



STATE OF PLAY OF INTEGRITY POLICIES IN THE KOSOVO POLICE



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Kosovo Foundation
for Open Society

This publication has been produced with the support of the Kosovo Foundation for Open Society (KFOS) in the framework of the project “Strengthening integrity in the Kosovo Police”. The views expressed in this publication are the sole responsibility of the Kosovar Centre for Security Studies and do not necessarily represent those of the KFOS.

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**Prishtina
December 2020**

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LIST OF ABBREVIATIONS

ACA	Anti-Corruption Agency
APL	Authorized Personnel List
CPS	Community Policing Strategy
DPS	Division for Professional Standards
IDC	Internal Disciplinary Committee
INTEGRITY PLAN	The Plan for Strengthening Integrity in Kosovo Police
KP	Kosovo Police
KIA	Kosovo Intelligence Agency
MIA	Ministry of Internal Affairs
NAO	National Auditing Office
NGO	Non-Governmental Organization
PIK	Police Inspectorate of Kosovo
SDP	Strategic Development Plan

EXECUTIVE SUMMARY

- Overall, Kosovo's current constitutional and legal framework on anti-corruption and rule of law is solid. However, there are still challenges to be addressed, considering that the respective legal frameworks on whistleblowing and asset declaration have not yet been fully regulated and adopted. Lack of political will, coupled to the ongoing political crisis, has had a significant negative impact in this regard.
- A recent positive step taken by the Kosovo Police, is the publication of secondary legislation, which has been one of the key recommendations of Kosovar Centre for Security Studies advocacy activities on increasing police transparency.
- Kosovo Police Internal Control Mechanisms have identified a high number of ungrounded complaints filed with these mechanisms in 2019. Consequently, the potential presence of uncertainties regarding the procedures on reporting and processing complaints, either from citizens or from police officers themselves, is high;
- Kosovo Police departments staffing figures do not match the figures provided in the Authorized Personnel List, consequently many departments within the police face human resources shortages. However, this finding emerges from the latest available human resources inspection report of the Police Inspectorate of Kosovo, whose most recent statistics date back to 2017. The KCSS research team has requested up-to-date statistics from the Kosovo Police Information Office, however, no answer has been received until the date of this publication (December 2020);
- Kosovo Police face inadequate distribution of ranks in their departments, with some departments facing shortages in filling positions with adequate ranks, while other departments have exceeded the number of foreseen ranks in several positions;
- Kosovo Police have improved their budget execution in 2020. However, most capital expenditure contracts in 2019-2020 - which previously were the source of challenges in budget execution - are classified documents, and as such have not been audited. This shows a tendency to overclassify procurement contracts, leaving a loophole for potential misuse of the procurement cycle;
- Failure to adopt the law on early retirement and the law on disability treatment continues to challenge the effectiveness of the Kosovo Police. In the absence of these laws, many police officers with severe health issues and with limited capacities to perform their duties, are forced to continue their engagement in the Kosovo Police;
- Failure to involve external Kosovo Police oversight mechanisms in the drafting of the Police Integrity Plan has minimized its effects, in view of the role such mechanisms play in overseeing integrity-related issues in the Kosovo Police.

INTRODUCTION

In recent years, Kosovo's security sector integrity practices, in particular Kosovo Police ones, have run into severe challenges, which have been exacerbated by the current Covid-19 pandemic the country is dealing with. Numerous police officers are subjected to criminal investigations by relevant rule-of-law mechanisms (Police Inspectorate of Kosovo and State Prosecution) for alleged criminal offenses related to breaches of legal procedures governing their official duties. On the other hand, the Prime Minister's decision of October 2020 to discharge the former General Director of the Kosovo Police, has both directly and indirectly paved the way for political influence over the Kosovo Police by ruling parties. Furthermore, this may have a significant impact on discouraging structural reforms in the police, particularly in human resource management.

This paper provides an overview of the current legislation, legal instruments and legal procedures in place for preventing and fighting corruption and conflict of interest, and an analysis aimed at identifying gaps and deficiencies in the current legal framework in this regard. The failure of Kosovo institutions to upgrade anti-corruption legislation on asset declarations and to adopt secondary legislation on whistleblowing, indicates that there is a lack of robust commitment and political will to strengthen the integrity of state institutions, including the Kosovo Police. In this section on the legal framework, the report analyses the legislation on integrity and anti-corruption issues specifically related to the Kosovo Police. The Law on Police and specific secondary legislation of the Kosovo Police define the integrity principles and standardised procedure of the Kosovo Police. The process of drafting a specific Regulation on Integrity in the Kosovo Police has been initiated, but to date (December 2020) no information is available whether the Regulation has been adopted by the relevant institutions.

The following section provides an overview of strategic documents and of the current integrity plan of the Kosovo Police, by highlighting that the latter is outdated and has not yet been upgraded. It is important to note that there is no available information whether the action plan and measures of this strategic document on reducing corruption and enhancing institutional integrity have been implemented in practice by the Kosovo Police. A new integrity plan of the Kosovo Police is expected to be launched by 2021.

The paper also examines organizational aspects of the Kosovo Police in terms of the integrity perspective, police internal control mechanisms and disciplinary cases of police misconducts are addressed in this section. In this regard, many challenges have been evidenced in terms of ranks' distribution within the police. Another major problem analysed is the issue of the suspension of positions, which may potentially lead to conflict of interest of police officers of different ranks. Meanwhile, there are still challenges in budget management and healthcare-related matters, as police officers still do not possess health or life insurance.

INTRODUCION

Given the state of play of integrity practices in the Kosovo Police, this paper provides a number of specific recommendations for the Kosovo Police on strengthening integrity, aiming at the professional development of the institution and enhancement of anti-corruption measures.

1. CONSTITUTIONAL AND LEGAL FRAMEWORK ON ANTI-CORRUPTION AND INTEGRITY POLICIES

This section provides a general overview of Kosovo's current legislation in the field of anti-corruption and integrity in terms of fighting corruption, prevention of conflict of interest, and rule of law in the country. Here are briefly analysed the constitutional provisions that make up the key basis for Kosovo's subsequent legislation in the area of rule of law and its anti-corruption framework. This implies that the Kosovo Police (KP), as one of the rule-of-law institutions, is subject to the general rules deriving from Kosovo's Constitution, primary and secondary legislation, in the same manner as other rule of law and justice institutions (Courts, Prosecution, etc.).

Therefore, prior to specifically deconstructing the legal framework of the KP, it is highly important to first examine Kosovo's legislation on anti-corruption and the relative framework, which provide a set of rules for the KP to build and maintain integrity while strengthening accountability, impartiality and transparency, both internally and externally.

1.1. Constitutional overview on rule of law

In this regard, rule of law, the fight against illegal and criminal activities, including corruption and conflict of interest, which are main objectives of this report, are enshrined and generally maintained in the Constitution of the Republic of Kosovo. Article 3 provides that Kosovo is governed democratically with full respect for the rule of law through its legislative, executive and judicial institutions.¹ This provision also states that the exercise of public authority in Kosovo is based upon the principles of equality of all individuals before the law.² Furthermore, Article 7 of the Constitution states that Kosovo's constitutional order is based on the principles of freedom, peace, democracy, equality, respect for human rights and freedoms and the rule of law, non-discrimination, the right to property, the protection of environment, social justice, pluralism, separation of state powers, and a market economy.³ Besides this, there are provisions establishing the equality of all individuals before the law and that everyone enjoys the right to equal legal protection without discrimination.⁴ In short, given the fact that Constitution has been adopted relatively recently (compared to other Constitutions in the region), there are solid guarantees in place regarding human rights and institutional accountability.

1 Paragraph 1 of Article 3, Constitution of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

2 Ibid, Paragraph 2 of Article 3

3 Ibid, Paragraph 1 of Article 7.

4 Ibid, Paragraph 1 of Article 24

1.2. Legal overview on criminal law and procedure

In terms of legal framework, the new Criminal Code of the Republic of Kosovo No. 06/L-074,⁵ which entered into force in 2019, has a specific chapter titled “Official Corruption and Criminal Offenses against Official Duty”. Based on this legal document, the provisions of the general part of the Code are applicable to all criminal offenses defined within Kosovo’s laws. The Criminal Code recognizes different types of criminal offenses related to official corruption, including conflict of interest as indicated below: abuse of official position or authority (Article 414); abuse and fraud in public procurement (Article 415); misuse of official information (Article 416); conflict of interest (Article 417); misappropriation in office (Article 418); fraud in office (Article 419); unauthorised use of property (Article 420); accepting bribes (Article 421); giving bribes (Article 422); giving bribes to foreign public official or foreign official persons (Article 423); trading in influence (Article 424); issuing unlawful judicial decisions (Article 425); disclosing official secrets (Article 426); falsifying official document (Article 427); unlawful collection and disbursement (Article 428); unlawful appropriation of property during a search or execution of a court decision (Article 429); and failure to report or falsely reporting property, revenue/income, gifts, other material benefits or financial obligations (Article 430).

On the other hand, another law designed for fighting corruption in the country, is Law No. 05/L-049 on the Management of Sequestered and Confiscated Assets adopted in 2016 by the Kosovo Assembly, which defines the functions and responsibilities of the Agency for the Management of the Sequestered and Confiscated Assets.⁶ This agency operates within the Ministry of Justice⁷ and acts as an independent and sustainable mechanism of professional management and due care in good faith of assets sequestered and confiscated within Kosovo, as well as from the obligations of the country towards other countries.⁸

While Law No. 06/L-087 on Extended Powers on Confiscation of Assets adopted in 2018, specifies extended powers for confiscation of property in cases when the detailed procedures within the Criminal Procedure Code of the Republic of Kosovo are not sufficient.⁹ Besides this, the law implements Directive 2014/42/EU of the European Parliament and of the Council, of 3 April 2014, on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union.¹⁰ As stipulated by this law, extended confiscation applies to the assets of persons who have been convicted

5 Code No. 06/L-074 Criminal Code of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>.

6 Article 1, Law No. 05/L-049 on the Management of Sequestered and Confiscated Assets. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=12360>.

7 Ibid, Paragraph 1 of Article 5

8 Ibid, Paragraph 3 of Article 5.

9 Paragraph 1 of Article 1, Law No. 06/L-087 of Extended Powers on Confiscation of Assets. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18337>.

