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# **Project against Economic Crime (PECK)**

## **Plenary Meeting**

**To discuss and adopt PECK Final Assessment Report  
(2<sup>nd</sup> cycle) on compliance with international standards in Anti-  
Corruption area**

Pristina, 2-3 December 2014

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# 1- General overview of the current situation on corruption (I)

- Too little follow-up from the 1<sup>st</sup> cycle
- A-C Action Plan does not bring tangible results
- Considerable percentage of institutions do not report, or report insignificant progress to KAA (no ownership)
- Also no *analytical explanation* why is it so and to what extent the AP measures are implemented
- In order to improve – **4 tasks:**

# 1- General overview of the current situation on corruption (II)

1. Building on existing risk assessment tools, and experience in health and education (UNDP), **schedule and proceed with risk assessment in other key areas before revising the AP in 2015.**
2. Develop more **result-oriented indicators of success** in the revised AP
3. **Finalise integrity plans** throughout the government (OGG long standing task)
4. Make (governmental) institutions more responsible by creating continued obligation to insert the A-C measures from the AP into the annual work plans

**Overall: More robust institutional/legal response to lack of ownership is needed**

# 1- General overview of the current situation on corruption (III)

- Issue: Harmonisation of Col and DA legislation with CC 2013
- DA amendments adopted (04/2014) and Col pending
- Co-operation between KAA and Prosecutor notably improved, the recent platform need to be extended throughout judiciary and include judges (R xii)
- Amendments were needed, and they are positive steps in co-operation between actors, but no effect (yet) on processing the Col and DA.

Overall: Either administrative sanctions, or criminal (not yet pronounced) or both ***do not deter the commission*** of that offence. Managing ***Unexplained wealth is still problematic***. CoE Practitioners Manual may help – Jan 2014

- **Task (1):** more vigorously build the successful track record of investigation and prosecution, and strengthen preventive mechanisms (cross checking with Tax administration, Cadastre office etc.). Empower these to report irregularities.
- **Task (2):** re-assess the KAA investigative and preventive competences – open new process leading to changing the legislation on corruption prevention in Kosovo

## 2- Fundamental safeguards and prevention (Judges )

- Few follow-up activities after 1<sup>st</sup> cycle.
- Constitutional and legal safeguards for independence of the judiciary are not compatible with CoE standards (substantial majority of judges of KJC elected by pairs, terminate the 3-year probationary period for election, more substantiated presidential decisions)
- Task: initiate discussion on constitutional revision in accordance with the KJC Strategic Plan 2014-2019.
- MoJ to undertake activities to re-launch the amendments procedure, failed in 2013.

## 2- Fundamental safeguards and prevention (Judges and Prosecutors)

- Strategy for ICT in place, as well as new regulation on internal organisation of courts; but not yet implementation of the Case Management system, which allow for random allocation
- Anti-Corruption databases are more coordinated, and selection of 50 top priority corruption cases has been made
- Use of the new system of harmonised data as well as prioritisation has not yet resulted in establishing a solid Anti-corruption track record – the overall biggest challenge for Kosovo authorities.
- Task 1: Operationalise as soon as possible the Random Allocation of cases and implement the CMS (judges)
- Task 2: Improve publicity of data in each stage of the criminal procedure (judges and prosecutors)

## 2 – Fundamental safeguards and prevention (Judges and Prosecutors – Codes of ethics, outside employment)

- Draft Code of Ethics for judges has been made but few information on its content towards implementing recommendations – incompatibilities, internal Col to judiciary etc. Partly refers to “outside employment”
- KJC/KPC have requested from MoJ to strengthen disciplinary legislation and review the position of the ODP. Positive development if new special law is going to be in place, as reported by the MoJ.
- **Task 1:** Adjust codes of ethics and proscribe restrictions on outside employment, along with KAA advice (law?), re-introduce vetting for judges.
- **Task 2:** Thorough assessment of weaknesses of the current disciplinary mechanism for judges and prosecutors prior to draft such a law. (KPI as example)
- **Overall, more strict monitoring of implementation of ethical rules is missing, although some first steps of improving legal framework have been made.**

## 2 – Fundamental safeguards and prevention (Prosecutors)

- The procedural safeguards (vetting, transparency and motivation) for nomination of highest positions are not fully in place (CoCo July 2014).
  - Although relevant regulations have been adopted (2013, and 2012 – no formal abrogation?), the prevention of irregularities and other forms of corruption in the process of appointment requires further strengthening.
  - Formal relationship between ODC and KPC has been proscribed under the Law on KPC, however no substantial evidence of this co-operation in practice (no. O common meetings, conclusions, outcomes).
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- **Task (1):** Put strong emphasis on Ethics in the vetting procedure
  - **Task (2):** Initiate passing the Regulation on outside employment
  - **Task (3):** Build more solid track record of proactive investigation, and disciplinary/criminal proceedings against judges and prosecutors in order to enhance trust in the disciplinary/prosecution within these categories.



## 2 – Fundamental safeguards and prevention Police (I)

- Despite minimum objective criteria, the appointment/dismissal procedures of senior police management are at risk of unproportional political interference by the governmental level
- Procedures within the selection committee do not contain the Col clause (except for the candidates) and the final short-list system of 3 + give too large discretionary powers to Minister-Government-PM
- **Task (1):** Amend Administrative Instruction 12/2012 to include explicit rules on Col for members of the Selection Committee
- **Task (2):** Short-list must contain substantiated preferential ranking
- **Task (3):** Include more elements of transparency in final decision-making (publicity of the GVT session, “hearing” before Minister/GVT, etc.)

## 2 – Fundamental safeguards and prevention Police (II)

- Secondary employment issue (in/out of service) is regulated in detail, including supervision, as well as Col rules.
- Exemplary way to solve this issue, for other categories.
- The system post-employment restrictions (“pantouflage”) and its management has still not been put in place.
- **Task (1)**: Ensure that secondary employment practice remain exceptional and that salary limitations are applied (practice). Authority to decide on Col cases must be spelled out.
- **Task (2)**: Provide for the limitation of the period in which former police officers at all levels can professionally engage with bodies whom they have been dealing with during police service. Ensure the implementation of that provision by a strict controlling mechanism and appropriate sanctions.

## 2 – Fundamental safeguards and prevention Police (III)

- Reinforcement of human resources within disciplinary bodies has been progressively put in place, but the phenomenon of “acting” personnel remains, while a number of vacant positions is still significant. Lack of grading system in the KP creates further difficulties.
- Management of statistics on disciplinary/criminal proceedings significantly improved: appointment of special prosecutors to deal exclusively with cases forwarded by the KPI. Feed-back notification from courts on final conviction is required.
- Data on the track record from investigation to prosecution and conviction will be known in annual report 2014, and published at the beginning of 2015.

## 2 – Fundamental safeguards and prevention Police (III)

- **Task (1)**: Continue with filling vacant positions within Police disciplinary bodies, establish the system of grading within KP and reduce significantly the number of “acting” (non-corresponding) positions.
- **Task (2)**: Publish the complete “track record” of disciplinary and criminal investigations in the annual report 2014.
- **Task (3)**: When disclosing such data, include more analytical information which explains trends and variations of disciplinary/criminal record (track record methodology).