



## **Criminal Sanctions Against Official Corruption and other Offences Against Official Duty Offenders in Kosovo for the Period 2008-2015**

**Flutura TAHIRAJ<sup>1</sup>**

**Abstract:** The need to fight corruption, with the focus on official corruption in Kosovo continues to be addressed by both national and international reports. The objective of this paper is to find out the number of the cases and analyse the sanctions against official corruption and other offences against official duty delivered by Municipality Courts in Kosovo during the period 2008-2015 with the aim to assess the developments during a period of eight years since most of the other researches are focused on annual performance of the courts. All data presented in this article are taken from the Kosovo Statistical Office and include statistical information on the types and frequency of criminal sanctions to perpetrators of the official corruption and other offences against official duty. Case study is also applied to analyse some court judgments. The study shows there is a slight increase of the number of convicted perpetrators over years, the number of corruption cases addressed by the courts remained very limited, followed by low sentences or even prescription of cases. The findings will add additional scientific insights to the existing knowledge about preventing and fighting official corruption and it can be useful for scholars, policy makers and practitioners in Kosovo.

**Keywords:** Corruption; Court Judgements; Municipal Courts; Offences against official duty; Punishments

### **Introduction**

Fighting corruptions remains one of the most difficult challenges that Kosovo is facing nowadays. With all continuous promises of the relevant institutions that there will be zero tolerance against corruption, in the European Commission Report 2016, it is again highlighted that Kosovo did not comply with its responsibilities in this regard. Moreover, along with the demarcation of the border with Monte Negro, the

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<sup>1</sup> Faculty of Law, University of Prishtina, Kosovo, Address: Agim Ramadani Street, n.n. 10000, Prishtina, Kosovo, Corresponding author: flutura.tahiraj@yahoo.com.

fight against corruption are claimed to be the main obstacle of the VISA liberalisation process for Kosovo.

The high level of corruption in Kosovo has been confirmed by many researches and reports of different local and international organisations including media. In July 2016, there were published some interceptions from a previous closed court case which seems to involve senior public officials in the official corruption and criminal offences against official duty. Although, these interceptions were available to the court back in 2009 but no legal measures were taken against these public officials, the representatives of the court system in Kosovo keep repeating that they are doing the best in fighting corruption and did achieve a step forward in punishment of these cases.

Having this into consideration, this paper is focused in punishments that the perpetrators were given for the official corruption and offences against official duty in Kosovo during the period 2008 until 2015. The methodology of this study includes the analysis of the criminal sanctions in the courts of Kosovo including the number and types of sanctions in order to present the approach of the courts toward fighting the official corruption and offences against official duties after Kosovo declared its country independence.

### **Definition and Types of Criminal Sanctions according to the Criminal Code**

Criminal sanctions are repressive measures that represent an important role in fighting against criminal acts in general and fighting official corruption and criminal offences against official duties in particular. Salihu (2014) highlights that through these criminal sanctions, the courts limit the rights to the perpetrators, including the freedom of movement, wealth etc. Since the criminal sanctions are repressive measures imposed by the court as defined by law in the criminal procedure, these measures in practice and theory are named as punishment policies of the courts.

According to Salihu (2014) the criminal sanctions aim protection of certain values of citizens and the society in general. The Article 41 of the Criminal Code of Kosovo defines the purpose of the punishments as follows:

- to prevent the perpetrator to commit the criminal offences in the future and to rehabilitate the perpetrator;

- to prevent other persons from committing criminal offences;
- to provide compensations to victims or community for losses and damages caused by the criminal conduct; and
- to express the judgement of the society for criminal offences, increase morality and strengthen the obligation to respect the law (p. 15).

