

COMPLIANCE MATRIX
(KOSOVO PROJECT AREA)

Treaty	Treaty Standards	Self assessment			Relevant legislation and institutional framework in place ¹	Difficulties in implementing specific Standards ²
		Not in compliance Yes/No	Partially in compliance Yes/No	Fully in compliance Yes/No		
CoE Criminal Law Convention on Corruption	Criminalization of Offences/and Provision of:	Yes/No	Yes/No	Yes/No		
	Active and passive bribery ³		X		Art. 343 (Accepting Bribes) and 344 (Giving Bribes) P.C.C.K. – Art. 343 targets Official Persons ('Official Person' is defined in Art. 107 P.C.C.K.); Art. 344 target those who give bribes to Official Persons. Pursuant to Art. 343, accepting bribes by Official Persons carries harsher punishments.	
	Money-laundering of proceeds from corruption			X	Reg. n. 2004/2 – 5 February 2004, as amended by Reg. n. 2004/10 – 29 April 2004 and by Reg. 2005/9 – 23 February 2005.	
	Accounting corruption related offences		X		Art. 249 P.C.C.K. (Tax Evasion)	
	Effective and dissuasive sanctions and measures	X				
	Legal entities criminal and non-criminal liability	X			The applicable criminal law does not provide for corporate criminal liability. However, corporate liability exists in other legal civil and/or administrative provisions, such as the Law on Liquidation and Reorganization of Legal Persons in Bankruptcy (UNMIK Reg. No. 2003/7 of 14 April 2003), however this type of liability is not for criminal offences.	
Liability of legal persons			X	Art. 85 (Confiscating material benefits from legal persons), 106 (Special Provisions for legal persons), 107 (2) (giving the definition of 'Responsible Person),		

¹ When applicable please only provide the Law/Act title, Nr. and date of entry into force

² Please list the specific areas/notions

³ Please note that which subjects are covered by active and passive bribery (i.e., public officials, international officials, private sector etc)

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					107 (4) (definition of 'Legal person'), 107 (5) (giving the definition of 'Business Organization'), arts. 232- 238 (Criminal Offences Against Economy), art. 250 (Unjustified acceptance of gifts), 251 (Unjustified giving of gifts) and 340 (Misappropriation in office) P.C.C.K. Reg. n. 2005/26 – 12 May 2005, establishing the Anti – Corruption Agency.	
	Setting up of specialised anti-corruption bodies		X			
	Protection of collaborators of justice		X		Arts. 168 – 174 P.C.C.K. (Protection of injured parties and witnesses) allows for protective measures for witnesses at “serious risk”	There has been difficulty in establishing a witness relocation programme for those witnesses who require it. Relocation is difficult within Kosovo, as the territory is small and the nature of the relationships makes it hard to hide identities, and other jurisdictions have been reluctant to relocate our witnesses.
	Investigating or prosecuting authorities, gathering of evidence and confiscation of proceeds		X		Adm. Dir. n. 2003/3 (establishing the Financial Investigation Unit); Art. 60 (confiscation of objects), art. 82 (Grounds for confiscating material benefits), art. 83 (means of confiscating material benefits); 84 (property claim of injured parties), 85 (confiscating material benefits from legal persons) P.C.C.K.; art. from 489 to 499 P.C.P.C.K. (Procedure for confiscation).	F.I.U. mandate is expiring on 28 February 2006; there are no specialized Public Prosecutors or Judges dealing with corruption cases; no training for local police or Public Prosecutors; more powers required to gather evidences.
	International co-operation: mutual assistance,		x		PCPCK sets out procedure for MLA (Chapter XLVII). Extradition possible under certain circumstances; provision of info possible through letters rogatory	Extradition of Kosovar nationals requires an international agreement,

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	extradition & provision of information during proceedings re: corruption offences					which until status is determined effectively means bilateral agreements (Art. 533)
	Provision of:	Yes/No	Yes/No	Yes/No		
	compensation for damage	X			Reg. n. 2005/26 – 12 May 2005, art. 7 (2)	
	liability (including State liability for acts of corruption committed by public officials);	X				
	contributory negligence: reduction or disallowance of compensation, depending on the circumstances	X				
	validity of contracts;		X		Reg. n. 2005/26 – 12 May 2005, art. 7 (1)	
	protection of employees who report corruption	X				
	clarity and accuracy of accounts and audits	X				
	acquisition of evidence	X			Art. 152 – 157 P.C.P.C.K. (General provisions relating to evidence); arts; 256 – 267 (Covert and technical measures of surveillance and investigation).	No special power or procedures provided for investigation related to corruption.
	court orders to preserve the assets necessary for the execution of the final		X		Art. 240 P.C.P.C.K. (Temporary confiscation)	

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	judgment and maintenance of status quo pending resolution international co-operation					
			x		As stated above, the PCPCK provides for MLA.	Revisions currently underway to MLA provisions in PCPCK, for example. to make spontaneous exchange of info possible
CoE Additional Protocol to the Criminal Law Convention on Corruption	Provision of: measures to establish, as criminal offences, the active and passive bribery of domestic and foreign arbitrators and jurors	Yes/No X	Yes/No	Yes/No		
UN Convention against Corruption	Provision of: Preventive measures	Yes/No	Yes/No	Yes/No		
	Criminalization and law enforcement	X			There appears to be a PISG initiative anti corruption campaign; it is in a developmental stage	
	International cooperation	X			See above	
	Asset recovery				See comments regarding international co-operation above	
	Technical assistance and information exchange					