



DEMOCRACYPLUS

WHAT IS THE **COST** OF DEMOCRACY?

1,165,000 €



PDK

945,000 €



LDK

504,000 €



LVV

346,500 €



AAK

189,000 €



NISMA

2016

WHAT IS THE **COST** OF DEMOCRACY?

Lack of auditing and control of finances
of political entities for three years -
an obstacle for political accountability

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ABBREVIATIONS

AAK	Alliance for the Future of Kosovo
AKK	Anti-Corruption Agency
KDI	Kosovo Democratic Institute
KQZ	Central Elections Commission
LDK	Democratic League of Kosovo
LVV	Self-Determination Movement
NISMA	Initiative for Kosovo
PDK	Democratic Party of Kosovo
UNMIK	United Nations Mission in Kosovo
ZKA	National Audit Office

SUMMARY

This report analyzes the transparency and financing of political entities in Kosovo, based on the legislation and its application in practice. The six main sections of this report cover transparency, reporting, monitoring, implementation of laws and regulations, sanctions and other issues related to the integrity of financing. The report analyzes issues of public financing from the state budget and contributions from donors of political entities.

Regarding transparency, a common feature of all parliamentary political parties is that they do not publish their financial reports. The Self-Determination Movement is the only exception in financial transparency, with financial reports published on its website. Furthermore, the two coalition partners, PDK and LDK, which together receive over two million euros per year from the state budget, have no operational websites.

The Assembly of Kosovo, since the Law on the Financing of Political Parties was amended in 2013, failed to select auditors for the auditing of the financing of political entities. This has raised the question of whether this institution actually aims to make such selection. The very idea that the Assembly, which is composed of members who are the direct outcome of the election process, must make the selection for the auditing of finances of political entities is wrong. This is because MPs take the risk of placing the interests of their entities before public or even personal interests.

In addition to other issues, the selection of the institution responsible for the implementation of the Law on Financing of Political Parties is of outmost importance. This institution, besides distributing funds, is also mandated to control law enforcement and in cases of violation to impose penalties against non-compliant entities. The Central Election Commission (CEC) is composed of members representing the major political entities in Kosovo. As such, this institution doesn't

have the appropriate independence to impartially supervise and force entities to comply with all legal requirements. Moreover, even if CEC would be willing to oversee the implementation of this law, this institution has no oversight and investigative capabilities.

The most descriptive example of CEC oversight is the fines issued against political entities in 2015. These fines were only issued against non-parliamentary entities, which had no representation in CEC. Furthermore, these fines were issued for non-reporting, which indicates the minimum requirements of the CEC vis-à-vis political parties. Although a known secret to the public that political entities receive undeclared donations, the CEC has made no step towards monitoring expenditures, especially in election campaigns.

This report also analyzes various options for the transfer of the mandate to oversee the financing of political entities. The analysis is done taking into consideration the institution's mandate, the similar nature of work, integrity and impartiality from the influence of political entities.

In interviews conducted with representatives of political parties and other institutions, invitations to interview were refused by Basri Musmurati, Secretary of the Democratic Party of Kosovo, and Besnik Osmani, Auditor General.

INTRODUCTION

Buying political influence through donor contributions to political entities is a common phenomenon in all countries with a democratic system. Certain business groups or persons with a significant financial strength, either offer money for their influence over public institutions, or are forced to give money to politics, in order not to become a target. Companies and individuals can be forced or even interested in buying their influence by offering donations to political parties, either through cash or in-kind contributions, such as the organization of meetings for political parties, provision of facilities or equipment, etc.

Approval and implementation of legislation on the financing of political parties is particularly difficult, because it is political parties themselves that draft such laws, through political consensus and power in the legislative body. A number of elected officials may not have the best public interest in mind, considering their circumstances and ambitions for re-election to public office. Moreover, the oversight bodies, namely CEC and auditors, are elected by, and report to these same political officials, which complicates the relationship between law enforcement and political influence in oversight institutions.

Financial auditing of political entities is a tool through which the oversight authorities and the public are given assurances that expenditure reports of political entities are trustworthy and accurate. Auditing can be used to keep control of enforcement of legislation on financing of political entities. Therefore, the financial auditing of political entities is essential to:

- Verify disclosure and reporting of contributions, expenditures and debts;
- Ensure that the administration, collection and expenditures are legitimate and in accordance with the law;
- Ensure that funds are spent to the purpose for which they

were collected and not for the private benefit of members of political entities;

- Verify the accuracy of the reporting of political entities regarding contributors and financial reports of political entities.