The Criminal Code of Kosovo foresees the following criminal sanctions in the Article 4, Paragraph 1:

1. Principal punishments;
2. Alternative punishments;
3. Accessory punishments;
4. Judicial admonition (p. 3).

### **1. Principal Punishments**

Principal punishments include punishment of life long imprisonment, punishment of imprisonment and punishment of a fine. Hysi (2012) claims that the application of principal punishment in the contemporary societies marked an important development in the human rights aspect as compared to the previous sanctions such as death sentence and similar penalties applied in the middle age. According to Hysi (2012) today, the principal punishment consists mainly of: punishment of long life imprisonment, punishment of imprisonment, alternatives of punishment of imprisonment and alternative punishments. Gashi (2001) argues that the statistical data of various countries show that the application of the principal punishments is very frequent in the developed countries and such punishment is also applied in the cases of official corruption and other offences against official duty.

According to the Criminal Code of Kosovo (2013), Article 43, principal punishments are: *punishment of long imprisonment, punishment of imprisonment, and punishment of a fine.*

### **2. Alternative Punishments**

The introduction of the punishment of imprisonment at the end of XVIII century was considered as a progress compared to previous punishment with death and other brutal punishments. Gashi (2013) argues that despite the application of the

punishment of imprisonment in most of the states, it received a lot of critics that are mainly related to the fact that this punishment is not producing success in fighting and preventing corruption. Still the number of prisoners is being increased as well as the term of the imprisonment. Salihu (2012) refers to the Committee of the Council of Europe for the issue of prisoners according to which in 2012 the number of prisoners in the world was 8 million people, which is considered to be a very large number when considered the negative consequences that it has for the prisoners and their families, increasing also the country expenses.

Having into consideration this negative effects of the punishment with imprisonment, the in the last decades, in most of the developed countries, the alternative punishments are also applied. Gashi (2013) argues that the major impact to the increase of application of these punishments has the fact that the punishment with imprisonment did not have impact in the process of resocialisation of the convicted persons and their reintegration in the society.

The possibility of delivering the alternative punishments instead of the punishment with imprisonment is also part of the legislation in Kosovo. Alternative punishments specified by the Criminal Code of Kosovo (2013), Article 49 include the following: *suspended sentence, semi-liberty and an order for community service*. Article 49 of the Criminal Code of Kosovo (2013) further provides that when imposing suspended license, the court may also impose an order for mandatory rehabilitation treatment and an order for supervision by the probation service.

Among the alternative punishments, the suspended sentence was applied the most, which according to the Article 50 of the CCK, it can be applied for the perpetrators that did not commit severe criminal offences. Further, in the Article 51 it is determined that by imposing this sentence, the court shall determine the punishment for the perpetrator of the criminal offence and at the same time order that this punishment shall not be executed if the convicted person does not commit another criminal offence for the verification time determined by the court (p. 15).

### **3. Accessory Punishments**

Accessory punishments are types of criminal sanctions that can be imposed together with punishment with imprisonment and alternative imprisonments. According to Salihu (2012) the imposing of accessory punishments is done in special cases when the court decides that the principal punishment is not relevant. Salihu argues that the accessory punishments begun to be applied at the end of the XIX century and particularly after the Second World War, where most of the ensuring measures

sanctions determined with criminal codes of European countries are considered accessory punishments. As such, accessory punishments were treated under the Criminal Law of Kosovo dated 1977.

Accessory punishment were also part fo the contemporary criminal laws which together with prinicipal punishment and alternatiepunishmets are intended to effectively prevent the criminal offences. In Kosovo, the Accessory punishments determined under the Article 62 of the Criminal Code of Kosovo. According to paragraph 2, Article 62 of the CCK, the accessory punishmets are as follows:*deprivation of the right to be elected, order to pay compensation for loss or damage, prohibition on exercising public administration or public service functions, prohibition on exercising a profession, activity or duty, prohibition on driving a motor vehicle, confiscation of a driver license, confiscation, order to publish a judgment, andexpulsion of a foreigner from the territory of the Republic of Kosovo.*

Having into consideration the judicial nature of official corruption and other offences against official duties, the imposing of accessory punishment is necessary to fight and prevent corruption against this phenomenon. This is because that the principal punishments cannot be efficient tools against the perpetrators of this criminal offences if they are imposed without accessory punishments determined by the CCK, particularly: prohibition on exercising public administration or public service functions, prohibition on exercising a profession, activity or duty; or confiscation. Through imposing of these accessory punishments, the perpetrators of the criminal offences will be prohibited for a certain period to exercise a public administration function and its wealth obtained in illegal way will be confiscated.

