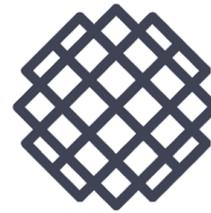




Republika e Kosovës  
Republika Kosova  
Republic of Kosovo



Zyra Kombëtare e Auditimit  
Nacionalna Kancelarija Revizije  
National Audit Office

**Document No.: 24.18.1-2017-08**

**AUDIT REPORT**

**ON THE ANNUAL FINANCIAL STATEMENTS OF THE KOSOVO  
JUDICIAL COUNCIL FOR THE YEAR ENDED 31 DECEMBER 2017**

**Prishtina, june 2018**

The National Audit Office of the Republic of Kosovo is the highest institution of economic and financial control which, according to the Constitution and domestic laws, enjoys functional, financial and operational independence. The National Audit Office undertakes regularity and performance audits and is accountable to the Assembly of Kosovo.

Our Mission is through quality audits strengthen accountability in public administration for an effective, efficient and economic use of national resources.

We perform audits in line with internationally recognized public sector auditing standards and good European practices.

The reports of the National Audit Office directly promote accountability of public institutions as they provide a base for holding managers' of individual budget organisations to account. We are thus building confidence in the spending of public funds and playing an active role in securing taxpayers' and other stakeholders' interests in enhancing public accountability.

The Auditor General has decided on the audit opinion on the Annual Financial Statements of the Kosovo Judicial Council in consultation with the Assistant Auditor General, Emine Fazliu, who supervised the audit.

The report issued is a result of the audit carried out by Liridona Berisha (team leader), and Laureta Matoshi Pozhegu, Mjellma Dibra Morina, Mimoza Morina Kelani (team members), under the management of the Head of Audit Department, Ramadan Gashi.

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## Executive Summary

### Introduction

This report summarises the key issues arising from our audit of the 2017 Annual Financial Statements of the Kosovo Judicial Council, which determines the Opinion given by the Auditor General. The examination of the 2017 financial statements was undertaken in accordance with the International Standards on Supreme Audit Institutions (ISSAIs). Our approach included such tests and procedures as we deemed necessary to arrive at an opinion on the financial statements. The applied audit approach is set out in our External Audit Plan dated 02/10/2017.

Our audit focus has been on:



The level of work undertaken by the National Audit Office to complete the 2017 audit is determined depending of the quality of internal controls implemented by the Management of the Kosovo Judicial Council.

The National Audit Office acknowledges the Kosovo Judicial Council's Senior Management and Staff for cooperation during the audit process.

### Opinion of the Auditor General

#### **Unmodified Opinion with Emphasis of Matter**

The Annual Financial Statements for 2017 *present a true and fair view* in all material aspects.