Efforts were made to regulate the financing of political entities in Kosovo since the international administration through the United Nations Mission in Kosovo, known as UNMIK.¹ These regulations provided for the registration and activity of political parties and, inter alia, these regulations defined the nature of financing and oversight.

After the declaration of independence of Kosovo on February 17, 2008, the Kosovo Assembly in 2010 adopted the Law on Financing of Political Entities. This law was considered to be flawed in content and also had issues with implementation by responsible institutions and political entities. However, in 2010 the law was applied for the first time for the financing of political entities and election campaigns by the Kosovo budget. The law provides for the allocation of 0.17% of the Kosovo budget for the financing of political entities and 0.05% of the Kosovo budget to finance election campaigns.²

After criticism from civil society, media and international institutions in Kosovo, the law was amended in 2011 and again in 2013. However, this law progressed continuously since the first UNMIK Regulation in 2000, also as a result of assistance of many local and international organizations that provided expertise to the Assembly and the Government. These changes included the transfer of the fund for the support of political entities by the Assembly to the Central Election Commission (CEC). Also, the fund for the support of political entities was doubled from 0.17 to 0.34%% of Kosovo's budget.³

¹ UNMIK Regulation No. 000/16 dated 21 March 2000 and Regulation No. 2004/11 of 4 May 2004.

² Law on Financing of Political Parties No. 03/L-174 dated September 16, 2010.

³ Law No. 04/L-058 amending the Law on Financing of Political Parties No. 03/L-174.

While the Fund was transferred from the Assembly to CEC, the opposite occurred with the responsibility of selecting auditors. With the changes to the law in 2013, this power was moved from the CEC to the Assembly of Kosovo, namely the Committee on the Oversight of Public Finances. Since then, the selection process for the auditor for the audit of financing of political entities and funds spent on election campaigns has consistently failed.

Such failure illustrates the fact that political parties represented in Parliament do not want their finances audited. This process has failed due to the insufficient budget allocation for auditing. In reality the Assembly allocated 10,000 euros each calendar year for the auditing of annual reports and election campaigns for 55 political parties. If this budget is divided to the number of political parties, it appears that the Assembly has allocated around 550 euros to audit a political entity. Political entities should be audited for all branches and sub-branches. The budget allocated describes the political will and interest that the Assembly has to check the finances of political entities.

FINANCING OF POLITICAL ENTITIES

Political entities in Kosovo have two main forms of financing. Financing from the state budget, or 4.2 million in 2016, and revenues collected from private donors. Natural persons may donate up to 2,000 euros per year and legal persons up to 10,000 euros.

Political parties in Kosovo are allowed several forms of financing for their operational needs and election campaigns. These forms of financing include:

- Membership revenues;
- Contributions;
- Incomes from activities of political entities, including the sale of materials such as:
 - Publications
 - Printing
 - Advertising materials, such as posters with the emblem or acronym of the political entity
- Financing from the Kosovo budget, and
- Other modes envisaged by the Law on Financing of Political Parties.⁴

To have a regular system of financing of political entities, the legislation must meet at least four main requirements:

- **Transparency:** legislation must ensure that political entities publish their financial data, including revenues, expenditures, and procurement procedures. These records must include the identity of donors. Reports should be accessible online, in the website of the oversight institution and the website of the political entity. Also, as per public requests, entities should

⁴Law on Financing of Political Parties No. 03/L-174 dated September 16, 2010.

include additional information on their financial reports.

- **Reporting:** rules must be conditional that in addition to the publication of financial data, they should be reported to the oversight institution.
- **Monitoring:** legislation must ensure that oversight institutions inspect and control the accounts of political entities. Also, the legislation should enable the public space and mechanisms to monitor such finances.
- **Implementation:** clear provisions which ensure control by an independent body for political entity finances and avoid of ambiguity in the law, and enforcement of penalties and fines for non-compliant political entities.

Transparency

Most of major political parties have no websites or published financial reports. The law requires that political parties publish their revenues and expenditures, including financing of election campaigns and identities of donors.