10 Ibid, Paragraph 2 of Article 1.

of a criminal offence as prescribed by the Criminal Code of the Republic of Kosovo or other laws. Based on the definition, confiscation is the permanent forfeiture of property, ordered by a final decision of the competent court in accordance with this law.¹¹

1.3. Legal overview on prevention of corruption practices

The Kosovo Anti-Corruption Agency (ACA) has a number of specific legal duties in the field of combating and preventing corruption, with particular emphasis on reporting, detection and investigation of corruption, as well as the implementation of the Anti-corruption Strategy and Action Plan.¹² According to Law No. 03/L-159 on the ACA, this institution is an independent and specialized body for the implementation of state policies on combating and preventing corruption in Kosovo.¹³ It reports on its work to the Kosovo Assembly once a year and to the relevant Assembly's committee every six months.¹⁴ However, its scope is limited to preliminary investigation procedures and administrative aspects.¹⁵ Besides some responsibilities in fighting corruption, the agency supervises and prevents cases of conflict of interests, and conduct the process of asset declaration of senior public officials in Kosovo.¹⁶ Legal experts dealing with anti-corruption legislation in Kosovo, state that no clashes of legal competences exist between the ACA and the KP in terms of prevention and fighting corruption in the country.¹⁷

In this regard, Law No. 04/L-050 on the Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of All Public Officials, defines the obligations of senior public officials to declare their property, revenues, and their origin, and the obligation of the ACA to control the declared property and origin of property, as well as obligations of all public senior officials to declare gifts and the origin of gifts.¹⁸ According to the Criminal Code of the Republic of Kosovo, failure to report or falsely reporting assets, revenue/income, gifts, other material benefits or financial obligations, is a criminal offense.¹⁹ Officials violating the

11 Ibid, Sub-paragraph 1.1 of Paragraph 1 of Article 3.

12 Article 1, Law No. 03/L-159 on Anti-Corruption Agency. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2662>.

13 Ibid, Article 3.

14 Ibid, Sub-paragraph 1.16 of Paragraph 1 of Article 5.

15 Anti-Corruption Agency. (2020). Annual Work Report (1 January - 31 December 2019). Prishtina: Anti-Corruption Agency, p. 5. Available at: https://akk-ks.org/assets/cms/uploads/files/Publikimet/Raporte/03.%20Raporti_Vjetor_i_Punes_AKK_viti_2019_ver_final_ENG_AKK_Mars_2020.pdf.

16 Article 5, Law No. 03/L-159 on Anti-Corruption Agency. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2662>

17 Interview, Ehat Miftaraj, Executive Director of Kosovo Law Institute, 1 July 2020.

18 Article 1, 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. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2767>

19 Article 430, Code No. 06/L-074 Criminal Code of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>

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legal obligations are punished by fine or imprisonment from six months to five years²⁰ depending on the type of offenses caused by public officials. In cases when this occurs, the non-reported or falsely reported assets, income, gifts, or other material benefits, are confiscated.²¹ It is worth noting that the ACA has announced a new draft law on the origin and declaration of assets, aiming at expanding the number of public officials who declare their assets.²² In this regard, it is estimated that around 10,000 public officials potentially most exposed and susceptible to corruption, will have to regularly declare their assets.²³ However, the draft law has not yet been adopted by the Kosovo Government and the Kosovo Assembly, hence the current law adopted in 2011 is still in force.²⁴

In 2018, the Kosovo Assembly adopted the new Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function, thus abolishing the previous law on this matter, which had deficiencies on addressing cases of conflict of interest among officials holding public functions and serving within public institutions.²⁵ This law aims to strengthen the integrity of the public sector, as well as guarantee the discharge of public duties in an objective, impartial and transparent manner in the service of public interests, through identification, prevention, management and resolution of conflict of interests of officials.²⁶ As cited above, based on the Criminal Code of the Republic of Kosovo No. 06/L-074, conflict of interest is a criminal offense and it is punishable by fine or imprisonment, depending on the criminal acts committed by an official person.²⁷ Based on the legal definition, a conflict of interest may result from circumstances in which an official has private interests that influence, might influence or seems to influence the impartial and objective performance of official duties.²⁸ Article 7 of the respective law stipulates that any person who has knowledge or reasonable suspicion about a conflict of interest of any official, shall notify the official's employing institution or the ACA.²⁹

Kosovo has put in place Law No. 06/L-085 on Protection of Whistleblowers, since its adoption in 2018, which aims to enable the whistleblower reports of violations in the public and private sector and the protection of whistleblowers.³⁰ According

20 Ibid.

21 Ibid.

22 Interview, Shaip Havolli, Director of Anti-Corruption Agency, 12 June 2020.

23 Ibid.

24 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. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2767>.

25 Kosovo Law Institute. (2018). The law prohibits the “flying of supermen” with many leading positions and prohibits the great benefits of public officials from additions. Prishtina: Kosovo Law Institute. Available at: <https://kli-ks.org/en/eng-ligji-ndal-on-fluturimin-e-supermeneve-me-shume-pozita-drejtuese-dhe-ndalon-perfitimet-e-medha-te-zyrtareve-publike-nga-shtesat/>.

26 Article 1, Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=16314>.

27 Article 417, Code No. 06/L-074 Criminal Code of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>.

28 Article 6, Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=16314>.

29 Ibid, Article 7

30 Article 1, Law No. 06/L-085 on Protection of Whistleblowers. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18303>.

to the definition stipulated by the law, a whistleblower “is any person who reports or discloses information on threat or damage to the public interest in the context of own employment relationship in the public or private sector”.³¹ The law states that whistleblowing can be internal (reporting information to the employer is considered to be internal whistleblowing), external (reporting information to a competent authority is considered to be external whistleblowing) or public (disclosure of information to the media, NGOs, Internet, public meeting, or any other way that discloses publicly the information is considered as public whistleblowing).³² While this law entered into force on January 2, 2019, the provisions regarding the private sector have begun to be applicable since January 2, 2020, namely one year after the law entered into force. However, to date (December 2020), Kosovo institutions, more precisely the Ministry of Justice, have failed to meet legal deadlines when it comes to issuing bylaws for the implementation of the Law on Protection of Whistleblowers.³³ According to the respective law, the bylaws for the implementation of this law shall be issued within six months from the day of entry into force of this law,³⁴ implying that secondary legislation should have been issued and adopted by July 2, 2019, by the Ministry of Justice.³⁵ However, it is worth mentioning that the latter has drafted the Regulation on the Procedure for Receiving and Handling Whistleblowing Cases, which has not been adopted yet.³⁶ Implementation of the Law on Protection of Whistleblowers and adoption of the Regulation on the Procedure for Receiving and Handling Whistleblowing Cases, have also been cited by the ACA as key challenges.³⁷

1.4. Legal overview on public officials / senior public officials

Another legal act related to the fight against corruption and prevention of conflict of interest is Law No. 03/L-149 on the Civil Service of the Republic of Kosovo, adopted in 2010 by the Kosovo Assembly. Consequently, civilian personnel of the KP are part of the Kosovo Civil Service and subject to this law and relevant applicable legislation.³⁸ Contrary to this, police officers (implying uniformed personnel of the police) are not counted as part of the Civil Service, thus their employment relationship is regulated

31 Ibid, Sub-paragraph 1.1 of Paragraph 1 of Article 3.

32 Ibid, Article 13.

33 Article 32.

34 Shala, G., & Bajraktari, L. (2020). “Sinjalizim publik” për mos zbatimin e Ligjit për Mbrojtjen e Sinjalizuesve (analizë e zbatimit të Ligjit për Mbrojtjen e Sinjalizuesve nga institucionet publike). Prishtina: Kosovo Law Institute, pp. 11-13. Available at: <https://kli-ks.org/sinjalizim-publik-per-mos-zbatimin-e-ligjit-per-mbrojtjen-e-sinjalizuesve/>.

35 Paragraph 1 of Article 30, Law No. 06/L-085 on Protection of Whistleblowers. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18303>.

36 Ibid, p. 11.

37 Anti-Corruption Agency. (2020). Annual Work Report (1 January - 31 December 2019). Prishtina: Anti-Corruption Agency, p. 43. Available at: https://akk-ks.org/assets/cms/uploads/files/Publikimet/Raporte/03.%20Raporti_Vjetor_i_Punes_AKK_viti_2019_ver_final_ENG_AKK_Mars_2020.pdf

38 Paragraph 5 of Article 3, Law No. 03/L-149 on the Civil Service of the Republic of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2679>.

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in accordance with the Law on Labour, special laws, collective agreements or sector regulations.³⁹ However, this law has been partially abolished through the adoption by the Kosovo Assembly in 2019 of Law No. 06/L-114 on Public Officials.⁴⁰ It aims to establish the legal basis for employment of public officials in Kosovo institutions based on merits, moral integrity, impartiality and sustainability.⁴¹ Public officials, under this law, are categorized into four groups: i) Civil Service employees (civil servants), ii) Public Service employees, iii) Cabinet employees, and iv) Administrative and support staff.⁴² Police officers of the KP and the Police Inspectorate of Kosovo (PIK) - however it is not specified which employees or personnel of the PIK are specifically exempted by the law - are being exempted from this law, hence they are qualified as "public functionaries with special status".⁴³ Furthermore, this law provides that the "relationship between the state and public functionary with special status... is regulated entirely with a special sectoral Law",⁴⁴ while it does not specify which law regulates public functionaries with special status or whether a new law should be drafted to regulate this type of personnel. Additionally, in case the new law will be drafted for public functionaries with special status, no legal deadlines are set by Law No. 06/L-114 on Public Officials for drafting such legislation. It is important to note that respective laws on civil service are being implemented by the KP, with particular regard by the police administration personnel.

However, the Law on Public Officials was subject to the constitutional review of the Constitutional Court of Kosovo, which in July 2020 decided that some of its provisions are not in compliance with the provisions of Kosovo's Constitution.⁴⁵ According to this judgement of the Constitutional Court, the respective law on public officials should not be applicable to some specific institutions, since it violates their functional and organizational independence guaranteed by the Constitution, while the Kosovo Assembly is obliged by this judgement to take the necessary actions to supplement and amend Law No. 06/L-114 on Public Officials in accordance with the findings of this Judgment.⁴⁶ Despite this, the Law on Public Officials does not violate provision of the Constitutions when it comes to the civil servants of the KP.⁴⁷

Another new law adopted by the Kosovo Assembly in 2019, is Law No. 06/L-111 on Salaries in Public Sector, which defines i) the system of salaries and remunerations for Public Officials and Functionaries who are paid from the state budget, excluding the Kosovo Intelligence Agency and Kosovo Security Force, ii) rules for determining salaries for employees of publicly owned enterprises in Kosovo, and iii) criteria for transitional

39 Ibid, Paragraph 1 of Article 4.

40 Article 85, Law No. 06/L-114 on Public Officials. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=25839>

41 Ibid, Article 1

42 Ibid, Paragraph 2 of Article 2.

43 Ibid, Sub-paragraph 3.3 of Paragraph 3 of Article 3.

44 Ibid, Paragraph 4 of Article 3.

45 Constitutional Court of the Republic of Kosovo / Judgement in Case No. KO203/19 – Constitutional review of specific Articles of Law No. 06/L-114 on Public Officials, 9 July 2020, p. 53. Available at: https://gjk-ks.org/wp-content/uploads/2020/07/ko_203_19_agj_ang.pdf.