#### **Emphasis of Matter**

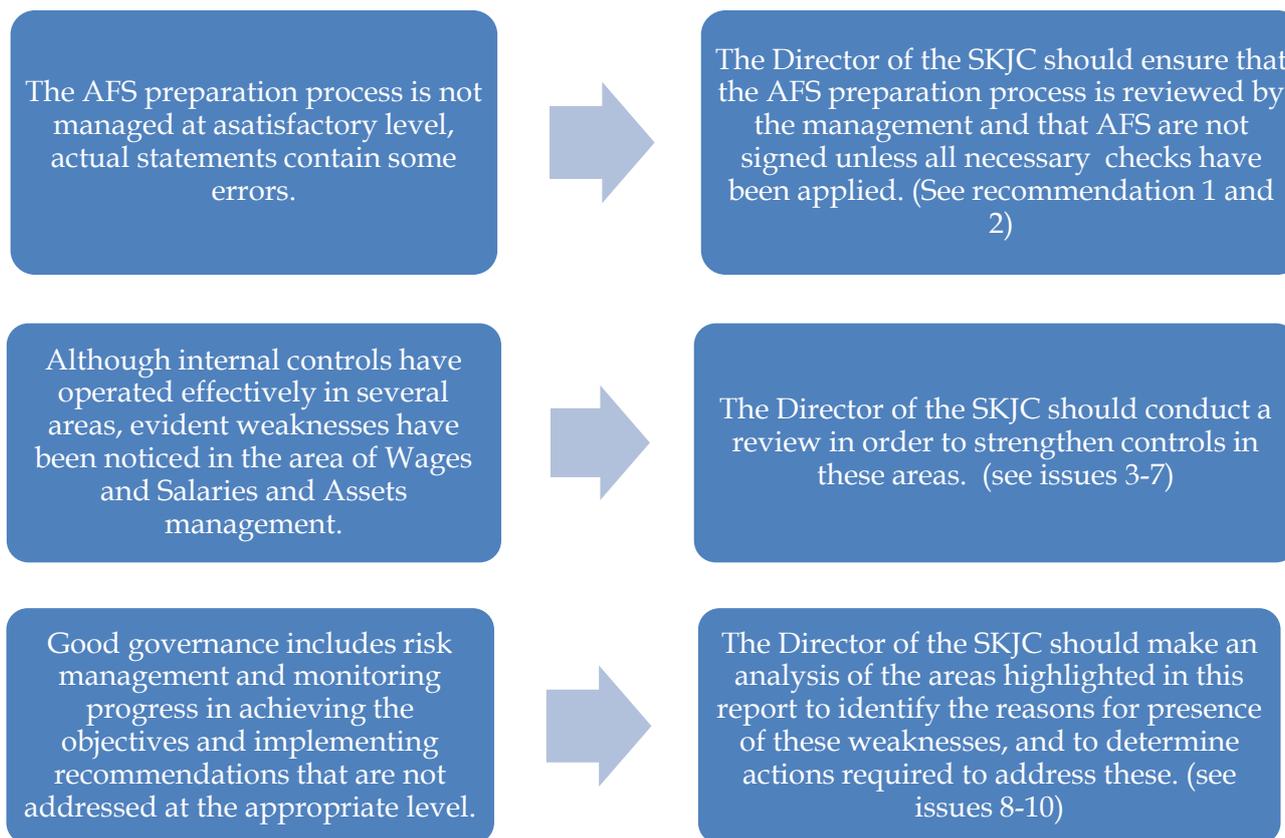
We draw your attention to the fact that the value of the Contingent Liabilities disclosed in the AFS was understated. Further on, the KJC had misclassified expenditures by paying from the category of Capital Investments for expenditures that by the nature belong to the category of Goods and Services.

For more, please refer to Section 2.1 of this report.

Annex I explains the different types of Opinions applied by the National Audit Office.

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## Key Conclusions and Recommendations



### Response of Management of Kosovo Judicial Council – audit 2017

The Management has considered and agreed on audit findings and conclusions and committed to address all the recommendations given.

# 1 Audit Scope and Methodology

## Introduction

The National Audit (NAO) is responsible for carrying out a Regularity Audit which involves the examination and evaluation of Financial Statements and other financial records and expression of opinions on:

- Whether the financial statements give a true and fair view of the accounts and financial affairs for the audit period;
- Whether the financial records, systems and transactions comply with applicable laws and regulations;
- The appropriateness of internal controls and internal audit functions; and
- All matters arising from or relating to the audit.

Audit work undertaken reflected our audit risk assessment for the Kosovo Judicial Council. We have analysed the Organisation's business to the extent to which management controls can be relied upon when determining the overall testing required to provide the necessary level of evidence to support the AG's opinion.

The following sections provide a more detailed summary of our audit finding with emphasis on observations and recommendations in each area of review.

Our procedures included a review of the internal controls, accounting systems and related substantive tests and related governance arrangements to the extent considered necessary for the effective performance of the audit. Audit findings should not be regarded as representing a comprehensive statement of all the weaknesses which exist, or all improvements which could be made to the systems and procedures operated.

## 2 Annual Financial Statements and other External Reporting Obligations

### Introduction

Our audit of the Annual Financial Statements (AFS) considers both compliance with the reporting framework and the quality and accuracy of information recorded in the AFS. We also consider the Declaration made by the Chief Administrative Officer and Chief Financial Officer when the draft AFS are submitted to the Ministry of Finance.

The declaration regarding presentation of the AFS incorporates a number of assertions relating to compliance with the reporting framework and the quality of information within the AFS. These assertions are intended to provide the Government with the assurance that all relevant information has been provided to ensure that an audit process can be undertaken.

### 2.1 Audit Opinion

#### **Unmodified Opinion with Emphasis of Matter**

We have audited the AFS of the Kosovo Judicial Council (KJC) for the year ended on 31<sup>st</sup> of December 2017 which comprise of the Statement of Cash Receipts and Payments, Budget Execution Statement, Disclosure and other accompanying reports.