Financial disclosure is the cornerstone of control of public finances. This transparency mechanism ensures that voters, media, civil society and citizens in general hold political parties accountable for their form of financing. In Kosovo, the law requires political parties, in addition to reporting on a quarterly basis to the CEC, to also publish their annual reports on the website. Although this is guaranteed by law, political entities, with the exception of Vetevendosje, do not publish their financial data in the official party website. Moreover, through an inaccurate interpretation of the Law on Financing of Political Parties, the CEC created the false impression that if reports are not audited political entities are not obliged to publish them. The

table below sets forth information regarding the transparency of political entities and the amount of budget they had in 2016.⁵

Political Entity	Functional Website	Financial Report disclosed on the Website	Access to Documents on Request	Fines by CEC issued in 2015	Funds from Public Budget in 2016
PDK	No	No	No	No	1,165,500
LDK	No	No	No	No	945,000
LVV	Yes	Yes	Yes	No	504,000
AAK	Yes	No	No	No	346,500
NISMA	No	No	No	No	189,000

Table 1. The transparency of political entities based on reports published on websites, handling the requests for access to financial documents, fines issued by CEC, and funds from the public budget allocated for the support of political entities.

Reporting

Political entities report as per the requirements of the Law on Public Financial Management, on quarterly basis, to the Central Election Commission.

Political entities are required to report to CEC all funds received from the Fund for the financing of political entities and other incomes. Reporting procedures for political entities is regulated with the CEC Regulation 14/2015. Under this regulation, reporting should be conducted on regular quarterly basis, by the authorized financial officer. In addition to quarterly reports, annual reporting is also

⁵ Data on fines are taken from the CEC report for 2015, while the value of the budget was taken from the decision on the ceiling of funds from the Fund for the Support of Political Entities for 2016.

required, which should contain:

- Balance Sheet;
- Statements of income and expenditure;
- Payment Schedule.

Political entities are prohibited by law to accept contributions from private enterprises which are in contractual relationships with public institutions for the provision of goods and services in public institutions, up to three years after the completion of the contract. In addition to regular budget financing, reporting must also be done for election campaigns, within six months from the date of elections. While reporting deadlines for election campaigns are provided in regulation, deadlines for regular quarterly and annual reporting are regulated in accordance to the Law on Public Finance Management. In general, political entities which are financed by the public budget regularly report their finances to the CEC. Only 12 non-parliamentary political parties in 2015 have failed to submit financial reports.⁶

Monitoring

Data from the monitoring of campaign spending in 2010 highlighted a significant difference between reporting and financial statements of major political parties.

Monitoring of finances of political entities is a difficult part in the chain of control of regularity and legality of the financing process. In many cases, the public can be provided data that are either inaccurate or incomplete. For example, political entities can only publish in their reports a section of donors or donated funds. The disclosure of the rest is difficult and challenging to prove with convincing evidence

⁶Central Election Commission, the Work Report 2015. Page 29.

with oversight institutions.

Monitoring of the implementation of the law should also belong to a single public institution. This power currently lies with the Anti-Corruption Agency of Kosovo.⁷ However, more effective monitoring of legislation implementation is ensured by parties such as:

- Investigative media;
- Monitoring non-governmental organizations, and
- Public.

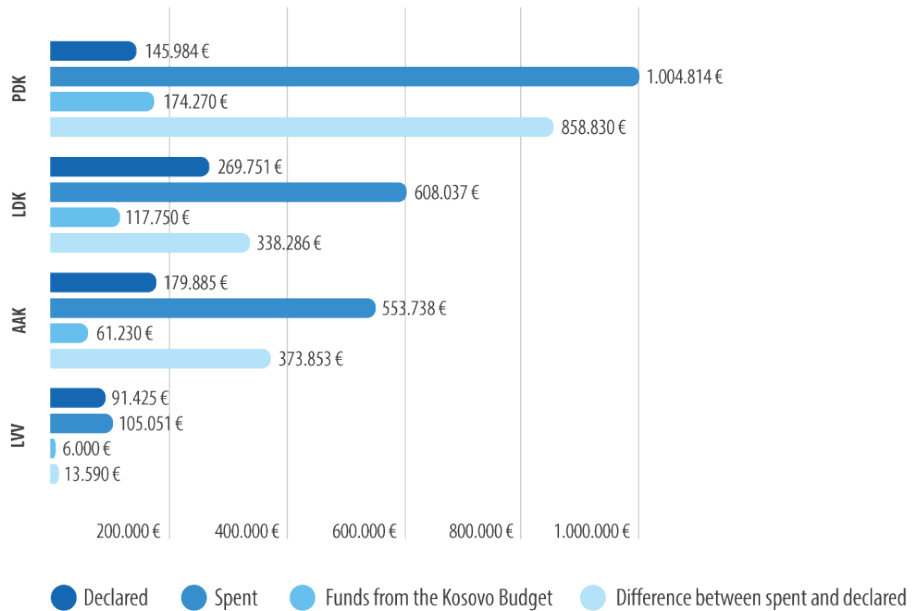


Table 2. Comparison between expenditures reported at CEC for the electoral campaign of 2010, expenditures identified by monitors of the campaign, funds received from the Kosovo Budget, and difference in value EUR between declared expenditures and those identified by campaign monitors.