46 Ibid.

47 Ibid.

salary and other benefits after the end of the function of public functionaries and public functionaries with special status, as well as for former senior officials who realize their rights according to the relevant law.⁴⁸ There are some provisions specifically targeting the KP. Based on this law, police officers will benefit a special allowance for those tasks they perform in the sectors or special operations that entail a risk for their lives,⁴⁹ and this special allowance cannot be higher than forty percent (40%) of the basic salary.⁵⁰ This law has not specified which positions of the police officers will benefit from special allowances, which must be determined by a bylaw issues by the Kosovo Government upon proposal of the Ministry of Internal Affairs.⁵¹ To date (December 2020), no information is publicly available whether a bylaw or any secondary legislation has been issued and adopted by the Government/Ministry of Internal Affairs on the matter. Article 31 of Law No. 06/L-111 on Salaries in the Public Sector provides that bylaws foreseen by this law will be adopted within nine months following the law's publication in the Official Gazette, which occurred March 1, 2019, while these bylaws should have been adopted by December 1, 2019.⁵²

However, the Constitutional Court of Kosovo has found that this law in its entirety is not in compliance with some relevant articles of Kosovo's Constitution,⁵³ hence it was declared invalid in its entirety.⁵⁴

48 Article 1, Law No. 06/L-111 on Salaries in Public Sector. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18683>

49 Ibid, Paragraph 1 of Article 14

50 Ibid, Paragraph 2 of Article 14.

51 Ibid, Paragraph 2 of Article 14.

52 Ibid, Article 31, Law No. 06/L-111.

53 Constitutional Court of the Republic of Kosovo / Judgement in Case No. KO219/19 – Constitutional review of Law No. 06/L-111 on Salaries in Public Sector, 9 July 2020, p. 123. Available at: https://gjk-ks.org/wp-content/uploads/2020/07/gjk_ko_219_19_agj_ang.pdf.

54 Ibid.

2. LEGISLATION ON INTEGRITY RELATED ISSUES OF THE KOSOVO POLICE

This second section of the report analyses specifically primary and secondary legislation of the KP in the field of integrity and basic principles of accountability intending to strengthen anti-corruption measures, preventing and fighting police corruption.

Prior to analysing police integrity from the legal standpoint, it is worth noting the legal provisions that the Criminal Procedure Code No. 04/L-123 provides for the KP. Article 69 of the Criminal Procedure Code stipulates that the KP investigates possible criminal offenses to determine whether a criminal proceeding is warranted, while the prosecutor and the police work together during the initial steps.⁵⁵ Furthermore, once a measure is authorized or a criminal proceeding is initiated, the prosecutor directs and supervises the work of police and/or other body conducting the criminal investigation, having in mind that the prosecutor has access to all relevant investigative information in possession of the police during the initial steps.⁵⁶ Besides this, upon receiving information of a suspected criminal offence, the police investigate whether a reasonable suspicion exists that a criminal offence prosecuted ex officio has been committed.⁵⁷ The police also investigate criminal offences and take all necessary steps to locate the perpetrator, to prevent the perpetrator or his or her accomplice from hiding or fleeing, to detect and preserve traces and other evidence of the criminal offence and objects which might serve as evidence, and to collect all information that may be of use in criminal proceedings. With regard to the PIK, it is important to highlight that investigators of this institution have police powers; therefore, they too exercise their duties in accordance with the Criminal Procedure Code.⁵⁸

2.1. Legal framework of the Kosovo Police

The current Law (No. 04/L-076) on Police, under which this institution operates, was adopted by the Kosovo Assembly in 2012. This law regulates the authorizations and duties of the police, its organization and other issues related to KP activities and actions.⁵⁹

The law begins with the guiding principles of KP work, which among others include:

55 Article 69, Criminal No. 04/L-123 Procedure Code. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>.

56 Ibid.

57 Ibid, Article 70.

58 Article 17, Law No. 03/L-231 on Police Inspectorate of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2720>.

59 Article 1, Law No. 04/L-076 on Police. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2806>.

i) fair and equal treatment of all persons, ii) respect for human rights and fundamental freedoms, iii) neutrality and impartiality regarding persons' political views and affiliations, iv) integrity, honesty and accountability in public service, v) transparency - providing information to the public and being open to the public, vi) legitimacy, suitability and proportionality, and vii) commitment to employment, advancement and assignment of duties in inclusive, merit-based and non-discriminatory manner, by reflecting the multi-ethnic character of Kosovo and by recognizing the principles of gender equality and human rights foreseen by the Constitution. ⁶⁰ In this regard, police officers should exercise their authorizations and perform their duties in a lawful manner, based on the Constitution, applicable laws, and the Police Code of Ethics. ⁶¹

The law continues by defining also the status of KP as a public service that operates within the Ministry of Internal Affairs ⁶² through a unified chain of command throughout Kosovo's territory. ⁶³ The KP operates under the authority of the Minister of Internal Affairs and under the control and supervision of the General Director of the KP, while the Minister's authority does not include the operational management of the Police. However, the General Director of the police reports and is directly accountable to the Minister for the administration and management of the police. The KP has its own budget, which is a separate budget within the Ministry of Internal Affairs. ⁶⁴ Moreover, the General Director of the KP is entitled to prepare the police budget and submit it to the Minister for review and further processing in accordance with the procedures established by law. ⁶⁵ In this regard, the KP is responsible for the implementation and management of its budget. ⁶⁶

When considering integrity policies within the KP, this law provides that all disciplinary offenses involving KP personnel, except the cases foreseen by the Law on PIK, are investigated and ruled by the KP. ⁶⁷ while violations, measures and procedures are regulated by police bylaws. ⁶⁸

The Law on Police has some specific provision on conflict of interest. It points out that the police officer should not accept a position or obligation, and should not participate in any function or activity, that creates a conflict of interest with the official police duties ⁶⁹, referring to specific situations which need to be avoided by its staff, such as : i) appointment or election to public duty or other government position, ii) participation in electoral campaigns for election to public duty, iii) employment or participation in any business activity against compensation, except with permission granted by the General Director of the KP, vi) active participation in any political party; following instructions

60 Ibid, Paragraph 1 of Article 2.

61 Ibid, Paragraph 2 of Article 2.

62 Ibid, Paragraph 1 of Article 4.

63 bid, Paragraph 3 of Article 4.

64 Ibid, Paragraph 1 of Article 51.

65 Ibid, Paragraph 2 of Article 51.

66 Ibid, Paragraph 3 of Article 51.

67 Ibid, Paragraph 1 of Article 43.

68 Ibid, Paragraph 2 of Article 43.

69 Ibid, Paragraph 1 of Article 49.

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of any political party in the performance of police duties; appearing in police uniform at any political gathering, except when assigned to do so on official police duty, while membership in a political party is not a conflict of interest based on the law, and v) issuance of public statements or comments regarding the work of police, except in cases when it is allowed by the superior with appropriate authorization.⁷⁰

In terms of its personnel, the KP counts three categories of its personnel: i) police officers who take an oath and have authority to exercise and to perform authorizations and police duties, ii) civilian personnel employed to perform administrative and support services, but who do not have authority to exercise police authorizations, and iii) police cadets.⁷¹ Police officers in Kosovo enjoys the same civil and political rights as other citizens, being subject only to restrictions in this law deemed necessary for the effective exercise of their police powers and duties in a democratic society.⁷² They also have the same social and economic rights as other public servants, such as the rights to organize or to participate in representative organizations and to receive appropriate remuneration, social insurance, legal aid, health and other benefits for their work.⁷³ However, police officers do not have the right to strike, but are entitled to express their dissatisfaction through protests organized and lead by their representative bodies.⁷⁴

On the other hand, the PIK is the principal institution in Kosovo responsible for strengthening police integrity, anti-corruption measures, and fighting criminal and illegal activities in which the KP and police officers are involved. Its mission entails the exercise of duties to ensure an accountable, democratic and transparent police service in accordance with the legislation in power and required standards.⁷⁵ It operates as an executive institution within the Ministry of Internal Affairs and it is independent from the KP, however under direct subordination of the Minister.⁷⁶ The most important legal powers and scope the law awards to the PIK in relation to the KP, are prevention, detection, documentation and investigation of criminal offences committed by KP employees, regardless of rank and position, while on duty or off duty.⁷⁷ More details on the integrity, independence, work and activities of the PIK vis-à-vis the KP will be presented on a specific publication focused on this institution that the KCSS will publish in 2021.

70 Ibid, Paragraph 2 of Article 49.

71 Ibid, Paragraph 1 of Article 44.

72 Ibid, Paragraph 1 of Article 46.

73 Ibid, Paragraph 2 of Article 46.

74 Ibid, Paragraph 3 of Article 46.

75 Article 3, Law No. 03/L-231 on Police Inspectorate of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2720>.

76 Ibid, Paragraph 1 of Article 6.

77 Sub-paragraph 1.1. of Paragraph 1 of Article 2, Law No. 03/L-231 on Police Inspectorate of Kosovo. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2720>.

