

## Public institutions should stop intimidation of whistleblowers

Request addressed to local and international institutions to take action to encourage and protect whistleblowers in Kosovo

**To:** Ms. Atifete Jahjaga, Office of President of Kosovo  
Mr. Kadri Veseli, Kosovo Assembly  
Mr. Isa Mustafa, Kosovo Government  
Mr. Hajredin Kuçi, Ministry of Justice  
Mr. Enver Peci, Judicial Council of Kosovo  
Mr. Aleksandër Lumezi, Chief Prosecutor of Kosovo  
Mr. Shpend Maxhuni, Kosovo Police  
Mr. Basri Ibrahim, Labour Inspectorate

**Cc:** Ms. Isabelle Servoz-Gallucci, Council of Europe  
Mr. Samuel Žbogar, European Union Office in Kosovo

**From:** Civil society organizations and activists on the Right to Freedom of Expression

**DATE** 21 August 2015, Prishtina

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Dear,

Through this letter we express our deep concern with the treatment of whistleblowers by public institutions in Kosovo, which represents a flagrant violation of freedom of expression and at the same time is indicator of the lack of seriousness of institutions to fight corruption.

Three cases of whistleblowers abuse and corruption that have occurred only in 2015 witness that Kosovo institutions, although explicitly proclaim European integration, in practice do the opposite by ignoring standards of the Council of Europe and other European institutions for freedom of expression.

In August 2015 whistleblower and former bank cashier of ProCredit Bank Mr. Abdullah Thaci was sentenced to five thousand euro fine because he leaked out bank information that raised doubts that the director of education in Prizren municipality Mr. Nexhat Çoçaj benefited illegally money from the budget of the municipality of Prizren. Following the publication of this information, Mr. Çoçaj was criminally indicted for misuse of official position. Mr. Çoçaj is suspected that among others used these means to pay loan installments and rent.

In another case, whistleblowers and members of the trade union of Radio Television of Kosovo, Arsim Halili and Fadil Hoxha who work at Radio Television of Kosovo were fired after publicly raised their concerns about censorship and financial irregularities within RTK. Then, they were returned to work by the Labour Inspectorate, which has found procedural violations conducted by RTK.

In addition, during this year, Blic portal has published data relating to the bank account of Chief Prosecutor Mr. Alexander Lumnezi to inform the public about the different amounts

Blic portal has published data relating to the account prosecutor Mr. Alexander Lumnezi to inform the public about different amount of money Tthat have been circulating in his account. The publication of information is made during the time when Mr. Lumnezi was applying for the chief prosecutor position. According to public statements, some institutions have already started investigations to identify the whistleblowers for information that has leaked to the public.

Practices followed in dealing with these cases show that:

- a) public and private institutions aimed intimidation, blackmail and intimidation of whistleblowers;
- b) Public and private institutions do not respect the Law on Protection of Informants;
- c) Current legislation for protection of whistleblowers, apart from being named mistakenly is also in contradiction to European standards for protection of whistleblowers;
- d) The Inspectorate of Kosovo does not take into account the right to freedom of expression in the work as required by the European Court of Human Rights (ECHR);
- e) Some judges and prosecutors lack knowledge of the standards established by the ECHR as obliged by the Constitution.

#### *International Instruments for the Protection of Whistleblowers*

The freedom of expression in the workplace is guaranteed by Article 10 of the European Convention on Human Rights and the case law of the ECHR and the recommendations and resolutions of the Council of Europe have made clear that whistleblowers who publish information in the public interest are protected.

The most important case of the Grand Chamber of the ECHR in the field of signaling is *Guja v. Moldova*.<sup>1</sup> In this case the Director of Media Office of the Moldova Public Prosecutor Mr. Guja Jacob was fired after two confidential letters leaked to the media. Letters showed that the Deputy Speaker of the Romanian parliament had exercised pressure to the Public Prosecutor's office. His claim against the prosecution to return to work did not succeed. When the case reached the ECHR, the court ruled in his favor and justified the publication of information in the media because the case was in the public interest and had to do with the pressure exerted by senior state officials.<sup>2</sup>

Furthermore, Recommendation no. (2014) of the Council of Europe for Protection of Whistleblowers, recommends that states should ensure the legal framework, institutional and judicial protection of whistleblowers.<sup>3</sup> Actions of Kosovo institutions are clearly in contradiction of these standards.

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<sup>1</sup> *Guja v. Moldova*, application No. 14277/04, 12 February 2008

<sup>2</sup> For additional information about protection of signalling from ECHR, see: *Bucur v. Romania*. No. 40238/02, 8 January 2013;

*Heinisch v. Germany*, application No. 28274/08, 21 July 2011;

*Matuz v. Hungary* application No. 73571/10, 21 October 2014

<sup>3</sup> Recommendation No.(2014)7 the Committee of Ministers for the Protection of whistleblowers, 30 April 2014,

<[http://www.coe.int/t/dghl/standardsetting/cd/cj/CDCJ%20Recommendations/CMRec\(2014\)7E.pdf](http://www.coe.int/t/dghl/standardsetting/cd/cj/CDCJ%20Recommendations/CMRec(2014)7E.pdf)>

## *Requests*

### *Kosovo's public institutions*

Based on the arguments elaborated above, we request from:

- 1) Ministry of Justice to initiate amendments to the Law on Protection of Informers within 12 months,
- 2) The Prime Minister of Kosovo to ensure that the Law on Protection of Whistleblowers be amended in accordance with the standards of the ECHR,
- 3) Assembly to ensure that the Law on Protection of Whistleblowers be approved only if it is in line with ECHR standards,
- 4) The President of Kosovo to ensure that the Law on Protection of Whistleblowers enter into force only if it is in line with ECHR standards,
- 5) Kosovo Judicial Council to ensure that the judges have knowledge of the ECHR's decisions and try cases of whistleblowers in accordance with these standards,
- 6) Kosovo Chief Prosecutor's office to ensure that prosecutors have knowledge of the ECHR's decisions and to investigate cases of whistleblowers in accordance with these standards,
- 7) The Labour Inspectorate to ensure that inspectors have knowledge of the ECHR's decisions and handle the whistleblowers in accordance with these standards,
- 8) All of the above institutions to publish annual reports with detailed information about the handling of cases of whistleblowers and reports to be easily accessible to the public.

### *International Institutions*

We demand from the Council of Europe and the European Commission to monitor whistleblowers' legislation and practices in Kosovo and present the treatment of whistleblowers in reports and international forums.

### ***the undersigned***

Instituti Demokratik i Kosovës – KDI  
Instituti për Studime të Avancuara GAP  
Lëvizja FOL  
Fondacioni i Kosovës për Shoqëri të Hapur  
Rrjeti i Grupeve të Grave të Kosovës - RrGGK  
ÇOHU  
EC Ma Ndryshe  
Iniative për Progres – INPO  
Instituti Ballkanik i Politikave – IPOL  
Konsumatori  
Advocacy Training & Resource Center – ATRC  
Qendra për Politika dhe Avokim – QPA  
Trashëgimia Kulturore pa Kufij – CHwB  
Syri i Vizionit  
Qendra Multimedia  
Instituti i Prishtinës për Studime Politike – PIPS  
Instituti Demokraci për Zhvillim – D4D  
Qendra Kosovare për Bashkëpunim Ndërkombëtar – KCIC  
Flutura Kusari

Taulant Hoxha  
Ardian Gola  
Besa Shahini  
Besa Luci