⁷Law Amending the Law No. 03 / L-174 on Financing Political Parties, as amended by Law No. 04/L-058. Article 19.11.

In 2010, under the monitoring of costs of the election campaign, a significant difference was noted between the declared expenditures and expenditures, identified by monitors of the campaign. Expenditures of political entities are measured by calculating the costs of activities (meetings with citizens and promotional materials in public spaces), spending on TV ads, newspapers and portals. 2010 was the first and last year when campaign funds were made public, audited and monitored on the ground by a non-public institution.

IMPLEMENTATION OF LEGISLATION ON FINANCING POLITICAL PARTIES

It is difficult to convince political entities represented in the Assembly to pass a law that controls their finances. However, it is even more difficult to implement such a law after approval.

Kosovo's institutions in general, since the constitution of the first term of the Assembly, are noted for adoption of public policies and laws in line with the EU, but have lacked in implementation. The same applies with the financing of political entities, where implementation of laws is the main challenge. This is because no matter how good a law is, it will not bring a change if it fails to compel parties to comply. Thus, the focus of the financing of political entities should be put at the level of implementation of legislation and integrity of oversight institutions.

Limits on spending and receipt of funds by political entities are difficult to monitor for practical reasons. The same applies to identifying when ceilings are crossed. Even more difficult than controlling the finances of political entities as a whole is the control of candidates of such

⁸ Kosovo Democratic Institute, Monitoring the Election Campaign Costs, General Elections for the Assembly of the Republic of Kosovo, 2010, pages 7-13, March 2011.

⁹ Interview with Arton Demhasaj, CEO of Çohu Organization, (September 8, 2016).

entities for MPs, mayors and members of municipal assemblies.⁹ Although the three groups are subject to the legal regulations as a single entity, in some cases political entities fail to take responsibility for the individual spending of their candidates.¹⁰ This is because there are no control mechanisms that force its members to comply with the financing rules.

A section of the legislation on financing of political entities is easier to monitor and subsequently to implement. For example, advertising and marketing in television and media is more easily measurable compared to the overpasses of ceiling for campaign spending.¹¹ Legislation shouldn't put too heavy a burden on political entities, without a convincing reason. In Kosovo, for example, to avoid money laundering and terrorist financing, donors are not allowed to donate more than 1000 euros per day.

Persons wishing to donate more than that must split this into contributions and provide them in different days. Such a provision which does not seem to have a direct impact on the prevention of illegal financing, is on the other hand a problematic provision with practical issues for donors who want to comply with the law. All political entities interviewed for the purposes of this discussion paper have identified this provision as one of the shortcomings of the law.¹²

To ensure an effective implementation of legislation, the mandated institution must have independence from political influence, and the necessary resources and will to enforce the rules on political parties. Effective implementation of financial rules can be sought only when these three conditions are met.

¹⁰ Interview with Lutfi Zharku, Financial Officer, Democratic League of Kosovo (October 24, 2016).

¹¹ Ingrid van Beizen, University of Birmingham, Financing of political entities and elections campaigns.

¹² Law on Prevention of Money Laundering and Combating the Financing of Terrorism.

CEC is the institution mandated to manage the fund for the financing of political entities and election campaign fund. This mandate was transferred by the Assembly of Kosovo, which managed the budget until 2010. However, despite the transfer of responsibility to manage and oversee this fund, the CEC has not been given the necessary resources to make effective oversight. This institution has only one internal auditor for the auditing of expenditures.¹³ With such oversight capacities, CEC was continuously satisfied with the findings of the audit carried out by private companies. CEC has taken no further step in the control of these finances to ensure that the legislation is being implemented.

Who should oversee the financing of political entities?

Parties are uncertain as to which is the most reliable institution to audit the finances of political entities. Moreover, there are differences over who should make the selection of the company for the auditing of the political entities.