In our opinion, the Annual Financial Statements for the year ended on 31<sup>st</sup> of December 2017 present a true and fair view in all material respects in accordance with International Public Sector Accounting Standards (according to cash based accounting), Law no.03/L-048 on Public Financial Management and Accountability (as amended and supplemented) and Regulation MoF no.01/2017 on Annual Financial Reporting by Budget Organisations.

#### **Basis for the opinion**

The audit is carried out in accordance with International Standards of Supreme Audit Institutions (ISSAIs). Our responsibilities under those standards are further described in the 'Auditor's responsibilities for the audit of the AFS' section of our report. We believe that the obtained audit evidence is sufficient and appropriate to provide a basis for the opinion.

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## Emphasis of Matter

We draw your attention to the fact that:

- Contingent Liabilities in the amount of €9,143,704 were not presented in the AFS as required by the MoF Regulation No. 01/2017 on Annual Financial Reporting. These Liabilities resulted from lawsuits (damaged persons) against KJC, accumulated year after year (material damage, wages and other compensation);
- In addition, KJC executed payments from the category of Capital Investments in the amount of €205,100 for the expenditures which, by nature, belong to the category of Goods and Services. It is worth to clarify that this value was approved with 2017 budgetary tables for Capital Investments "Repair and maintenance of court facilities (€957)" and "Purchase of IT equipment co-financed by SMIL project (€204,143)". The projects presented in the table do not meet the criteria to be considered as Capital Projects, and the errors relate to initial planning by the KJC, and inadequate approvals by the MoF. Our opinion is not modified regarding the issues mentioned above.

## Responsibility of Management and Persons Charged with Governance for AFS

The Chief Financial Officer is responsible for the preparation and fair presentation of financial statements in accordance with International Public Sector Accounting Standards – Financial Reporting under the Modified Cash based Accounting and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. This includes the application of Law no. 03/L-048 on Public Financial Management and Accountability (as amended and supplemented).

The Director of the SKJC is responsible to ensure the oversight of Kosovo Judicial Council's financial reporting process.

## Auditor General's Responsibility for the audit of the AFS

Our responsibility is to express an opinion on the AFS based on our audit. We conducted our audit in accordance with ISSAIs. These standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatements.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will detect every material misstatement that might exist. Misstatements may arise from fraud or error and are considered material if, individually or in the aggregate, they could influence the decisions taken on the basis of these AFS.

An audit involves performing procedures to obtain evidence about the financial records and disclosures in the AFS. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement in the AFS, whether due to fraud or error. In

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making those risk assessments, the auditor considers internal control relevant to the entity's preparation of the financial statements in order to design audit procedures that are appropriate in the entity's circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Management, as well as evaluating the presentation of the financial statements.

## 2.2 Compliance with AFS and other reporting requirements

KJC is required to comply with a specified reporting framework and other reporting requirements. We considered:

- Compliance with MoF Regulation no.01/2017 on the Annual Financial Reporting of Budget Organisations;
- Requirements of LPFMA no. 03/ L-048, (as amended and supplemented);
- Compliance with Financial Rule no.01/2013 and 02/2013;
- Action Plan on implementation of recommendations; and
- Requirements of Financial Management and Control (FMC) procedures.
- Nine-month Financial Statement in time;
- 2017 Procurement Plan; and
- AFS are prepared and signed in time by CAO and CFO.

In context of reporting requirements, we have not identified any non-compliance.

In terms of quality, the AFS did not contain errors nor lacked information, except for issues related to Contingent Liabilities and misclassification of expenditures, for which we have emphasised the opinion.

### **DECLARATION MADE BY KJC MANAGEMENT**

Given the above - the Declaration made by the Chief Administrative Officer and Chief Financial Officer when the draft AFS are submitted to the Ministry of Finance accurate and correct, given the material were not identified during the audit, apart from issue presented in the Emphasis of Matter.

## 2.3 Recommendations related to Annual Financial Statements

In relation to the above issues, we give the following recommendations:

**Recommendation 1** The Director of the SKJC should ensure that an analysis is undertaken to determine the causes for Emphasis of Matter in the Audit Opinion, and to perform comprehensive review of the content and accuracy of the statements prior to submitting them to the MoF, particularly on disclosure of the Contingent Liabilities.

**Recommendation 2** The Director of the SKJC should increase controls when planning the budget, in order to eliminate errors in classification of expenditures by ensuring its budgeting/spending and fair reporting.

