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AGENCY FOR PREVENTION OF CORRUPTION



METHODOLOGY ON CORRUPTION RISK ASSESSMENT

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TABLE OF CONTENT

I. PURPOSE AND LEGAL BASIS	3
1. Purpose of methodology.....	3
2. Legal basis for the preparation of the methodology for assessing corruption risks.....	3
3. Scope.....	3
4. Definitions.....	4
II. CORRUPTION RISKS ASSESSMENT PROCEDURE	6
1. Corruption Risk Assessment (CRA)	6
1.1 First phase: Selection of the Sector for the implementation of the CRA	6
1.1.1 Sector selection criteria.....	6
1.1.2 Selection of public institutions from the selected sector	8
1.2 Second phase: Identification of corruption risks in the selected sector	8
1.2.1 Risk identification procedures	8
1.2.2 Risk factors for corruption	9
1.2.3 Risk identification	10
1.3 Third phase: Risk assessment and prioritization	11
1.4 Fourth phase: Preparation of the CRA report	11

I. PURPOSE AND LEGAL BASIS

1. Purpose of methodology

The Corruption Risk Assessment Methodology (the Methodology) aims to provide a structured and systematic approach to the identification and assessment of corruption risks and the probability of their occurrence as well as their impact if they occur.

The methodology constitutes a systematic approach and set of techniques used to identify, analyze and assess the possibility and potential impact of corruption risks within a given organization, sector or context. The methodology includes the structured examination of various factors, deficiencies and indicators that may contribute to corrupt practices and legal violations, in order to understand the risks and plan preventive measures.

2. Legal basis for the preparation of the methodology for assessing corruption risks

The legal basis for the preparation and approval of this methodology is defined in Article 26, Paragraph 4 of Law No. 08/L-018 on the Agency for Prevention of Corruption of Kosovo¹. The methodology is approved by the Director of the Agency for the Prevention of Corruption (the Agency) and will be applicable from its publication.

Article 26 of the Law No. 08/L-018 on the Agency for Prevention of Corruption of Kosovo has given full competence to the Agency to assess the risks of corruption in different fields or sectors.

The risk assessment can be done in the areas or sectors that are considered to be particularly exposed to the risks of corruption and in areas or sectors, suggested by public organizations, according to the procedures and criteria defined by this methodology.

3. Scope

This methodology is applicable in the exercise of the Agency's function in assessing the risks of corruption in different fields or sectors which will be evaluated with priority based on this methodology. The Agency is responsible for the development and supervision of the evaluation during all the stages foreseen by this methodology. All institutions and interest groups are obliged to cooperate and offer their assistance in the risk assessment process. Although the aforementioned Law No. 08/L-018 does not define any follow-up mechanism that would

¹ <https://gzk.rks-gov.net/ActDetail.aspx?ActID=60591>

require the organizations and institutions involved in the CRA to act according to the Agency's findings in the CRA process, however according to the provision of Article 25 par 7 of this law, the Agency monitors the implementation of integrity plans and gives recommendations for changing and supplementing the integrity plans and their implementation in the institution, so the recommendations and results of the CRA process can be included in the integrity plans of the relevant sectorial institutions, as a follow-up mechanism. Also, the findings according to the provision of Article 27 of this law on legal gaps in relation to a certain legal framework can be used by the Agency in proving its anti-corruption legislation. Likewise, the results of the CRA process can also be included during the drafting and approval of the State Strategy and Action Plan against Corruption, with the participation and professional assistance of the Agency offered to the Government during the process of drafting.

4. Definitions

For the purposes of this methodology the following definitions have the following meanings:

- **Corruption risk assessment** – the process of identifying institutional risks that can facilitate corruption and recommendations for mitigation measures².
- **Corruption** - includes all criminal offenses provided for in the Criminal Code of the Republic of Kosovo in the chapter of criminal offenses/Official corruption and criminal offenses against official duty³ (Misuse of official position or authority, Misuse and fraud in public procurement, Misuse of official information, Conflict of interest Embezzlement in office, Fraud in office, Unauthorized use of property, Taking a bribe, Giving a bribe, Giving a bribe to a public official foreigners or official foreign persons, Exercising influence, Illegal issuance of court decisions, Disclosure of official secrecy, Falsification of official document, Illegal collection and payment, Illegal acquisition of property in the case of raid or execution of court decision, Non-reporting or false reporting of wealth, income, gifts, other material benefit or financial obligations).
- **Public Organization** - Institutions of the Republic of Kosovo at central and local level as well as Public Enterprises.
- **Risk** – the possibility of the occurrence of an event with a negative impact on the achievement of the objectives of the subject of the specific public sector.