2.1.1. Secondary legislation of the Kosovo Police

Secondary legislation or bylaws of the police are important legal documents to further define and regulate the scope and performance of the institution and its civilian and uniformed personnel. This paper provides a brief overview of police bylaws. A positive development is that the police have recently published their bylaws on their website, as consistently recommended by the KCSS in order for the police to demonstrate transparency, as one of the key principles of integrity. Nevertheless, it is still unclear whether all regulations and administrative instructions (which compose secondary legislation) have been published or not, since only a certain number of them are available on the police website.⁷⁸

Regulation No. 02/2017 on the Internal Organization and Systematization of Working Positions of KP which entered into force in early 2017, determines the internal organization of the police at central and local level.⁷⁹ Another bylaw of the police regulating human resources is the Regulation on Personnel and Administration of the KP, which is in place as of September 2019, thus abolishing the previous regulation.⁸⁰ It sets out rules and duties for the civilian and uniformed personnel of the police, including police officers. On the other hand, the Administrative Instruction No. 02/2018 on Employment Relations in the KP, which entered into force in November 2018, regulates the employment relation for the police personnel and it is applicable to for the entire personnel of the police.⁸¹ A new administrative instruction on the promotion procedure for police officers has been introduced in July 2020. It determines the criteria for participation in promotion, application procedures, composition of the evaluation committee and panel, testing, evaluation methods, complaint procedures, ranking and appointment in certain positions in the course of the promotion process of police officers.⁸²

An important bylaw related to police integrity is inevitably Administrative Instruction No. 04/2019 on Violations, Measures and Disciplinary Procedures in the KP. It is intended to set out the policies regarding discipline, violations, disciplinary measures and procedures related to the activities of police personnel, legal provisions and specific requirements of the police in the field of discipline.⁸³ Furthermore, this

78 For more information, see the following link: <https://www.kosovopolic.com/dokumente/akte-te-brendshme-te-police-rregulloret-udhezimet-administrative/>.

79 Article 3, Regulation (MIA) No. 02/2017 on the Internal Organization and Systematization of Working Positions of Kosovo Police. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=13324>.

80 Article 255, Rregulloret për Personel dhe Administratë në Policinë e Kosovës (Regulation on Personal and Administration of the Kosovo Police). Available at: <https://www.kosovopolic.com/wp-content/uploads/2020/07/1.-Rregullorja-e-Personel-dhe-Administratë%CC%88.pdf>.

81 Article 2, Administrative Instruction No. 02/2018 on Work Relation in Kosovo Police. Available at: <https://www.kosovopolic.com/wp-content/uploads/2020/08/02-2018-Mbi-marre%CC%88dhe%CC%88nien-e-pune%CC%88s-ne%CC%88-Policine%CC%88-e-Kosove%CC%88s.pdf>.

82 Article 1, Administrative Instruction No. 02/2019 for the Promotion Procedure for Police Officers. Available at: <https://www.kosovopolic.com/wp-content/uploads/2020/07/02-2019-U.A.-pe%CC%88r-Procedure%CC%88n-e-gradimit-pe%CC%88r-zyrtare%CC%88t-policore%CC%88-final-03.07-2019.pdf>.

83 Article 1, Administrative Instruction No. 04/2019 for Violations, Measures and Disciplinary Procedures in Kosovo

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bylaw determines the following issues: reporting disciplinary violations, procedures of initiating disciplinary procedures, investigation procedure, suspension of the disciplinary procedure, suspension procedure, transfer procedure, procedure to terminate the investigation, decision-making procedure, and complaint procedure against disciplinary and administrative decisions.⁸⁴

Since 2020, the KP has initiated the process of drafting a new Regulation on Integrity in the Kosovo Police, aiming to establish rules, procedures and methods for preventing corruption, abuse of official duty and other unethical behaviours that undermine police integrity.⁸⁵ This document will also address prevention of conflict of interest within the KP, as well as internal whistleblowing of the institution, whilst it will be applicable to all KP personnel. To date, no information is available whether the Regulation has been adopted by the relevant institutions.

Police. Available at: <https://www.kosovopolic.com/wp-content/uploads/2020/07/UA-Nr.04-2019-Shkeljet-masat-dhe-procedu-ra-diciplinore.pdf>.

84 Ibid, Article 4.

85 Draft Regulation on Integrity in the Kosovo Police, 2020.

3. STRATEGIC DOCUMENTS ENHANCING INTEGRITY IN KOSOVO POLICE

In addition to the legal framework regulating integrity issues, the Kosovo Police (KP) adopted several strategies that provide specific measures to further develop the integrity of the institution. One of the key strategies in this regard is the Plan for Strengthening Integrity in Kosovo ⁸⁶, which specifically addresses integrity issues and offers measures for strengthening different areas that are potentially vulnerable and may affect the integrity of the institution. On the other hand, strategies such as the **Strategic Development Plan** and the **Community Policing Strategy**, among others, provide concrete measures and actions in the areas identified as vulnerable in the integrity plan, consequently they directly or indirectly address issues related to KP integrity.

The three strategic documents were adopted in unrelated processes, and the implementation periods vary from one another. Yet, the reason for focusing on these documents is that these strategies address similar and important aspects in strengthening the integrity in the KP. Respectively, while there are other strategic documents envisaging measures on different elements of integrity in the KP, the report is focused only on these three strategies for two key reasons: the responsibility for drafting and implementing the respective strategies lies directly with the KP itself, and they are exclusively aspects related to the integrity and performance of Police in general.

3.1. The plan for strengthening integrity in Kosovo Police

In 2017, the KP adopted the “Plan for Strengthening Integrity in Kosovo Police” (Integrity Plan). This document provides an overview of the current state of integrity and measures for preventing integrity vulnerabilities in the KP for the 2018-2019 period. ⁸⁷ Therefore, this plan is no longer valid, and the KP has not yet developed a new plan that would cover the current period and subsequent years. KP officials indicated that the KP will temporarily update the existing integrity plan, before launching a new drafting process next year. ⁸⁸ However, this can be largely speculative, as no official confirmation regarding these developments has been made available for the public.

⁸⁶ Hereinafter “the plan for strengthening integrity in Kosovo Police” will be referred to as “the Integrity Plan”.

⁸⁷ The plan for strengthening integrity in Kosovo Police 2018-2019.

⁸⁸ Participatory observation on the drafting process of the Regulation of Integrity of KP.

3.Strategic documents enhancing integrity in Kosovo Police

Content wise, the integrity plan tackles key important integrity issues within the KP. Through the integrity plan, the KP aims to ensure effective risk management of potential integrity violations within the KP; reduce corruption opportunities of its officials; ensure organizational resilience towards corruption; standardize integrity practices with local and international legal frameworks, needs and demands; and further enhance KP's capacities for preventing the risks posed to organizations integrity.⁸⁹ The integrity plan identified and categorized the at-risk areas for potential integrity violations in five groups: 1) Organizational Aspects; 2) Organizational Culture; 3) Specific Risks and Vulnerabilities; 4) Procurement, and 5) Communication and Information.⁹⁰

Organizational Aspects

To refine the integrity loopholes in the organizational aspect, the integrity plan highlights enhanced oversight and ongoing monitoring in exercising the police duties as an important factor.⁹¹ It emphasizes the need for improvement of the reporting chain in organizational units to ensure the effective oversight and audit of police decisions and duties.⁹² The integrity plan identifies performance appraisal, promotion and ranking processes as potentially vulnerable, and estimates that these processes need increased transparency. To diminish the irregularities on performance appraisal, promotion and ranking, the integrity plan foresees the advancement of the recruitment, promotion and ranking system, and strengthened oversight over these processes.⁹³ The integrity plan highlights internal auditing and inspections as another organizational aspect that can potentially undermine institutional integrity.⁹⁴ The results of the in-house survey conducted for the needs of the Integrity Plan, show that the majority of the respondents believe that the internal inspections for the prevention of the corruption are only partially effective in that regard.⁹⁵ Therefore, the KP has foreseen continuous trainings provided by external experts for internal audit officers, and the review of the implementation of the internal auditing/inspecting system to ensure comprehensive internal controls that effectively fight corruption.

Organizational Culture

The code of conduct and ethics, fight against corruption and prevention of conflict of interest, compose the areas that the integrity plan highlights as the basis for ensuring an integrity-based organizational culture.⁹⁶ While the Integrity plan and the code of conduct and ethics are considered key in strengthening the organizational culture, and on the other hand the Integrity plan constantly emphasizes the enhancement of transparency and a more pro-active approach in communications with external actors,

89 The plan for strengthening integrity in Kosovo Police 2018-2019, p.3.

90 Ibid, p.5.

91 Ibid, p.8.

92 Ibid.

93 Ibid.

94 Ibid, p.9.

95 Ibid.

96 Ibid.

neither of these documents are published by the KP, and they are not accessible to the public. While the code of ethics is effective and applicable to all police officers, the integrity plan notes that not all police officers reflect good ethics and integrity within the organization. To address this issue, it instructs the human resources department to update the training plan in order to raise awareness on ethics and integrity, and to provide additional training on the implementation of the code of ethics. On the other hand, although in practice corruption and conflict of interest pose a serious threat to the integrity of the organization, they are superficially treated in the integrity plan. They are briefly analysed and are mainly narrowed in the framework of the need for awareness raising and better information of police officers on such phenomena'. The integrity plan suggests the drafting of plans for anti-corruption trainings, providing platforms to openly discuss corruption issues, raising awareness within the organization, and increasing the frequency of meetings between supervisors and their teams to present and discuss strategic goals and anti-corruption priorities. Similar needs are pointed out for the prevention of conflict of interest, while emphasising the provision of better guidance and criteria on what is considered a conflict of interest within the KP. According to the integrity plan, to prevent conflict of interest the KP should be especially focused on procurement, contract execution, crime investigation, and the process of appointing the boards for the recruitment and promotion processes.

Specific risks and vulnerabilities, procurement and communication

As stated in the integrity plan, the most vulnerable areas in KP are: the process of investigations, with emphasize on organized crime, corruption and economic crimes investigations; public security; integrated border control and management; supporting services, such as procurement, management of assets and budget management; and human resources, specifically recruitment, selection, promotion and discharge of officials. ⁹⁷ To consistently identify and address specific risks, the KP foresees to integrate periodic risk assessment in these areas in internal reporting on the progress of implementation of the integrity action plan. Similarly, to other areas, additional training and information campaigns remain the main actions for ensuring integrity even in these specific areas. As repeated several times within the integrity plan, strengthening internal control is considered a necessary step for strengthening integrity in the most vulnerable departments, especially in the investigation department. In addition, the integrity plan foresees to increase the number of police officers in the investigation department. On the other hand, to ensure effectiveness of the procurement process, the KP foresees to amend the internal rules and procedures for supporting services, emphasising increased controls and trainings in this regard. Additionally, the integrity plan is very superficial regarding communications and information, and repeats the need for training and increased internal oversight. It states that the KP should be more pro-active to ensure timely response to requests for information from the media, non-governmental organizations and other stakeholders.