## 3 Financial Management and Control

### Introduction

Our work related to Financial Management and Control (FMC) reflects the detailed audit activities undertaken on Revenue and Expenditure Systems within Budget Organisations. Specifically, the focus of the audit was Budget management, Procurement issues, Human Resources as well as Assets and Liabilities.

### Financial Management and Control Conclusion

In general, KJC has put controls in place against its statutory obligations. Financial Management and Control has proven a good process of review and assurance in implementation of laws and other processes. However, management of Wages and Salaries and Asset Management are still a challenge for this institution.

### 3.1 Budget Planning and Execution

We have considered the sources of budget funds, spending of funds and revenues collected by economic categories. This is highlighted in the following tables:

**Table 1. Sources of budgetary Funds (in €)**

Description	Initial Budget	Final Budget <sup>1</sup>	2017 Outturn	2016 Outturn	2015 Outturn
<b>Sources of Funds</b>	<b>21,797,640</b>	<b>21,793,948</b>	<b>19,602,402</b>	<b>19,528,929</b>	<b>18,791,104</b>
Government Grant -Budget	20,593,782	19,956,808	19,411,317	18,872,482	17,643,133
Own Source Revenues <sup>2</sup>	1,203,858	1,203,858	176,743	656,447	1,147,971
Carried forward from previous year <sup>3</sup> -	-	623,753	5,342	-	-
External Donations	-	9,529	9,000	-	-

The final budget in relation to the initial budget was decreased by €3,692, with Government's Decisions. This decrease resulted from failure to timely implement Brussels Agreement on the Judiciary of Republic of Kosovo, and failure to recruit staff for the Basic Court in Mitrovica.

KJC used 90% of the final budget in 2017 or €19,602,402, a decrease by 7% compared to 2016. However, the budget execution remains at satisfactory level.

**Table 2. Spending of funds by economic categories - (in €)**

Description	Initial Budget	Final Budget	2017 Outturn	2016 Outturn	2015 Outturn
<b>Spending of funds by economic categories</b>	<b>21,797,640</b>	<b>21,793,948</b>	<b>19,602,403</b>	<b>19,528,929</b>	<b>18,791,104</b>
Wages and Salaries	16,464,561	16,358,058	14,622,640	14,016,443	13,511,947
Goods and Services	3,813,079	3,884,858	3,545,741	3,932,056	3,601,422
Utilities	450,000	448,500	396,629	378,092	419,043
Subsidies and Transfers	250,000	392,532	385,471	368,212	380,288
Capital Investments	820,000	710,000	651,922	834,126	878,404

Explanations for changes in budget categories are given below:

- The final budget in relation to the initial budget in the category of Wages and Salaries was reduced by €106,503, with Government's Decision. While the surplus of funds at the end of the year was €1,735,418 due to failure to implement the Brussels Agreement for judiciary,

<sup>1</sup> Final budget - the budget approved by the assembly which was subsequently adjusted for by the Ministry of Finance.

<sup>2</sup> Receipts used by the entity for financing its own budget.

<sup>3</sup> Own Source Revenues unspent in previous year carried forward into the current year.

given it has planned recruitment of 48 judges and 115 administrative staff from Serbian minority. Budget execution for this category was 89%;

- The final budget of Goods and Services in relation to the initial budget was increased by €71,779 with a Government's<sup>4</sup> Decision. This increase resulted from payment of lawyers, experts and lay judges in the Basic Court of Gjilan and Ferizaj. Budget execution for this category was 91%;
- The final budget for Utilities was reduced by €1,500, with Government's<sup>5</sup> Decision. Budget execution for this category was 88%;
- The final budget in relation to the initial budget for category of Subsidies and Transfers by Government<sup>6</sup> Decision was increased by €142,532. Financial assets in the amount of €110,000 have been transferred from the category of Capital Investments (project 15248-Construction of the Basic Court in Gračanica) to the category of Subsidies, as well as other financial assets in the amount of €32,276 and €256 have been used from carried forward revenues. The reason for the increase of this category was for the compensation of convicts without foundation. Budget execution for this category was 98%; and
- The final budget for capital investments was reduced by € 110,000. These funds have been transferred to the category of subsidies and transfers. Budget execution for this category was 92%.