#### **4. Judicial Admonicion**

In the same way as the alternative punishments, respectively suspended sentence, the judicial admonition begun to be imposed instead of punishment with imprisonment in order to avoid punishments with imprisonments whenever it was not necessary. Judicial admonition as a special sanction is determined with Article 85 of the Criminal Code of Kosovo (2013), which specifies that: "The purpose of a judicial admonition is to give a perpetrator a reprimand when, considering all the circumstances regarding the offense and the perpetrator, a judicial admonition is sufficient to achieve the purpose of a punishment" (p. 37). Article 86 defines that a perpetrator who is subject to a judicial admonition shall be informed that he or she has committed a harmful and dangerous act, which constitutes a criminal offense,

and that if he or she commits such an act again, the court will impose a more severe criminal sanction.

Imposing of this sanction cannot be done to all criminal offences, but only for those criminal offences for which the law determines and which have been committed in mitigating circumstances. Thus, in accordance with the criminal legislation of Kosovo, a judicial admonition may be imposed for criminal offenses which are punishable by imprisonment of up to one year or by a fine, when such offenses are committed under mitigating circumstances which render the offenses particularly minor (Article 86, Paragraph 2). Further, it is defined that a judicial admonition may also be imposed for certain criminal offenses punishable by imprisonment of up to three years under the conditions provided for by law (Article 86, Paragraph 3).

### **Data**

All data presented in this article are taken from the Kosovo Statistical Office. The data include statistical information on the types and frequency of criminal sanctions to perpetrators of the official corruption and other offences against official duty imposed by the Municipal Courts in Kosovo during the period 2008 – 2012.

In addition to the criminal sanctions imposed by the Kosovo Municipal Courts, the data on prescription of court cases of the official corruption and other offences against official duty will be analyzed. Few case studies relevant to prescription of cases and suspended sentences will also be presented.

### **Results**

The descriptive results will be published for all types of sanctions that were imposed against official corruption and other offences against official duty during the period 2008 – 2015.

### **Discussion**

The courts in Kosovo imposed the four types of criminal sanctions against the perpetrators of official corruption and other offences against official duty during the period 2008-2015: principal punishment, punishment of a fine, alternative

punishment and accessory punishment. Number of each type of punishment during the years within the period under review will be discussed separately.

### Principal Punishment

According to the data of Statistical Office of the Republic of Kosovo for the period 2008-2015, courts in Kosovo delivered the punishment with imprisonment against official corruption and other offences against official duty, as follows:

**Table 1. Punishment with imprisonment delivered by the Kosovo courts against perpetrators of the official corruption and other offences against official duty during the period 2008 – 2015.**

Year	Number of persons punished with imprisonment	5 - 30 days	1 – 2 months	2 - 6 months	6 - 12 months	1 - 2 years	2 - 5 years
2008	16			9	3	4	
2009	26	1	1	16	6		2
2010	16		2	8	6		
2011	10			8	1	1	
2012	3			2	1		
2013	14			3	4	5	2
2014	15			4	8	2	1
2015	20			13	5	1	1
Totali	120	1	3	63	34	13	6

From the descriptive data presented in the Table 1, the courts in Kosovo during the period under review delivered the punishment of imprisonment in the total of 120 raste. The number of punishment with imprisonment marked increase and decrease during certain years. In 2008, there were 16 punishment with imprisonment and a year later, in 2009 the number of punishment with imprisonment grew to 26. In 2010, the number was decreased to 16 and the decrease of punishment with imprisonment continued in 2011 with 10 punishment with imprisonment against the perpetrators of official corruption and other offences against official duty. The year 2012 was the year with only 3 punishment with imprisonment to be followed with 14 and 20 punishment with imprisonment in 2014 and 2015 respectively.