97 Ibid. p.10.

3.1.1.The main deficiencies of the plan for strengthening integrity in Kosovo Police

The integrity plan continually emphasizes the need for increased transparency and internal controls, especially in the processes of recruitment, promotion and performance appraisal, while it does not provide concrete measures in this regard. The measures are mainly related to raising awareness on integrity issues, despite the fact that institutional awareness on integrity should have been self-evident through the existing legal framework and strategies at the national level. Furthermore, while the increased internal controls are constantly emphasized, it implies that the internal controls system has not been effective so far, and potential integrity problems in the KP derive from top to bottom. The integrity plan's action plan provides several activities for each at-risk area identified. These activities are very general and as such they can be perceived as measures or areas where improvement is needed, but can hardly be considered as concrete activities that provide improvements in the respective areas. Consequently, the integrity plan should have provided concrete activities for each measure, in order to specify the direct intervention that is envisaged to be carried out through the integrity plan. For comparison, the integrity plan of the Kosovo Security Force specifies sub-objectives for each overall objective, highlights the general measures on reaching the objectives, and offers concrete activities for each specified measure.⁹⁸ In these circumstances, the assessment of the implementation of the integrity plan may be superficial, as many of the measures are hardly measurable. For example, many of the activities of the integrity plan foresee that all KP departments need to raise awareness on various issues, without specifying how this will be implemented in practice, or what indicators are used to assess the implementation of such activities. Furthermore, many activities emphasize strengthening controls in various departments, without specifying how this will be implemented in practice - by increasing human capacities in internal oversight mechanisms, advancing the internal communications system, or developing additional mechanisms for internal oversight.

Although the integrity plan states that it serves as an additional instrument for enhancing institutional integrity at the national level and complements the effective implementation of the action plan for the implementation of the National Anti-Corruption Strategy,⁹⁹ the Anti-Corruption Agency (ACA) has not been involved in the process of its drafting.¹⁰⁰ Likewise, the Ministry of Internal Affairs, Police Inspectorate of Kosovo (PIK), or any other relevant institution responsible for overseeing the work of the KP, did not participate in the compilation of the integrity plan, despite being crucial mechanisms for overseeing KP's integrity.¹⁰¹ The findings of the plan were identified entirely within the institution through questionnaires filled out by police officers to identify vulnerable integrity areas, and through in-house interviews and focus groups.¹⁰² While ensuring the integrity of the KP is not an

98 Ministry of Defense. Integrity Plan 2019-2022. Available at: <https://mod.rks-gov.net/repository/docs/plani-i-integritetit-19-22-eng.pdf>

99 The integrity plan refers to the National Anti-Corruption Strategy 2013-2017. As the Government of Kosovo has not adopted a new Anti-Corruption Strategy yet, such strategy is currently not in place.

100 Avdiu, P. and Muji, A. (2017). Monitoring and evaluation of the integrity of Security Institutions in Kosovo. KCSS, Available at: http://www.qkss.org/repository/docs/Monitorimi_dhe_vleresimi_i_integritetit_ne_sektorin_i_sigurise_804909.pdf

101 Ibid.

102 The plan for strengthening integrity in Kosovo Police 2018-2019, p.4.

exclusive responsibility of the KP itself, and numerous external mechanisms are in place to oversee it, their lack of involvement in drafting the integrity plan minimizes its effect. This is because a comprehensive approach would contribute to a more detailed analysis of at-risk areas and create space for the compilation of concrete activities, based on actual capacities. Thus, if we look at the action plan of the integrity plan, the collaborators in implementing the activities are only specified at the internal level of different departments and units within the KP, while other institutions that could provide an effective contribution in some areas are not foreseen to contribute at all.

3.2. The Strategic Development Plan

While advancing human resources management and capacities are the watchword of the integrity plan, the Strategic Development Plan – SDP (2016-2020) and its action plan provides concrete measures on this regard, despite the fact that this document predates the integrity plan and both are not necessarily harmonized with each-other.

Advancing human resources management and capacities are the keywords of the integrity plan, and the Strategic Development Plan – SDP (2016-2020) and its action plan which provide concrete measures in this regard, despite the fact that this document predates the integrity plan, and the two documents are not harmonized with each other.

The main objective of the SDP is to advance human resources by shaping the career development of KP officials based on their performance, advance the personnel management system, provide health support to KP officials, and improve the quality of training programs.¹⁰³ To meet the objectives, the SDP foresees to improve the quality of internal evaluation processes, and to intervene in potentially vulnerable areas, such as promotion and recruitment processes, by reviewing and reorganizing them.¹⁰⁴ In this regard, the KP has repealed Administrative Instruction No. 01/2018 on Promotion Procedures for Police Officers, and has adopted the new Administrative Instruction No. 01/2019 regulating the process. This action is one of the measures foreseen by the SDP action plan besides the reviewing of the organizational structure, which was successfully updated in 2019. As specified in the SDP, changes in human resources will also occur by updating the unified lists of positions, in line with the list of authorized personnel and implementation of job classification for civilian staff. Furthermore, through the development plan, the KP has foreseen the operationalisation of the early-retirement scheme for KP personnel and provision of healthcare for its officials. While the necessary measures in this regard have been taken by the KP, the draft-law regulating these issues is still pending approval by the Kosovo Government.¹⁰⁵

103 Kosovo Police. Strategic Development Plan 2016-2020. Available at: https://www.kosovopolice.com/wp-content/uploads/2019/10/Plani_i_Strategjik_i_PK-se_-Shqip.pdf

104 Ibid.

105 KOHA.net. (2020). Ka përfunduar draftligji për pensionimin e parakohshëm të policëve. Available at: <https://www.koha.net/arberi/202355/ka-perfunduar-draftligji-per-pensionimin-e-parakohshem-te-policëve/>

3.3. The Community Policing Strategy

The Community Policing Strategy (CPS) 2017-2021 mainly deals with integrity issues from the perspective of enhancing transparency and deepening partnerships with external actors. To reach the strategic objectives of this strategy, the KP has foreseen regular meetings, joint projects, public discussions, lectures and awareness raising campaigns with municipal education departments, schools, local security mechanisms, NGO's, media, business communities, cultural communities etc. ¹⁰⁶ Moreover, one of the measures deriving from the CPS is the design of training programs for KP members and identification and training of trainers implementing the programs. As the Investigation Department is considered vulnerable by the integrity plan, the KP has included the prioritization of cases and monitoring of the progress of investigations of these cases as an important measure to increase satisfaction and trust in police work. Furthermore, the CPS foresees to increase KP's transparency by publishing the profiles of Regional Police Directorates and their periodic reports on KP's official website. While the website includes a brief profile of each Regional Directorate, the publishing of periodic reports has not been implemented yet. To ensure its implementation, the KP has integrated the appointment of the coordinator and monitoring team at the general directorate level, field inspections for strategy implementation, and annual evaluation reports on the implementation of the strategy as a sub-objective of the CPS. The evaluation reports for the last three years are not publicly accessible.

In contrast to the integrity plan, the CPS foresees wider involvement of other institutions in reaching its objectives. Furthermore, one the objectives of the CPS is the coordination and harmonization with other strategies, however, there is no emphasis placed on the harmonization with the Integrity Plan. Although the CPS does not mention the integrity plan directly, having in mind its focus on cooperation and transparency, the failure to implement the CPS would inevitably affect the implementation of the integrity plan, given its emphasis on increased transparency.

106 Kosovo Police. Community Policing Strategy 2017-2021. Available at: <https://www.kosovopolice.com/wp-content/uploads/2019/10/1. Strategjia dhe Plani i Veprimit 2017-2021 - Policimi në Bashkësi -.pdf>

4. IMPLICATIONS IN INTEGRITY FROM KP'S ORGANIZATIONAL ASPECTS

The Integrity Plan considered certain elements of KP's organizational aspects as potentially vulnerable in regard to breaching the institution's integrity. Various areas, such as budget management, efficiency of internal oversight mechanisms in processing citizens' complaints, healthcare, exercise of positions, etc., have continuously been subjects of inspections and recommendations for improvements by external oversight mechanisms, such as the PIK and National Audit Office (NAO). Recently, organizational aspects became the reason for the dismissal of the General Director of the KP. According to the Prime Minister of Kosovo, the dismissal of the General Director came as a result of the unsatisfactory performance in leadership, control and oversight of the institution.¹⁰⁷ Moreover, according to the Prime Minister, the director has failed to meet some of the objectives of the Strategic Development Plan, putting the emphasis on the advancement of human resources. He also refers to the unlawful changing of the KP organogram by the Director, although the change of the organogram in September 2019 was done with the approval of the then Minister of Interior, and changes on the organizational structure are foreseen by the SDP as well.¹⁰⁸ This decision was appealed by the former Director and the court decided to temporarily suspend the recruitment procedures for the new Director until a final decision of the Court establishes the legality of the decision to dismiss the director.¹⁰⁹

This chapter provides an overview of the functioning of various elements of the organizational aspects, namely Internal Controls, Budget Management, Healthcare, and Exercise of positions within the KP. The analysis includes findings from the reports of external oversight institutions, and provides an overview of various aspects in these areas, as provided by applicable laws and regulations.

107 Hoti tregon për shkarkimet në Polici, ATK e në Doganë. KosovaPress, 2020. Available at: <https://kosovapress.com/%E2%80%8Bhoti-tregon-per-shkarkimet-ne-polici-atk-e-ne-dogane/>

108 The KCSS research team has made efforts to obtain more information regarding this decision and have access to the performance report used as an argument for the dismissal of the General Director through contact with the office of the Prime Minister and the Minister of Internal Affairs, however until the date of publication of the report has not received a response.

109 L. Bajraktari (2020). Gjykata pezullon konkursin për drejtor të Përgjithshëm të Policisë, thotë se vendimi i Qeverisë për shkarkimin e Qalajt është në kundërshtim me Ligjin e Punës. Betimi për Drejtësi. Available at: https://betimiperdrejtesi.com/gjykata-pezullon-konkursin-per-drejtor-te-pergjithshem-te-policise-se-kosoves-thote-se-vendimi-i-qeverise-per-shkarkimin-e-qalajt-eshte-ne-kundershtim-me-ligjin-e-punes/?fbclid=IwAR0EaD0uLd0VggYF_HSqR47agyBnKbzyvV783DcAP-ST2bdnJLfOt1Ghc9E

4.1. Internal Control

The internal control mechanisms are one of the most important and sensitive bodies of the KP, the proper functioning of whom increases the level of police integrity and strengthens the rule of law within the institution. The internal control mechanisms responsible for conducting disciplinary investigations within the KP operate under the Division for Professional Standards (DPS), which falls within the scope of the Deputy General Director for Operations.¹¹⁰ DPS is composed of three core units:

- 1) The Directorate of Internal Investigations and Background Check;
- 2) Inspection Unit; and
- 3) The newly established Integrity Unit.