## 3.2 Revenues

**Table 3. Own Source Revenues (in €)**

Description	Initial Budget	Final Budget	2017 Receipts	2016 Receipts	2015 Receipts
Own source revenues	1,203,858	1,203,858	7,708,641	8,051,611	8,087,041
<b>Total</b>	<b>1,203,858<sup>7</sup></b>	<b>1,203,858</b>	<b>7,708,641</b>	<b>8,051,611</b>	<b>8,087,041</b>

With the 2017 Budget Law, KJC has been allowed to utilize revenues of € 1,203,858 while the rest is transferred to the Kosovo Budget.

KJC collects revenue from court fees, road traffic and court fines, as well as revenues from property sale. Planned revenues for 2017 were in the amount of €7, 310, 008<sup>9</sup>, while collected amount was €7,708,614, and this shows that the plan on revenues was exceeded by €398,606.

<sup>4</sup> Government's Decision no. 02/22 dated 27.12.2017.

<sup>5</sup> Government's Decision no. 02/22 dated 27.12.2017.

<sup>6</sup> Government's Decision no.10/19 dated 15.12.2017.

<sup>7</sup> Total value of revenues €1,203,858 was allowed to be used for KJC needs.

<sup>9</sup> KJC 2017 Plan on Revenues.

However, if we compare these revenues with the last year's revenues (2016) we have a decrease by €342,970.

### **Recommendations**

We have no recommendations in this area.

## **3.3 Wages and Salaries**

Wages and Salaries are paid through a centralised payment system (payroll) managed by MPA and MoF. Key controls assuring accuracy and completeness of wages are the payroll lists signed by unit leaders.

The approved number of employees for KJC was 2,159<sup>10</sup>, while the number of employees at the end of the year was 1,968. We have reviewed the payroll lists and compared it with the data presented by the Treasury, KMIFS and their disclosure in the AFS. Further on, we have checked if the employees were paid according to their contracts. From our examinations we have found the following issues:

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<sup>10</sup> Financial fund was approved by the Law on Budget , but not allocated.

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**Issue 3 - Compensation of the members of Judicial Council and Committees**

**Finding** Article 3 of the AI foresees that compensation of members of the Judicial Council and Committees for daily attendance in the meetings of Judicial Council is €70, while for attendance in the Committee meetings is €50. When it is required to attend both meetings within a day, the payment is made only for the meeting of the Judicial Council on the amount of €70.

From examination of retroactive payments for the committee members appointed by Council Decision as panel member, whose presence is recorded during relevant sessions, although a committee member was not appointed by a decision, in one case, he/she was compensated in the amount of €250; furthermore it was not justified as committee member for month of March.

Further on, in one case we have observed that Judicial Council and Committee members that attended different meeting within a day, they were paid for both meetings. Judicial Council and Committee members were compensated in excess by €250 (€50 each).

In two cases the KJC had taken measures, and as result fund for two members of committees were returned to the budget in 2018.

**Risk** Lack of control in compensation of members for attendance in Council and Committee meetings, increase the risk for such payments are not made in accordance with regulation requirements, and may result in budget loss.

**Recommendation 3** Chairman of KJC and the Director of the SKJC, should ensure that all expenditures related to compensations for attendance in meetings of the Council and Committee members' are documented in accordance with applicable AI.

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**Issue 4 - Covering positions with Acting**

**Finding** Article 30 of the LSCS no. 03/L-149 foresees that, if there is a vacant position within Civil Service, the Acting cannot be appointed for more than three (3) months.

During the audit for 2017, we have identified that six positions are covered by Acting, after legal deadline. The identified cases were:

- *Senior Officer at Criminal Record Unit at KJCS from 29.12.2015,*
- *Director of the Central Evidence Office from 01.08.2015,*
- *President of the Basic Court in Mitrovica from the 18.09.2015,*
- *The position of the Verification Officer in Basic Court in Gjilan is covered by Acting from 01.01.2016,*
- *President of the Basic Court in Gjilan from 13.01.2017,*
- While, development of the recruitment procedures for the position of the Head of Budget and Finance at the Basic Court Pristina, which was covered by Acting from 28.01.2016, were approved by the MoF.

**Risk** The practice of covering key positions with Acting for longer periods of time, apart from non-compliance with the legislation in force, risks for the positions to be run by persons who do not meet the necessary criteria in the absence of an open competition. This may affect negatively in overall performance of the organisation.

**Recommendation 4** Chairman of KJC, the Director of the SKJC and Presidents of relevant Courts should ensure development of recruitment procedures to cover these positions with regular contracts. The duration of Acting duty should not exceed the legal deadline.