² <https://gzk.rks-gov.net/ActDetail.aspx?ActID=60591>

³ <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>

- **Risk factor** - any attribute, characteristic or exposure of an individual, institution or process that increases the likelihood of corrupt behaviour, other legal violations that may have negative effects on the objectives and goals of a given public sector institution.
- **Interest group** – persons, organizations, chambers, unions, associations or other groups that can influence, are influenced, or perceive themselves to be influenced by a decision or activity

II. CORRUPTION RISKS ASSESSMENT PROCEDURE

1. Corruption Risk Assessment (CRA)

CRA phases are:

1. Selection of the Sector for the implementation of the CRA
2. Identification of corruption risks in the selected sector
3. Corruption risk assessment
4. Preparation of the CRA report

1.1 First phase: Selection of the Sector for the implementation of the CRA

To select a sector for CRA, it is important to consider several factors to ensure a focused and effective assessment. Below are some factors to help choose a sector for CRA. Based on the analysis of these factors, a preliminary risk map will be created to identify the potential risks of corruption in different sectors. This can help visualize and compare different risks and prioritize sectors.

1.1.1 Sector selection criteria

Taking into account the diversity and number of institutions from the public sector, the Agency will give priority to the CRA for those sectors, public institutions that fall under one or more of the following selection criteria:

- a) Statistical/vulnerability criterion
- b) Financial criterion
- c) Criterion of state/public ownership
- d) Criterion of discretionary powers
- e) Criterion for contact with citizens/customers

a) Statistical/vulnerability criterion

The statistical criterion is based on those statistical data that are available, which show a high degree of perception of corruption or actual cases of corruption. The sources for identifying sectors according to this criterion are:

- National and international researches, surveys, indices and other researches on the perception and/or experience of the citizens of the Republic of Kosovo on the level of corruption in the relevant sector;
- Data on discoveries, investigations and punishments of officials from public sector institutions, included in official reports and other information from investigators, prosecutors and courts.
- Consultation with relevant stakeholders, including government institutions, civil society organizations, business associations and international organizations. Their views can provide insights into sectors with a reputation for corruption or ongoing challenges.
- Identify sectors that, if affected by corruption, may have the most serious consequences for public welfare, economic stability, environmental protection or social justice.
- Collect procurement data, complaint or whistleblower reports and other sources that can support the evaluation process.

b) Financial criterion

According to the financial criterion, the sectors will be selected in which the competence of public institutions requires the implementation of procedures related to large revenues and expenditures of money, such as the preparation or execution of state or municipal budgets, the allocation of EU funds or funds of other external assistance and support, the imposition of administrative and/or contravention fines, the collection of administrative fees provided for the provision of public services, the granting of authorizations, permits, etc., as well as the involvement in any significant financial activity.

c) Criterion of state/public ownership

According to the ownership criterion, sectors will be selected in which the competence of public institutions includes monitoring/supervision, management, including lease, concession and/or sale of properties/things entrusted to the central or local public administration, either by the public or state-owned private domain. This criterion will apply to sectors in which public institutions manage both state assets/immovable assets of significant value and of lower value, if this means that they have frequent procedures related to these state assets/capital or if the cumulative value is significantly high.

d) Criterion of discretionary powers

According to the criterion for discretionary powers, sectors will be selected in which the competence of public institutions allows wide discretionary powers for the interpretation and implementation of legal provisions, for sanctioning, limiting or denying the opportunity of citizens to pursue their legal or legitimate interests. illegal, to achieve their fundamental rights and freedoms, to resolve personal disputes, to decide on matters of inheritance of private persons, in accordance with or against their interests.

e) Criterion for contact with citizens/ customers

According to the criterion of contact with the public, sectors will be selected in which the competence of public institutions includes frequent direct contact with citizens/clients, through which both officials and citizens/clients have a wide range of opportunities to commit procedural violations legal in exchange for illegal benefits.

1.1.2 Selection of public institutions from the selected sector

After selecting the sector whose public institutions meet one of the several criteria mentioned above, the Agency will determine the exact list of public institutions and interest groups from that sector that will be covered by the CRA.

- Agency will try to include all or most of the sector's public institutions, or a representative sample of these institutions (by size, territory, hierarchy) as well as interest groups. If a sector contains a small number of institutions - then all institutions will be included in the assessment.
- Agency will implement the CRA in cooperation with the institutions involved. Officials from each of the institutions involved will be part of the working groups established by the Agency for CRA on the basis of a prior invitation from the Agency.
- Competent persons in institutions will be notified that they are included in the sample of institutions of the sector selected by the Agency for CRA, as well as what is expected of them as cooperation for the implementation of that goal.

1.2 Second phase: Identification of corruption risks in the selected sector

1.2.1 Risk identification procedures

The identification of corruption risks will be done through the collection and analysis of information and documentation that covers the sector and enables the identification of potential corruption risks that may appear within the sector.