In countries with an established democracy, political entities select their company to undertake an audit of their finances. However, this practice will not function adequately in Kosovo.¹⁴ Parties do not have a single stance as to who should do this audit who should select the auditor for political entities. Some view that the Auditor General must assume this responsibility¹⁵ while others believe that the auditing should be done by private companies specialized in this field.¹⁶

However, although most parties agree that the audit should continue to be conducted by private auditors, preferences differ as to who

¹³ Njësia Qendrore për Harmonizimin e Auditimit të Brendshëm, Lista e auditorëve të brendshëm të sub jekteve të sektorit publik të licencuar me licencë profesionale. 01-12-2015.

¹⁴ Intervistë me Albert Krasniqin, Menaxher i programit, Instituti Demokratik i Kosovës (Shtator 8, 2016).

¹⁵ Intervistë me Haki Shatri, ish Ministër i Financave dhe Kryetari i parë i Komisionit për Mbikëqyrjen e Financave Publike (Legjislatura e III-të e Kuvendit të Kosovës).

¹⁶ Intervistë me Ymer Shatri, Përfaqësues i kompanisë së auditimit "Audit&Konto" (shtator 19, 2016).

should develop the procedures for the selection of the company contracted for this service. This is because ever since this power was taken over by the Assembly, every procedure mainly failed due to the Assembly itself.

To avoid situations where the audit fails due to the procurement or policy influence in this selection, there are several alternatives that could be adopted as a practice in Kosovo. Among all these alternatives, parties agree that the current situation is not adequate and that the law should be amended. The Assembly has failed for three years and is on the “right” track to fail yet again, for the fourth year.

- **Central Election Commission.** This is a common practice in other countries, because the CECs, as election management bodies, are assumed to be the appropriate institution to oversee the finances of political parties. This would also include the election campaign. However, the CEC is an institution consisting of members delegated by political parties, which consequently makes the CEC a biased institution. The idea that political parties keep themselves and each other under control was proven wrong. Some countries have transferred this power to other institutions, because this form of control was seen as inappropriate.¹⁷ Georgia and Serbia have amended their laws, and have transferred the control of finances of political parties from the election management bodies to the Office of the Auditor (the case of Georgia), and the Anti-Corruption Agency (case of Serbia).
- **National Audit Office.** Currently, this institution enjoys a high integrity perception. This is evidence that the parties and the general public have more confidence in this institution,

¹⁷ International Institute for Democracy and Election Assistance, Financing of Political Parties and Election Campaigns, Political Parties Financial Manual, 2014. Page 191.

compared with other public institutions. Institution integrity measurement in 2015 showed that the Office of the Auditor General has the best results compared to all other public institutions.¹⁸ However, this institution has consistently rejected the idea of transferring this power.¹⁹ The idea of NAO conducting procurement procedures for the selection of the private audit company may be a better choice than that of the Assembly or the CEC. However, NAO has no executive and could not issue penalties against political parties. Even if the law is amended and this right is transferred to this institution, it will nevertheless be beyond its scope, as the auditor in Kosovo is more of an “advisor” who offers recommendations for budgetary organizations and the Assembly.

- **Anti-Corruption Agency.** Compared with all the above-mentioned institutions, Anti-Corruption Agency has the most appropriate mandate for overseeing the finances, since it has an appropriate staff and a similar mandate. Unlike CEC, which has thus far played the role of a fund manager and distributor, ACA can investigate donations, expenses and other sensitive issues. ACA would also have the mandate to conduct procurement procedures for the selection of independent auditors. Anti-Corruption Agency, on the other hand, has had continuous issues with communication with the public and internal management. In addition, for some time it lacked accountability. However, notwithstanding all the shortcomings of ACA, this institution, by its nature, would be more predisposed to control the finances of political parties.

¹⁸ Kosovo Democratic Institute, Assessment of the national integrity system in Kosovo, October 2015. Pages 23, 24.

¹⁹ NAO has also rejected the request for an interview for the needs of this publication, with the reasoning that they have no powers in auditing political entities.

Sentences Only for the Weak

CEC has issued sentences regarding finances of political entities only to non-parliamentary entities which have failed to submit reports. No sentence was issued in 2015 against parliamentary political entities.

CEC, in 2015, issued a number of fines against political parties who have violated the Law on Financing of Political Parties. However, these fines were issued against non-parliamentary political entities. These political entities have little to no budget and the possibility to have misused funds is small compared with that of the political entities represented in Parliament. The manner and reasons for why penalties were issued against political entities, illustrates the true power of the CEC to effectively oversee the implementation of the legislation. The level of law enforcement by this institution was only to fulfil the formal role, i.e. issue reports. Furthermore, there was no control over them, although it was known they were not audited.