The Directorate of Internal Investigations and Background Checks is the decision-making authority for reviewing the disciplinary cases against police officers.¹¹¹ Whereas, the Inspection Unit is responsible for the direct supervision of the procedures of implementation of decisions and police duties according to the legal framework and bylaws in force.¹¹² On the other hand, the Integrity Unit reviews the cases that do not fall under the scope of the Directorate of Internal Investigations, nor present criminal offenses of police officers which are handled by the PIK, and focuses on cases that potentially undermined the image of the institution, respectively damage its integrity.¹¹³ Moreover, it serves as a focal point for internal whistleblowing in accordance with the law regulating such issues, as well as a focal point for the internal evaluation of conflict of interest in cases where the party involved is not sure if his/her participation in secondary employment, different processes etc., constitutes a conflict of interest.¹¹⁴

On the other hand, the Internal Disciplinary Committee (IDC) is the mechanism responsible for reviewing the disciplinary investigation cases, and issues rulings on disciplinary measures, while the complaints filed with it are reviewed by the Committee of Complaints.¹¹⁵ In addition, the Committee of Complaints is responsible for reviewing the complaints against administrative decisions and other employment issues as well.¹¹⁶ Both mechanisms operate under the Deputy General Director for Resources.¹¹⁷ Additionally, another mechanism that serves as an internal control mechanism is the Audit Unit/Directorate. The audit unit/directorate, among other things, monitors the work of KP personnel to ensure quality services, regularly evaluates the work of

110 Kosovo Police Organogram.

111 Administrative Instruction No. 04/2019 for Violations, Measures and Disciplinary Procedures in Kosovo Police. Available at: <https://www.kosovopolice.com/wp-content/uploads/2020/07/UA-Nr.04-2019-Shkeljet-masat-dhe-procedura-diciplinore.pdf>

112 Regulation for Operations in Kosovo Police. Available at: <https://www.kosovopolice.com/wp-content/uploads/2020/07/Rregullore-pe%CC%88r-Operative%CC%88-te%CC%88-Policise%CC%88-se%CC%88-Kosove%CC%88s.pdf>

113 Participatory observation on the drafting process of the Regulation of Integrity of KP.

114 Ibid.

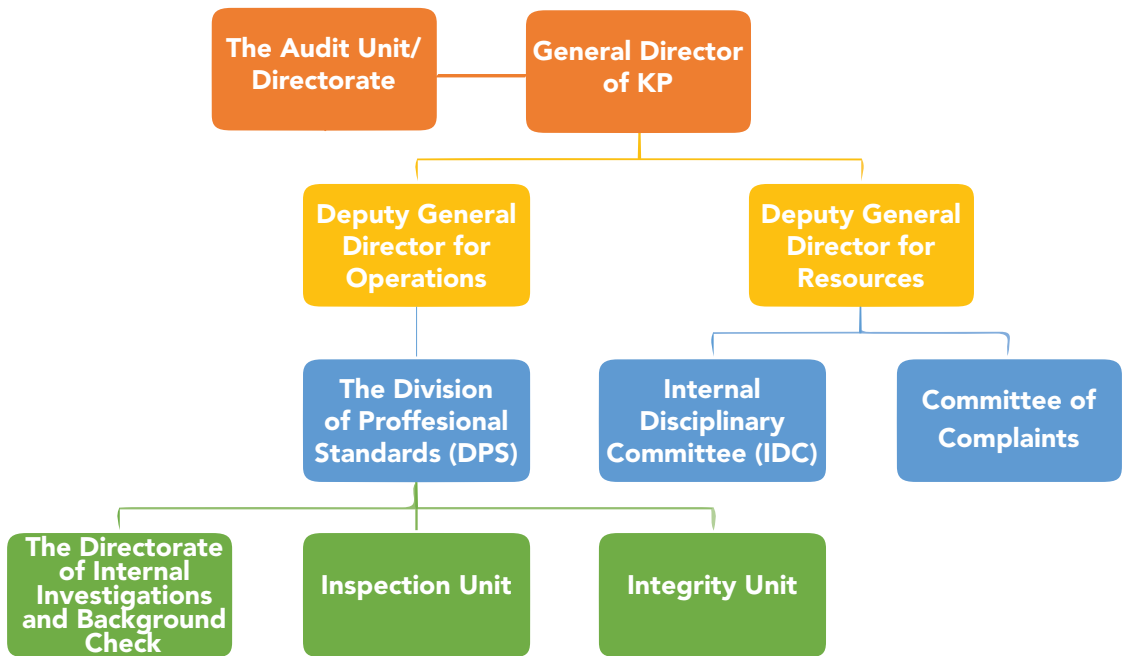
115 Administrative Instruction No. 04/2019 for Violations, Measures and Disciplinary Procedures in Kosovo Police. Available at: <https://www.kosovopolice.com/wp-content/uploads/2020/07/UA-Nr.04-2019-Shkeljet-masat-dhe-procedura-diciplinore.pdf>

116 Ibid.

117 Kosovo Police Organogram.

personnel and monitors the implementation of recommendations by the KP and its organizational units, respectively initiates corrective measures when necessary.¹¹⁸ The Audit Unit functions under the scope of the General Director of the KP.¹¹⁹

Figure 1 Organization of internal oversight mechanisms in the Kosovo Police¹²⁰



4.1.1. An overview of the administration of disciplinary cases by internal oversight mechanisms

In 2019, the DPS has administered 1,573 disciplinary cases, of which 846 were cases opened in 2019 and 727 represent the backlog from previous years.¹²¹ These cases may derive from direct complaints of citizens filed with the KP, may be initiated internally by the KP, or are cases transferred by the PIK when the complaints filed with the PIK do not entail criminal elements but are related to disciplinary violations. The high number of backlog cases casts doubt on the efficiency of the DPS. In this regard, PIK's inspections from previous years have highlighted that the main reason for the slow processing of disciplinary cases is the lack of personnel and the assignment of officers of inadequate ranks to positions in the DPS, namely the lack of proper professional resources.

¹¹⁸ Regulation (MIA) No. 02/2017 on the Internal Organization and Systematization of Working Positions of KP.

¹¹⁹ Kosovo Police Organogram.

¹²⁰ The data for this figure were obtained from the Kosovo Police Organogram and participatory observation on the drafting process of the Regulation of Integrity of KP.

¹²¹ Kosovo Police Annual Report (2019). Available at: <https://www.kosovopolice.com/wp-content/uploads/2020/02/Raport-i-vjetor-2019-shqip.pdf>

4. Implications in Integrity from the Organizational Aspects of KP

Meanwhile, KP's personnel show little interest in being part of this division, due to the sensitivity of the duty.¹²² In 2017, the DPS numbered a total of 51 personnel, of which 48 are uniformed and 3 are civilian staff.¹²³ Whereas, based on the organizational structure and the Authorized Personnel List (APL), the DPS should have had a total of 58 personnel. While the civilian staff number is in accordance with the APL, there is deficiency in the uniformed staff that serve as investigators within the DPS.¹²⁴ Similarly to other organizational units of the KP, the PIK has identified shortcomings in the distribution of ranks in accordance with the APL. In this regard, the DPS lacks 11 different ranks to adequately fill the positions within the DPS as provided by the APL.¹²⁵ On the other hand, the IDC has reviewed 1,197 cases, of which 852 were considered unfounded.¹²⁶ Thus, the large number of unfounded complaints may be due to the uncertainties of the procedures for reporting and processing complaints, either from citizens or from police officers themselves. Reports on the work of internal control mechanisms in the Kosovo Police and the results deriving from them are briefly included in the annual police report, which is generally poor in providing data reflecting the work of the police. Irregularities are also present in informing the parties about the disciplinary proceedings in accordance with the standard operational procedures. According to these procedures, the investigator of the disciplinary procedure must issue summons for officers suspected of violations and case witnesses.¹²⁷ PIK inspections have highlighted that in some cases no such written summons have been issued for officers under investigations and witnesses, while in other cases in which the summons have been issued, they have not complied with the standard procedures for initiating, conducting and completing the internal investigations and verification of the past, the internal investigations at the local level, and case and database manager in the DPS.¹²⁸ Furthermore, in some cases the DPS has failed to meet the foreseen deadlines for notifying officers under investigation of the initiation of the investigation and the completion of investigations, respectively the submission of the case to the IDC.¹²⁹ However, despite the technical issues, the PIK has assessed that the procedures for processing complaints are generally respected from internal oversight mechanisms in the KP.¹³⁰ It appears that the irregularities mentioned result from the negligence and incompetence of police officers for the implementation of the foreseen procedures, rather than the nature of serious violations that can potentially be harmful to the institution.¹³¹

122 Police Inspectorate of Kosovo. (2018). Inspection Report No. 09-2018 on the Management of the Complaints and Disciplinary Investigations in Kosovo Police. Available at: <https://ipk.rks-gov.net/wp-content/uploads/2019/03/RAPORT-I-INSPEKTIMIT-MBI-MENAXHIMIN-E-ANKESAVE-DHE-HETIMIT-DISIPLINOR.pdf>

123 Ibid.

124 Ibid.

125 Ibid.

126 Kosovo Police Annual Report (2019). Available at: <https://www.kosovopolice.com/wp-content/uploads/2020/02/Rapor-ti-vjetor-2019-shqip.pdf>

127 Police Inspectorate of Kosovo. (2018). Inspection Report No. 09-2018 on the Management of the Complaints and Disciplinary Investigations in Kosovo Police. Available at: <https://ipk.rks-gov.net/wp-content/uploads/2019/03/RAPORT-I-INSPEKTIMIT-MBI-MENAXHIMIN-E-ANKESAVE-DHE-HETIMIT-DISIPLINOR.pdf>