### Punishment of a Fine

The punishment of a fine is applied in the most cases by the Kosovo courts, during their process of sentencing the official corruption and other offences against official duty. According to the data of Kosovo Statistical Office, during the period 2008 – 2015, the Kosovo courts delivered the punishment of a fine as follows:

**Table 2. Punishment of a fine delivered by the Kosovo courts for perpetrators during the period 2008 – 2015**

Year	2008	2009	2010	2011	2012	2013	2014	2015	Total
The general number of convicted persons	53	84	47	88	90	103	117	128	710
The general number of punishment of a fine	38	30	30	50	34	33	39	51	305
%	71.6 %	35.7 %	54.25 %	56.8 %	37.7 %	32%	33.3 %	39.8 %	42.95 %

The data above show that the Courts in Kosovo delivered the punishment of fine for 43% of all cases against official corruption and other offences against official duty. The highest percentage of the punishment of a fine was recorded in 2008, with 71% percentage in the total number of the convicted persons. Although in 2009, the percentage was decreased to 35.7 %, a year later, in 2010 it was increased 54.2%. The similar percentage of 56.8% was recorded in 2011, while in the four coming years the percentage continued to be under in approximately same level, 38%, 32%, 33% and 40%.

### Alternative Punishments

This punishment has been imposed very frequently by the courts in Kosovo even against the perpetrators of the official corruption and other offences against official duty. Thus according to the data of the Kosovo Statistical Office for the period 2008 – 2015, the alternative punishment was imposed as follows:

**Table 3. Suspended sentence and its percentage compared to the other punishments against perpetrators of the official corruption and other offences against official duty during the period 2008 – 2015.**

Viti	2008	2009	2010	2011	2012	2013	2014	2015	Total
The general number of convicted persons	53	84	47	88	90	103	117	128	710
Number of alternative punishments	17	24	14	28	32	27	32	51	225
%	32%	28.5 %	29.78 %	31.81 %	35.5 %	26.21 %	27.35 %	39.84 %	31.69%

The data above show that the courts in Kosovo imposed the suspended sentence in total of 225 cases or 31.69% of the overall cases. Imposing of this punishment during

the period under review was higher than punishment with imprisonment. Referring to each year, the medium percentage of alternative punishment compared to other punishments was about 30% with a more significant increase in 2015 having this percentage grow to 40%.

### Accessory Punishments

During the period 2008-2015, courts in Kosovo imposed accessory punishment in only five cases. This punishment is imposed for the criminal act of misappropriation in the office and for taking bribe. In the table below, based on the Kosovo Statistical Office, are given types of official corruption and other offences against other official duties and the number of accessory punishments that were imposed.

Types of official corruption and other offences against official corruption	No. of punishments	Accessory punishments					
		Total	%	Punishment with a fine	%	prohibition on exercising public administration	%
Abusing official position or authority(Article.339)	235	2	-	-	-	-	0.89
Misappropriation in office (Article.340)	54	4	-	-	-	4	7.84
Fraud in office(Article.341)	9	-	-	-	-	-	-
Unauthorised use of property(Article.342)	18	-	-	-	-	-	-
Accepting bribes(Article. 343 )	91	1	-	1	-	-	1.16
Giving bribes(Article.344)	182	-	-	-	-	-	-
Trading in influence(Article.345)	19	1	-	1	-	-	5.2
Issuing unlawful judicial decisions(Article.346)	3	-	-	-	-	-	-
Disclosing official secrets(Article.347)	4	-	-	-	-	-	-
Falsifying official documents(Article.348)	38	-	-	-	-	-	-
Unlawful collection and disbursement(Article.349)	5	-	-	-	-	-	-
Unlawful release of persons deprived of liberty(Article. 350)	2	-	-	-	-	-	-
Unlawful appropriation of property during a search or	1	-	-	-	-	-	-

execution of a court decision(Article.436 i KPRK)								
Failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations(Article437)	49	-	-	-	-	-	-	-
Total:	710	8	1.12 %	2	0.28 %	4	0.56 %	