- a) Analysis of legal sources;
- b) Audit reports,
- c) Analysis of sector statistics;
- d) Previous cases of corruption;
- e) Interviews and surveys with interested parties

During this phase, corruption risks will be systematically identified within the selected sector, using the above methods and analyzing all the corruption risk factors that are dealt with below.

1.2.2 Risk factors for corruption

After the selection of the sector, the Agency will identify the threats (risks) for corruption in the public institutions of the selected sector and the factors that cause these risks. There are several types of risk factors:

Legal and Regulatory Factors:

- Weak or unclear laws and regulations related to the sector.
- Improper implementation of existing laws and regulations.
- Lack of transparency in legislative and decision-making processes.
- Regulatory capture - where regulatory agencies are influenced or controlled by the entities they are supposed to regulate.

Governance and Oversight Factors:

- Lack of independence, accountability and transparency in sectorial governance structures.
- Lack of checks and balances in decision-making processes.
- Limited public participation and engagement in sectorial policies and decisions.
- Inadequate controls and oversight mechanisms within organizations operating in the sector.

Financial Factors:

- Lack of transparency in financial transactions and reporting.
- Insufficient or non-functional financial supervision and audit mechanisms.
- Money laundering and illegal flow of funds in the sector.
- Procurement and Contracting Factors:
 - Lack of fair competition and transparency in procurement processes.
 - Cooperation and bid manipulation between contractors and suppliers.
 - Lack of due diligence in the selection of contractors.
 - Bribery in awarding and implementing contracts.

Human Factors:

- Low wages and insufficient compensation for employees in the sector, increasing the risk of corruption.
- Lack of training on ethics and integrity for employees.
- Weak signalling protection mechanisms;
- Culture of indignity and tolerance towards corruption practices.

Sector Specific Factors:

- Natural resources: Lack of transparent licensing and revenue management;

- Construction industry: Use of poor materials, extraordinary project costs and collaboration between contractors.
- Health sector: False billing, bribery from pharmaceutical companies and bribery in the procurement of medical supplies.
- Public procurement: Political interference, favouritism and lack of competition in awarding contracts.

1.2.3 Risk identification

Based on the collected documents, the following two categories of information are identified in a separate document - the register of corruption during a work process:

1. Any type of corruption-related offense that has occurred in a sector in the past or could theoretically occur. Such cases should be grouped according to content and the number of identical cases in terms of a corruption scheme should be recorded, together with the damages they have caused and the process of responding to them. The specific risks of corruption originate precisely from these violations.

2. Once the actual and potential corruption-related violations described in the previous paragraph are identified as corruption risks, the causes for each individual risk must be determined. The causes can be related to the legislation as well as the weaknesses of its implementation, the low level of awareness of the employees, the weakness of the supervisory mechanisms, etc.

After that, the identified corruption risks should be grouped by categories to simplify their management in the future. For example:

- Conflict of interest
- Receiving and giving bribes,
- Abuse of office or official authority, etc.

For each risk identified at this stage, its scope must be determined, in other words, who can be associated with specific risks: the management of the institution, the internal structural units of an institution or legal entities depending on the institutions.

1.3 Third phase: Risk assessment and prioritization

This phase includes risk assessment, identification of control mechanisms, risk prioritization and creation of a risk register based on the information obtained.

The CRA takes into account the perceived level of corruption, past experience and the severity of corruption violations, to determine the potential for corruption. Each risk is assessed based on two indicators:

- a) Probability – the likelihood that a risk (event) will occur;
- b) Impact (consequence) – the severity of a negative outcome if a risk event occurs

The probability of the risk of corruption is determined by the interrelation of existing causes and measures of integrity.

There are the following criteria to assess the probability of the occurrence of a risk event: vulnerability of the regulatory framework to corruption, propensity of processes and institutions for corruption, ineffective governance, low level of remuneration, cases of corruption in public institutions, low level of legal awareness by civil servants.

To determine the probability or impact of a risk, past experiences must be considered. The statistical analysis of past years, among other things, shows the probability and impact of a certain risk in past years – high, medium or low. Based on these data, the probability and degree of impact of a similar risk in the future should be discussed. In the absence of statistical information, an internal study should be conducted and persons holding high positions should be questioned.

1.4 Fourth phase: Preparation of the CRA report

The final stage of the CRA process is the preparation of the CRA report.

Once the corruption risks are identified, assessed and prioritized, measures are identified for each risk, the implementation of which is expected to reduce the risk. These measures will be recommended as part of the final risk assessment report in the assessed sector.

The report should describe the entire process of the CRA, its results and the measures that should be taken into account to reduce the risk of corruption. The final version of the risk register must be attached to the report, including the following information:

- List of identified risks and their causes;
- Showing the level of risk;
- List of recommendations and measures to be considered and presented, indicating responsible persons and deadlines