128 Ibid.

129 Ibid.

130 Ibid.

131 Ibid.

4.2. Exercising of the official positions

With 8,861 members, of whom 7,850 are uniformed personnel and 1,011 civilian staff.¹³² the KP constitutes one of the largest institutions in the country. The internal organization of the KP is determined by Regulation (MIA) No. 02/2017 on the Internal Organization and Systematization of Working Positions of Kosovo Police, the basis of which lies in the Law No. 04/L-076 on KP.¹³³ Additionally, the Authorized Personnel List (APL) is an internal document that supports internal organization by determining the capacity of human resources, the required number of personnel, ranks and positions in the KP for each organizational unit.¹³⁴ In this regard, the PIK has encountered irregularities by identifying that the KP has not set clear criteria for amending the APL based on the actual needs of KP divisions, directorates and departments.¹³⁵ Therefore, personnel figures in KP departments do not match the figures provided in the APL, consequently many departments within the KP face shortages of human resources.¹³⁶

132 The data on KP personnel were officially obtained by KP on March 2, 2020.

133 Regulation (MIA) No. 02/2017 on the Internal Organization and Systematization of Working Positions of Kosovo Police. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=13324>

134 Police Inspectorate of Kosovo. (2018). Inspection Report No. 08-2018 on the Management of the Human Resources in Kosovo Police. Available at: <https://ipk.rks-gov.net/wp-content/uploads/2018/10/Raport-i-Inspektimit-nr.-08-2018-Menaxhimi-i-Burimeve-Njerezore-ne-Policine-e-Kosoves.pdf>

135 Ibid.

136 Ibid.

4. Implications in Integrity from the Organizational Aspects of KP

Table 1 - Distribution of personnel in KP departments according to APL and actual practice for 2017 (Source: PIK - Inspection Report No. 08-2018 on the Management of the Human Resources in Kosovo Police)

Department	Human Resources Distribution as foreseen by the APL			Actual Human Resources Distribution			Difference in distribution (+/-)
	Uniformed Staff	Civil Servants	Total	Uniformed Staff	Civil Servants	Total	
General Directorate	177	35	212	154	36	190	-22
Department of Operations	5,761	701	6,462	5,578	660	6,328	-224
Department of Border	1,272	44	1,316	1,279	43	1,322	+6
Department of Investigations	597	27	624	574	23	597	-27
Department of Human Resources	85	53	138	83	51	134	-4
Department of Supporting Services	5	250	255	11	260	271	+16
TOTAL ¹³⁷	7,897	1,110	9,007	7,679	1,073	8,752	-255

Similarly, the PIK has noted inadequate distribution of ranks in KP departments, with some departments facing shortages in staffing positions with adequate ranks, while other departments have exceeded the number of foreseen ranks in several positions.¹³⁸ In general, if the distribution of personnel to positions were to be implemented in conformity with the APL, the KP would have not failed to adequately staff over 220 positions with officers of different ranks.¹³⁹

¹³⁷ Please note that the data presented in the table present the total number of KP personnel for 2017, while the data presented on the beginning of this section present the total number of KP personnel for 2019. Therefore, the difference in the total number between the table and data provided at the beginning of the section are present due to different timing of data retrieving and the changes that may have occurred in KP personnel due to various processes between 2017 and 2019. Currently there is no data available for 2019 or 2020 on the difference of distribution of positions between the APL and the actual practice.

¹³⁸ Ibid.

¹³⁹ Ibid.

Table 2- Distribution of grades in KP departments according to APL and actual practice for 2017(Source: PIK - Inspection Report No. 08-2018 on the Management of the Human Resources in Kosovo Police)

Department	<i>Total as foreseen by the APL and actual practice</i>	<i>Colonel</i>	<i>Lieutenant colonel</i>	<i>Major</i>	<i>Captain</i>	<i>Lieutenant</i>	<i>Sergeant</i>	<i>Police Officer</i>
General Directorate	APL	5	8	12	9	30	57	56
	Actual	6	6	9	9	24	53	44
	Difference (+/-)	+1	-2	-3	0	-6	-4	-12
Department of Operations	APL	11	30	33	95	231	799	4,562
	Actual	3	28	34	60	216	692	4,544
	Difference (+/-)	-8	-2	+1	-35	-15	-107	-18
Department of Border	APL	2	4	7	18	44	170	1,027
	Actual	2	4	7	14	45	167	1,039
	Difference (+/-)	0	0	0	-4	+1	-3	+12
Department of Investigations	APL	2	10	5	27	63	126	364
	Actual	0	9	5	16	67	196	280
	Difference (+/-)	-2	-1	0	-11	+4	+70	-84
Department of Human Resources	APL	3	6	6	12	8	35	15
	Actual	2	6	5	7	10	33	19
	Difference (+/-)	-1	0	-1	-5	+2	-2	+4
Department of Supporting Services	APL	/	1	/	1	0	2	1
	Actual	/	1	/	2	2	2	3
	Difference (+/-)	0	0	0	+1	+2	0	+2
TOTAL	APL	23	59	63	162	376	1,189	6,025
	Actual	13	54	60	108	364	1,143	5,929
	Difference (+/-)	-10	-5	-3	-54	-12	-46	-96

4. Implications in Integrity from the Organizational Aspects of KP

The NAO also has pointed out irregularities in this regard, on account of the number of police officers holding positions that are incompatible with their rank.¹⁴⁰ In addition, irregularities have also been present in the financial compensation of these officials, who continue to receive salaries based on their positions, contrary to the law which regulates the compensation of police officers on the basis of ranks.¹⁴¹ However, for the KP this problem is normally driven the dynamics of the institution. Promotion processes in the KP take time and internal procedures allow no exceedance of the predetermined number of ranks.¹⁴² Consequently, in order to conduct promotion processes for certain ranks, police officials actually holding those ranks must retire. Most senior ranks are held by officials who are very close to the retirement age, while assigning them to certain tasks and position foreseen for specific ranks would be inefficient for the performance of the institution.¹⁴³ Moreover, many of the officials who hold certain ranks have health problems and cannot perform efficiently in certain positions that require the ranks they hold. In the absence of a law on early retirement, this category of officials should be placed in positions that require lower ranks than they actually hold, while certain positions should be filled with lower ranks than those foreseen for the position.¹⁴⁴ According to the KP, the problem with the exercise of official positions has also been affected by the establishment of the Regional Directorates of North Mitrovica and Gjakova. The addition of two regional directorates has forced the KP to transfer several officials, who exercised positions in accordance with their ranks, from the General Directorate and other Regional Directorates to the two new regional directorates, consequently leaving gaps in the positions they exercised prior to the transfer.¹⁴⁵

4.2.1. The suspension of positions as a potential of conflict of interest

For years, the KP has been flexible in manoeuvring with official positions. In this regard, senior officials of the KP have practiced the suspension of their positions in this institution to enable their engaged in other institutions, organizations or activities, only to subsequently return to their previous engagements in the KP. Thus, in 2016, the former head of the Division for Border Control and Oversight in the KP, suspended his position in the KP to be appointed as Chief Executive Officer of the PIK.¹⁴⁶ His appointment in the main external monitoring body of the KP has raised questions on the presence of conflict of interest.¹⁴⁷ The ACA did not find elements of conflict of interest in the case of the Chief Executive Officer of the PIK, considering that his appointment

140 National Audit Office. The Annual Auditing Report of the Ministry of Internal Affairs 2019. Available at: <http://www.zka-rks.org/wp-content/uploads/2020/07/Raporti-i-auditimit-MPB-2019-Shqip.pdf>

141 Ibid,

142 Interview with the former General Director of KP Mr. Rashit Qalaj, 22/05/2020.

143 Ibid,

144 Ibid,

145 Ibid,

146 Ahmeti, A. (2016). Drejtori i IPK-së Ruan Pozitën në Polici. Kallxo.com. Available at: <http://kallxo.com/shkurt/drejtori-ipk-se-ruan-poziten-ne-polici/>

147 Ibid.

was made in accordance with legal provisions.¹⁴⁸ Similarly, after the suspension of their positions, many other senior officials have returned to the KP. The current Acting General Director of the KP, Mr. Samedin Mehmeti, worked for international organizations before returning to the KP, where he performed as Chairman of the Internal Disciplinary Commission and Director of the Road Traffic Division in the General Directorate of the KP.¹⁴⁹ Moreover, the former General Director of the KP, Mr. Shpend Maxhuni, has also experienced the practice of returning to the KP after his 2-year engagement as Head of the Kosovo Intelligence Agency, despite numerous criticisms and irregularities of his previous leadership in the KP.¹⁵⁰ According to media reporting, his previous engagement in the KP has been actively criticized by the former General Director of the KP Mr. Rashit Qalaj, who at the time he was holding the position of General Director, accommodated Mr. Maxhuni as his operational adviser after his return to the KP.¹⁵¹ However, the former General Director himself considered the suspension of positions as unreasonable.¹⁵² For this reason, in 2018, in cooperation with international partners, he initiated the amending of the Administrative Instruction on Employment Relations in the Kosovo Police which regulated the suspension of positions.¹⁵³ The amended instruction specifies that the suspension of the position within the KP can only be done in the cases when it is in the state's interest to do so. Thereby, this applies in the cases when the official is sent to represent the country abroad; if by court decision the official is convicted up to six months of imprisonment; and if in agreement with the state institutions the official is assigned to specific tasks.¹⁵⁴ Although the administrative instruction has been amended, the officials who have suspended their positions while the previous instruction was in force, can return to the KP according to the provisions of the original administrative instruction - as is the case with the officials mentioned in this paragraph. Although previously the KCSS research team has made several efforts to gain access to the original administrative instruction, it was not publicly accessible, and no further information regarding the suspension of the positions has been provided to the public.

148 Ahmeti, A. (2016). AKK: Kreu i Inspektoratit nuk është në Konflikt Interesi. Kallxo.com. Available at: <https://kallxo.com/shkurt/akk-kreu-i-inspektoratit-nuk-eshte-ne-konflikt-interesi/>

149 Biography of the Deputy General Director of KP. Available at: <https://www.kosovopolice.com/en/about-us/deputy-general-director-of-kp/>

150 Kastrati, D. (2019). Shkëlqimi dhe rënia e Shpend Maxhunit. Kallxo.com. Available at: <https://kallxo.com/gjate/shkelqimi-dhe-renia-e-shpend-maxhunit/>

151 Rama, S. (2019). Shpend Maxhuni, këshilltar i drejtorit të Policisë nga i cili u kritikua për keqmenaxhim. Koha.NET. Available at: <https://www.koha.net/arberi/200676/shpend-maxhuni-keshilltar-i-drejtorit-te-policise-nga-i-cili-u-kritikua-per-keqmenaxhim/>

152 Interview with the former General Director of KP Mr. Rashit Qalaj, 22/05/2020

153 Ibid

154 Administrative Instruction No. 02/2018 on Work Relation in Kosovo Police.

4.3. Budget Management

Kosovo Government allocates KP’s budget in the framework of the Ministry of Internal Affairs. The General Director of the KP is responsible for drafting the KP budget, which is reviewed and further processed by the Minister of Internal Affairs.¹⁵⁵ KP’s budget is managed by the General Directorate and its allocation falls within the responsibilities of the General Director.¹⁵⁶ Most of KP’s budget is allocated for salaries and allowances, followed by expenditures on goods and services, capital expenditures, subsidies and transfers, and municipal expenditures.¹⁵⁷ In 2018, the KP managed a total budget of EUR 95,345,582,¹⁵⁸ followed by a growth of 0.8 percent in 2019 bringing the budget to EUR 96,077,535.¹⁵⁹ In 2020, KP’s budget amounted to a total of EUR 96,701,309,¹⁶⁰ highlighting a slight decrease of the growth trend from previous years; the 2020 budget has increased by 0.6 percent from the prior year.