As it can be seen from the table, the accessory punishment were imposed rarely. In 2009, there were two accessory punishments against perpetrators of missappropriation in the office. These perpetrators were imposed punishment with imprisonment together with accessory punishment. Another accessory punishment was imposed in 2013 against a perpetarator of taking bribe, to whom was imposed both punishment with imprisonment and accessory punishment. While, in 20015, the accessory punishment was imposed to a perpetrator of trading in influence and two other accessory punishment to two perpetrators sentenced for unauthorised use of property.

### Judicial Admonition

During the period under review, the courts in Kosovo imposed judicial admonition against the official corruption and other offences against official duty in a very limited number of cases. Based on the Kosovo Statistical Office, the imposing of judicial admonition was distributed throughtout the years as follows:

**Table 5. Number of judicial amonition compared to the total number of punishments for official corruption and other offences against official duty during 2008 – 2015**

Year	2008	2009	2010	2011	2012	2013	2014	2015	Total
The general number of convicted persons	53	84	47	88	90	103	117	128	710
Number of Judicial amonition	1	4	4	-	4	1	-	4	18
%	1.88 %	4.76 %	8.51 %	-	4.44 %	0.97 %	-	3.12 %	2.53%

During the period under review, the courts imposed the judicial admonition only in 18 cases or 2.53% of the total percentage of the convicted persons. In 2008, the judicial admonition was imposed in one case for misappropriation in office. Four judicial admonitions were imposed in four cases for misuse of official position or authorisation. In 2010, the judicial admonition was imposed in four cases, two of which for taking bribery, one for giving bribery and the other one for falsifying official documents. While in 2011 there were no cases of judicial admonition, in 2012 there were also four cases, two cases for taking bribery, and two others for giving bribery. The only judicial admonition in 2013 was imposed for misusing official duty and authorisation. Again, there were no judicial admonition in 2014 while in 2015, there were four judicial admonitions for not reporting or false reporting of the wealth, incomes, gifts and other material gain or financial obligations.

## **Other Issues Related to Criminal Sanctions**

### **Suspended sentences**

In addition to prescription of the court cases, another concerning issue is the big number of suspended sanctions to the perpetrators of the official corruption and other duties against official corruption. BIRN Monitoring Report on the Court Work (2016) included a case no. PKR 341/13 in Prishtina, in which two former ministers of the Government of Kosovo were accused of misuse of the official duty and two film producers of fraud in official duty. According to the prosecutors' accusations, the ministers signed two agreements in 2006 and 2007 respectively in a total value of 570,000 Euro not in accordance of Law on public procurement and Kosovo Cinematography. The charges were filed in 2012 and the case was finished in 2015 with a court decision according to which the two former ministers were imposed suspended sentence for 10 months, one producer was released because he realized the intended film while the other producer was imposed a punishment with imprisonment for six months.

A suspended sentence was imposed to another person who as a public official disclosed confidential information to unauthorized people. The court found him guilty and imposed a suspended sentence of 12 months. Again in Prizren, a suspended sentence was imposed to the Mayor of Prizren and five other municipal officials who were found guilty for misusing the official duty.

The Basic Court in Prizren did act in the same way with the case number P.nr. 171/13 where the Mayor of Municipality of Prizren and other municipality officials were accused for misuse of the municipal properties, which were managed by the Kosovo Privatisation Agency. Although the court concluded that they were found guilty, they were sentenced with suspended sentence.

