarding content, periodicity of their submission and publication; and (ii) to determine the procedure for monitoring of established standards (paragraph 443);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xxxviii. to establish clear rules ensuring the specialisation, independence and know-how/expertise of auditors called upon to audit the accounts of political parties and candidates (paragraph 444);	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
xxxix. to introduce more dissuasive, effective and proportionate sanctions in respect of violations of political financing rules and to provide the Central Electoral Commission with the necessary powers to investigate such cases and to apply the appropriate sanctions (paragraph 454);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
xl. to provide the Office with appropriate authority to carry out, as needed, a material verification (in addition to the existing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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formal review) of the information provided by election candidates and other political entities (paragraph 455);				
xli. to introduce compulsory periodic publication of political parties' reports on a public website (paragraph 456);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>2.7 Public Procurement</b>				
xlii. to create conditions for enhanced transparency and equality in competition, in order to minimise the risk of corruption opportunities in public procurement and privatisation fields (paragraph 467);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xliii. (i) with a view to minimise corruption risks and opportunities, to ensure further streamlining of Public Procurement rules and procedures, including a quick introduction of central purchasing; (ii) to enhance monitoring, supervision and review capacities and mechanisms; (iii) to revise Public Procurement Law concerning the scope and procedures related to reporting of public procurement violations and offenders; and (iv) to enhance exchange and treatment of information and horizontal interagency cooperation, notably between public procurement, audit, anti-corruption, tax and other law enforcement bodies (paragraph 489);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xliv. (i) to introduce coherent staff policies and treatment in the public procurement system in order to avoid changes of staff; (ii) to clarify and strengthen procedures in order to have objective criteria for conclusion of contracts; (iii) to introduce conflict of interest prevention rules in the public procurement, including compulsory declaration of conflict of interest situations by members of procurement panels; and (iv) to promote further training and specialisation focused on prevention and detection of corruption practices (paragraph 497);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>3.1 Criminal law, law enforcement and criminal procedure – Offences and sanctions</b>				
xlvi. that legislative measures are taken to make third beneficiaries directly covered in articles 429 and 430 CC about active bribery (paragraph 524);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xlii. that the authorities ensure that there are no loopholes in the system and if necessary to take the legislative measures that the offence of active and passive bribery in the public sector covers all acts/omissions in the exercise of the functions of a public official, whether or not within the scope of the official's duties (paragraph 525);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xlvii. that necessary legislative steps are taken to ensure that private corruption is criminalized in accordance with Articles 7 and 8 of the Criminal Law Convention (paragraph 538);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xlviii. to consider abolishing the requirement of dual criminality in respect of bribery offences when committed abroad in articles 115 and 116 CC (paragraph 560);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
xlix. to take the necessary legislative steps to ensure, that time-limits for investigation should not hinder the effective combating of corruption (paragraph 568);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
l. to take the necessary legislative steps to ensure that the possibility provided by the special defence of effective regret to return the bribe to the bribe-giver who has reported the offence before it is uncovered is abolished (paragraph 571);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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<b>Corporate liability</b>				
li. to strengthen the controlling functions of the Registry of Enterprises in order to ensure that both natural and legal persons establishing companies be checked and monitored with respect to possible criminal records and professionals disqualifications or any other pertinent information on legal persons in the registration process (paragraph 579);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
lii. to take the necessary legislative steps to ensure that legal entities can be held liable not only in situations where a responsible natural person can be punished including situations where the liability is based on lack of supervision but also in situations where it is not possible to find a natural person liable for the offence (paragraph 583);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
liii. that Kosovo authorities undertake necessary steps to ensure and enhance the practical application of this measure as a means to sanction criminal activity (paragraph 584);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
liv. Kosovo considers requiring external auditors to report suspected acts of bribery to management or, if the management do not react or if the management itself is involved, to report to the competent authorities independent of the company, such as law enforcement or regulatory authorities, and, where appropriate, ensuring that auditors making such reports reasonably and in good faith are protected from legal action (paragraph 592);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.2 Criminal law, law enforcement and criminal procedure – Investigation and criminal procedure</b>				
lv. to take steps to collect appropriate and detailed information and statistics including all angles of a corruption case from the beginning to the end (including outcome of the case) in order to assess the efficiency of the investigation/prosecution (paragraph 611);	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
lvi. to strengthen the Special Anti-corruption Department both in relation to the competence of this department but also in relation to increasing the resources and the cooperation between prosecutors, investigators and experts (paragraph 614);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
lvii. that necessary legislative steps are taken to ensure that the injured party has the right to file a complaint about the termination of an investigation (paragraph 616);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.3 Criminal law, law enforcement and criminal procedure – Confiscation and other deprivation of instrumentalities and proceeds of crime</b>				
lviii. (i) to establish an entity within the existing structure with particular reference to identification, tracking and freezing proceeds of crime; and (ii) to enhance the effectiveness of the system through introducing mandatory benchmarks for law enforcement in pursuing illicit funds in the case of any investigation of a proceeds-generating offence (paragraph 635);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
lix. to ensure that objects intended to be used in a criminal offense can be confiscated and to enlarge the scope of the provisions on confiscation of instrumentalities and proceeds of crime in order to provide for better possibilities of using confiscation effectively in cases of corruption (paragraph 636);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>3.4 Immunities from investigation, prosecution or adjudication of corruption offences</b>				

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lx. that steps are taken to ensure that the period where investigation cannot be carried out is not taken in account in the limited period for investigation (paragraph 646);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>5. International cooperation</b>				
lxi. (i) to take steps to collect appropriate and detailed information and statistics including all angles of a request of mutual legal assistance from the beginning to the end in order to assess the efficiency of the rendering of mutual legal assistance; and (ii) to introduce service standards on turnaround times of foreign requests in order to guarantee effectiveness of the system (see AML assessment report) (paragraph 658);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
lxii. that steps are taken to ensure, that mutual legal assistance in accordance with the rules in the Criminal Law Convention on Corruption (ETS 173) is rendered in cases of corruption in spite of Kosovo having no such a legal obligation (paragraph 659);	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>