However, the last three years have had a significantly larger budget than the previous three years,¹⁶¹ thus creating more space for the necessary reforms in the KP.

Table 3 - Total budget of KP for 2018,2019 and 2020 (Source: Laws on Budget Divisions for the Budget of the Republic of Kosovo, 2018,2019 and 2020)

Year	2018	2019	2020
Total Budget	95,345,582	96,077,535	96,701,309
Growth trend from the previous year	+8%	+0.8%	+0.6%

Similar to other organizational units, the KP’s Budget and Finance Directorate within the Department for Supporting Services also faces personnel shortages. While its current personnel are considered to be well qualified, the high volume of workload in this department is difficult to manage with the current capacities.¹⁶² For years, the PIK and National Audit Office have emphasized problems in budget management that have resulted in partial execution of the budget.¹⁶³ The failure to fully utilize the budget is particularly pronounced in capital expenditures. The inefficient use of allocated funds in capital expenditures is the result of prolonged procurement procedures, delays caused by operators’ complaints, etc.¹⁶⁴ However, in 2019 the Government of Kosovo took a decision that enabled the KP to initiate tenders with negotiated procedures without the publication of contracts, which has evidently improved the performance in the execution of the budget for capital expenditures.¹⁶⁵ Although the NAO has identified improvements in this regard, in 2019, most capital expenditures were not subject to auditing, as 90% of those files were expenditures related to classified documents.¹⁶⁶ The access to classified documents requires verification by the Kosovo Intelligence Agency, while at the time the NAO audited the KP, there were no officials licensed by the KIA. However, according to NAO representatives, they are in the process of verification and certification by the KIA, so that future inspections of the KP will include a wider sample for audit.¹⁶⁷ The vetting the NAO officials, which would pave the way for their auditors to audit the classified contracts

¹⁶⁷ Ibid.

of security institutions, is long overdue.

Furthermore, the PIK has identified deviations from the regulations governing petty cash management by the KP, as the petty cash fund was used to execute payments that should have been executed regularly based on contracts/tenders, and cases of non-compliance with the foreseen time limits for the compensation of KP officials in cases of official travel abroad were also found.¹⁶⁸ The PIK stated that this comes as a result of the negligence of the officials responsible for the management of these categories of expenditures, therefore it recommended increased oversight of the KP Budget and Finances Directorate

4.4. Obstacles in Health Care

KP officers continue to serve in this institution without any health or life insurance. While the KP union continues to demand health, accident and life insurance for KP officers, injuries and deaths in the exercise of official duty continue to remain in the mercy of Kosovo Government's ad-hoc assistance.¹⁶⁹ In recent years, problems with the mental health of police officers have been highlighted. In 2018, the PIK has recommended to the KP to suspend 94 police officers due to problems with mental health.¹⁷⁰ For the suspension request, the PIK referred to old medical reports of the officials in question; the latest medical report for one of these officials dated in 2006, while among them there were reports from the 2002-2003 period.¹⁷¹ In this regard, after the recommendation of the PIK, the KP sent these officials for updated medical evaluations, which did not confirm any of the medical problems presented in the old reports.¹⁷² Thus, the recommendation was ignored by the General Directorate of the KP and the officials continued to be engaged in the KP.

In 2020, a KP officer killed four members of her family and committed suicide. Prior to the case, the officer had undergone numerous psychological check-ups, resulting with the recommendations to confiscate her weapon due to her inability to exercise the duties of the position she held.¹⁷³ The weapon was confiscated by the KP and she continued to work in the police station in duties that do not require the carriage of police equipment.¹⁷⁴ However, the murder was committed with the official weapon, which she had illegally taken from the respective police station. The command chain of the police station was suspended due to the negligence leading to the official's access to the confiscated weapon.¹⁷⁵ However, PIK investigations have concluded that apart from a suspended civil servant in

168 Police Inspectorate of Kosovo, 2019. Report No. 4/2019 on Budget Management, Finance, Procurement and Logistics.

169 Fejzullahu, A. (2020). 20 vitet e Policisë së Kosovës pa sigurim shëndetësor. Kallxo.Com. Available at: <https://kallxo.com/lajm/20-vitet-e-policise-se-kosoves-pa-sigurim-shendetesor/>

170 Salih, N. (2020). Papërgjegjësia e Rashit Qalajt për të suspenduar policët me probleme psikike shkaktoi tragjedinë në Gjilan. Insajderi. Available at: <https://insajderi.com/papergjegjesia-e-rashit-qalajt-per-te-suspenduar-policet-me-probleme-psiki-ke-shkaktoi-tragjedine-ne-gjilan/>

171 Interview with the former General Director of KP Mr. Rashit Qalaj, 22/05/2020

172 Ibid.

173 ZONA B - Rashit Qalaj - 19.02.2020 - Klan Kosova, 2020. [TV programme] Klan Kosova.

174 Ibid.

175 Hasani, G. (2020). Suspendohen për 72 orë komanda zinxhirore e stacionit policor në Gjilan. Gazeta Express. Available at: <http://gazetaexpress.com/para-vrasjes-policja-e-ndjere-beri-dicka-per-te-cilen-ia-pane-sherrin-kolegett/>

4. Implications in Integrity from the Organizational Aspects of KP

this case, other officials bear no criminal liability.¹⁷⁶ While for the civil servant the PIK has submitted a criminal report to the prosecution, other officials returned to their positions after two months.¹⁷⁷

The former General Director of the KP stated that there are around 120 KP officials who suffer from various serious diseases, including officers being treated for mental health problems.¹⁷⁸ The officers are treated by the KP Directorate for Health Services, and depending on their condition they are recommended to additional medical services at the private hospital contracted by the KP. Moreover, there have been several cases of police officers sent for treatment abroad due to the lack of necessary services in Kosovo.¹⁷⁹ KP officials healthcare treatment costs are usually allocated in the form of subsidies from the category of subsidies and transfers from the general KP budget.¹⁸⁰ In addition, the KP has established counselling units within the regional directorates and the general directorate, to counsel police officers for potential Post-Traumatic Stress Disorder due to the nature of their work.¹⁸¹ In absence of the law on early retirement and law on disability treatment, KP officers facing serious health conditions are obliged to continue their engagement in the KP. The former General Director of the KP considered that it is his professional and personal obligation to keep these officials within the system, so they can guarantee the delivery of the actual healthcare and treatments within the KP and provide them with the sense of belonging to the system, in the absence of genuine institutionalized health care.¹⁸² While their health problems are also potential obstacles to the efficient performance of other officials, according to the former General Director, their dismissal could present greater challenges due to the high cost of health treatments without the support of the KP.¹⁸³ Although the draft law on early retirement for police officers of the KP and the employees of the PIK with police powers has been drafted, it has not yet been approved by the Government and the Assembly of Kosovo. The financial burden is thought to be the main reason for the failure to adopt the draft law, although the KP has provided an analysis on the most efficient way of implementation, without damaging the budget and the operational process of the KP.¹⁸⁴

176 Interview with Police Inspectorate of Kosovo Official, 27/05/2020

177 Ibid.

178 ZONA B - Rashit Qalaj - 19.02.2020 - Klan Kosova, 2020. [TV programme] Klan Kosova.

179 Ibid.

180 Police Inspectorate of Kosovo, 2019. Report No. 4/2019 on Budget Management, Finance, Procurement and Logistics.

181 ZONA B - Rashit Qalaj - 19.02.2020 - Klan Kosova, 2020. [TV programme] Klan Kosova.

182 Ibid.

183 Ibid.

184 Koha.NET. (2018). Policia e Kosovës po mplaket. Available at: <https://www.koha.net/arberi/71023/policia-e-kosoves-po-mplaket/>

RECOMMENDATIONS

- The Kosovo institutions (Government and the Assembly) should at the earliest time adopt the new legislation on asset declaration and secondary legislation on whistleblowing which would further contribute to prevention of corruption in the public institutions, including the Kosovo Police. In this regard, if not adopted yet, the police should also adopt the Regulation on Integrity and align it with the current legal framework in the field of anti-corruption.
- Central Institutions and the Kosovo Assembly should ensure that the law on early retirement and law on invalidity treatment for KP officers is established in order to increase the efficiency of the Kosovo Police and allow room for human resource reform within the institution;
- The police should include external oversight mechanisms and institutions in drafting the new Integrity Plan, so they can ensure a more comprehensive approach that would contribute to a more detailed analysis of at-risk areas and compilation of concrete activities in strengthening the integrity in the institution, based on the actual capacities;
- Considering the dismissal of the General Director of the Kosovo Police and the argument that his dismissal derives as a result of the unlawful change of the police Organogram by then General Director, the Ministry of Internal Affairs and the Kosovo Police should provide concrete and clear information on how is the police organizational structure organized;
- Kosovo Police should ensure that the distribution of human resources is conducted based on the Authorized Personnel List, while the latter is prepared based on the actual needs and capacities of police;
- In order to address the problem of human resource distribution in the Kosovo Police departments, internal procedures should be reviewed and the effectiveness of ranking and promotion processes should be increased. The reports of the external oversight mechanisms such as Police Inspectorate of Kosovo and National Audit Office should be based on the dynamics of the institution and the actual possibilities for the distribution of human resources, based on the internal regulations and procedures of the Kosovo Police;
- National Audit Office should ensure that their officials conduct a security clearance by the Kosovo Intelligence Agency, so they can access and audit the classified contracts that consist a large portion of budget execution.

ISBN 978-9951-799-18-8



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