In addition to the prescriptions of the court criminal cases related to official corruption and the delivery of the low sentences, during a monitoring process in 2015, BIRN managed to identify few procedural violations of processes during the court sessions that treated the official corruption cases. These violations include: not providing the real situation in minutes of the meeting, lack of full composition of trial panel, lack of respect of legal time limits, lack of coordination of the Courts with relevant parties for scheduling court hearings, unprepared prosecutors, disturbance of order in the courtroom by lawyers, violation of the principle of equality of parties, holding the court session without the presence of the accused person, including the technical problems during the court session.

### **Prescription of Court Cases**

One of the main problems that has characterised the Kosovo judicial system during these years was the large number of unsolved cases. As a result, many of these cases were prescribed. Among these prescribed cases were also cases related to corruption, despite the fact that judges and politicians continuously claimed that cases related to corruption will have the priority. Thus, according to a monitoring process conducted by the Organisation for Democracy, Anti-corruption and Dignity – Cohu, in February 2013, it was found out that during the period 2001 – 2012, the number of corruption cases that were prescribed was 31. Ten out of these cases were prescribed in the relative aspect, for which the responsible parties are the courts as they could not manage to proceed them within the given legal deadlines but they enabled these cases to become old. While, 21 cases are prescribed in the absolute aspect for which the courts are responsible, since they already brought a decision for these cases but the execution of these decision was impossible because the perpetrators could not be found. According to the Monitoring Report of the NGO Cohu (2013), the criminal acts related to official corruption and other acts against the official duty are given in a descriptive way for the period 2001- 2012:

Criminal offense	Court in Prishtinë	Court in Ferizaj	Court in Gjakovë	Court in Malishevë	Court in Kamenicë	Court in Lipjan	Court in Istog	Court in Suharekë	Total
Abusing official position or authority (Article 339)	5	3	5	1	5	1	3		23
Accepting bribes (Article 343)		5							5
Falsifying official documents (Article 348)	2							1	3
Total:	7	6	5	1	5	1	3	1	31

Based on this, the biggest number of the prescribed cases was in the Municipal Court of Ferizaj (eight cases) which is followed by the Municipal Court of Prishtina (seven cases), Gjakova and Kamenica (five cases), Istog (three cases), Malisheva and Suhareka (one case). The cases of criminal acts against official duties that were prescribed during this time were those for misusing the official duty (23 cases), bribery (five cases) and forgery of the official documents (three cases). This trend of prescription of court cases continued even after 2012 despite the approval and entering into force of the Strategy for decreasing the gathered cases, in 2010.

According to another monitoring of the courts work conducted by BIRN in 2015, the prescription of the cases related to corruption was evident during 2014 and 2015. Although the secretariat of the Kosovo Judiciary that there are no prescribed cases in the courts of Kosovo, BIRN managed to find 22 cases related to the corruption that were prescribed.

Municipal courts	2014	2015	Total
Prishtinë	11	1	12
Pejë	0	2	2
Gjilan	0	1	1
Gjakovë	2	3	5
Ferizaj	0	2	2
Prizren	0	0	0
Mitrovicë	!	!	0
Totali	13	9	22

During 2014-2015, the biggest number of the prescribed cases related to corruption was in the Basic Court of Prishtina (12 cases, Gjakova (five cases), Peja and Ferizaj (two cases) and Gjilan (one case). It is noticed that there is a decrease of the prescribed cases from 13 in 2014 to 9 cases in 2015.

As a result of prescription of the criminal acts related to corruption, a damage has been caused to the state budget as well. As an example, a case in the Gjilani Basic Court, with number PP.nr 156/2012, which involved as accused persons the deputy mayor and procurement officer of the Municipality of Vitia. They were accused in January 2009 that they misused their official duty by not respecting the standard procurement procedures in order to bring illegal incomes to an external project office. They have authorised the payment of 3,028 Euro to this project office without having this company complete the responsibilities as were signed in the agreement to implement the project. Although the procurement officer could have prevented this payment, he did not act in accordance with his official duties and responsibilities. The Prosecution of Gjilan filed an official accusation on 30 December 2013, while the first review of the case took place almost two years after, on 27 October 2015, while the prosecutor withdrew from this case on 1 December 2015 since this criminal act achieved its absolute prescription.