Entity	Type	Fine Amount
Demokracia Sociale e Kosovës	Political Party	1,000 €
Partia e Pensionistëve të Kosovës	Political Party	1,000 €
Lëvizja Islame Bashkohu	Political Party	1,000 €
Partia Nationale Demokratike e Shqiptare	Political Party	1,000 €
Narodna Crnogorska Partija Kosova	Political Party	1,000 €
Samostalna Demokratska Stranka	Political Party	1,000 €
Socijaldemokratija	Political Party	1,000 €
Nova Partija Kosova	Political Party	1,000 €
Srpska Narodna Stranka	Political Party	1,000 €
Srpska Narodna Partija Kosova	Political Party	1,000 €
Nova Demokratija	Political Party	1,000 €
Demokratska Alternativa	Political Party	1,000 €

Table 3. Fines levied on political entities for violating law on Financing of Political Parties.

RECOMMENDATIONS

Assembly of Kosovo

- The Assembly is recommended to begin as soon as possible with new procurement procedures for the selection of auditors for the finances of political entities.
- Allocate sufficient budget taking into account the amount of funds to be audited and the number of political entities.
- The main criterion for auditing companies which apply to audit political entities should not be the lowest bid price, but rather, in accordance with the Public Procurement Law, companies should be evaluated on the basis of professionalism, internal human resources and references for similar works.
- The Assembly must amend the Law on Financing of Political Parties in order to transfer the power of selection of auditors for political entities to an independent body.
- Implementation and oversight of political parties' powers should be removed from the responsibility of CEC and transferred to an independent political body.
- Political parties should be obliged to operate the functioning website as a precondition for public financing.
- Political entities should be obliged to publish financial reports on their websites and of the institution that oversees expenditures.
- Increase sentences and penalties for entities which do not report, do not declare finances, or those which otherwise violate the Law on Financing of Political Parties.
- Law on Financing of Political Parties must be aligned with other laws to avoid overlapping requirements and bureaucracy in receiving and recording contributions. This must be done in order not to overburden compliant political entities.

- The requirement for political parties not to receive more than 1,000 euros a day must be removed because it has no effect on the regularity of the financing of political parties.

Political Entities

- Political entities must disclose their financial reports, including incomes, detailed expenses and identities of donors.
- All registered political entities in Kosovo, especially parties represented in the Assembly and receiving public financing, must have their own websites.
- Publish detailed financial reports on the websites of political entities.
- Approve requests for access to documents regarding the finances of political entities in line with the practices of public institutions.

State Prosecution and Anti-Corruption Agency

- Prosecution institutions must investigate undeclared donations to political entities, especially those which aim to influence decision-making and award public contracts.
- Economic operators who receive public contracts, especially those against which there are complaints and objections in public procurement procedures, to be investigated for their links with political representatives.
- Contributions in kind which are offered as assistance from various individuals and companies to political entities and which in many cases are not declared should be investigated by the prosecution.
- Campaign spending excesses, especially by candidates of political parties who have had, or still have executive positions, are required to be followed more closely by investigators.

Civil Society and Media

- Develop methodologies and monitoring campaign of expenditures of political entities to discover legal violations and to exert pressure over institutions to issue penalties.

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2. [Lutfi Zharku](#), Financial Officer of LDK and Minister of Infrastructure
3. [Faton Topalli](#), Chairman of the Committee for Public Finance Oversight
4. [Ilir Cacaj](#), VV Financial Officer
5. [Valon Tolaj](#) and [Labinot Smajlaj](#), financial officials in AAK
6. [Miradije Mavriqi](#), Director of the Office for the Registration of Political Parties
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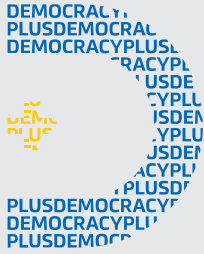
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ABOUT DEMOCRACY PLUS



Democracy Plus (D+) is an independent, not-for-profit organization, founded by a group of activists who strongly believe in democratic values and a democratic Kosovar society. The principal goal of Democracy Plus is to support democratic values and practices, as well as policies that further contribute to build an active citizenship. The three main pillars of Democracy Plus are: Good Governance and Rule of Law, Political Parties and Elections, and Social Issues and Human Rights.

For more information about us, please visit:

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