A similar case took place with four Municipality officials in Ferizaj who were accused by the prosecution that on 21 December 2010, on the capacity of the official duty did not act in accordance with the Law on Construction No. 2004/15, and established a commission for technical acceptance of a collective apartment building. Despite that the conditions were not met, all commission members failed to fulfil their official duties by agreeing that that that collective apartment building shall receive the decision for technical acceptance which was against the building license. The Basic Court of Ferizaj, based on Article 363, Paragraph 1, sub-paragraph 1.3 took a decision that this case PKR.68/15 is dismissed since it has been concluded that the criminal act for which the four municipality officials were accused was absolute prescription and the criminal procedure against them is stopped.

Prescription also served as a basis of the Basic Court of Prishtina in a criminal act to take a decision that the charges shall be dismissed and the criminal procedure against a person who misused the official duty in accordance with Article 339, Paragraph 1 of KPK. The same court through a decision PKR. no. 137/13 prescribed another similar criminal act against two people. As a justification in this decision, among other things it is emphasised that “after reviewing the timeframe that is related to the time when the act was committed and the foreseen sentence according to the law which is from six months to five years, and having into consideration the time when the act was committed on 25 April 2015, this case was prescribed.

## Conclusion

In order to prevent the official corruption and other acts against official duty, the courts in Kosovo treated and sanctioned a certain number of the executors of these criminal acts during the period 2008 – 2015. A positive insight observed during this period is that in the recent years the number of the convicted persons for these criminal acts has been increased. Still, prescription of the court cases, pronouncement of the low sentences, suspended sentences and low profile convicted persons remain a major concern.

Although prescription of cases is a practice in other countries court systems, it remains a serious concern in Kosovo as it can easily be used as a unique opportunity 'to save' from sanctions people who have influence. Thus, the suspicious persons for committing official corruption and other acts against official duty continue to keep their positions from where they have the possibility to influence the courts not to proceed further with their case until the case gets the terms of prescription. At this stage, it is necessary that our courts to proceed the criminal acts of official corruption within the terms defined in the laws in order to avoid the possibility to use prescription as a tool to get away from the criminal proceeding and execution of the decisions.

The delivering of the low sentences is evident in the list of sentences announced from the courts during the period 2008 – 2015 against the perpetrators of the official corruption and other acts against official duty. Having this high level of corruption in Kosovo, non-application of the relevant sentences against the official corruption demonstrates that the judicial system in Kosovo possesses the possibility to have a more significant contribution in fighting the corruption. Another problem that pronouncement of the suspended sentences, impose fine compared to the sentences with imprisonment. Confiscation of the officials wealth is one of the challenges that Kosovo institutions shall adapt as a way to prevent and fight the corruption in Kosovo. This is because based on the experiences of other countries, the punishment of perpetrators without seizure of the wealth gained in illegal way cannot have the proper impact in preventing and fighting the corruption.

We shall emphasise that criminal sanctions are delivered against the perpetrators of the official corruption and other acts against official duty, which are mainly persons that had junior official positions. It confirms that the judicial system in Kosovo still did not manage to judge a case in which is involved a person that holds a senior

official position. Unfortunately, during the period of 2008 – 2015, conviction of the senior officials was not achieved neither by EULEX.

Despite the attempts that the legal system, number of law cases and the nature of the executed sentences, we can conclude that courts not always used their possibility to deliver the decisions against the official corruption and other acts against official duty, something which would enable the creation of the sustainable basis for Kosovo to prevent and fight corruption.

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