**Issue 5 - Exceeding the number of appointed Judges for Serious Crimes**

**Finding** The Decision of the Government of Kosovo no. 06/148 dated 30.06.2017 on allocation of the financial funds under the sub-programs for each court regarding the compensation of allowances and the financial incentive of €300 per month for 85 judges in charge of serious crime.

During the audit, we found that in two courts the number of judges assigned for serious crimes was exceeded. The Court of Appeals, by a decision, has allowed assignment of 9 judges for serious crimes, while it operates with 15 judges. The other case is in the Basic Court of Mitrovica. By the decision there are seven judges assigned for serious crimes, while it operates with nine judges.

**Risk** Exceeding the number of judges will result in benefiting more judges than those assigned by the decision and will burden the KJC budget.

**Recommendation 5** Chairman of KJC, the Director of the SKJC and Presidents of relevant Courts should ensure that decisions issued by the Government on financial incentive for the judges on serious crimes should apply only to the allowed number of judges.

### 3.4 Personnel Management

Personnel management involves all actions related to recruitment procedures, contracts, trainings, promotion, leaves, retirement, maternity leave, taxes and measures undertaken by the KJC. We have tested a number of samples to ensure that the actions taken in this area are performed in accordance with applicable regulations. From tested samples we have no issues to report.

#### Recommendations

We have no recommendations in this area.

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## 3.5 Goods and Services and Utilities

The final budget of Goods and Services in 2016 was €4,333,358, out of which €3,942,370 was spent. A considerable part of the expenditures from this category relate to the expenditures for contracting services, postal services and mobile phone services.

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### Issue 6 - Special Services Agreements

**Finding** According to the Article 12 point 4 of the LCS no.03L/149, fixed term appointments for a period of less than six months will be made on the basis of contracts called "Special Service Agreement", which are subject to the Law on Obligations, and for which a simplified recruitment procedure is applied.

We have identified that the Basic Court in Pristina had signed a special service agreement with an employee for the "Security Guard" position for six months, extending the contract for another six months. The payment for these services was done from the category of Goods and Services (code 13420) in the amount of €291 per month. The contract for special services is signed for regular positions and not for the experts in the relevant fields, and no simplified recruitment procedure has been applied in this case.

**Risk** Covering regular and long term positions over the set deadline and through inadequate procedures disrespects the set legal provisions, restricting competition and increasing the risk for the provided services do not meet KJC needs, and that the planned budget for this category is not spent to its purpose.

**Recommendation 6** Chairman of KJC, the Director of the SKJC and Presidents of relevant Courts should ensure that Special Service Agreements are only used to its purpose, properly planned and carried out in accordance with the applicable legal requirements.

### 3.6 Subsidies and Transfers

The budget of Subsidies and Transfers was €392,532, out of which €385,470 was spent in 2017. Those relate to compensations of the innocently convicted persons. We have identified a case (person) who was detained for 26 days by a court decision, while he was compensated with €1,385, for fifty days more, and not in accordance with the court decision. The budget loss was by €825. Upon identification of these issues by our team, the issue was addressed and the excess of payment was returned to the KJC budget.

### 3.7 Capital Investments

The final budget for Capital Investments was €710,000, out of which €651,922 was spent. Considerable part of the expenditures in this category includes repairing of court facilities, supply and fitting of elevator.

#### **Recommendations**

We have no recommendations in this area.

### 3.8 Capital and Non-Capital Assets

Capital Assets over €1,000 presented in the AFS were €15,878,000, assets under €1,000 were in the amount of €1,024,000, while stocks of €213,000. We tested purchases of 2017, compliance in asset registration, as well as physical examination to prove the presence of the assets. Our asset management audit identified the below presented weaknesses.

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## Issue 7 – Weaknesses in Asset Management

**Finding** We have noticed that the e-Asset system was not applied due to the fact that 2017 purchases were not registered in the following cases; supply with inventory in total value of €4,785, purchase of IT equipment co-financed by SMIL project in the amount of €204,142<sup>11</sup>. Further on, the data presented in the AFS for Assets under €1,000 showed the value from Inventory of Assets, although the inventory date did not indicate the date of purchase of assets, making it difficult to identify how the depreciation for the year was calculated. The inventory report contained Assets (out of order and damaged) and the same did not match to e-Asset. The Asset Evaluation Commission did not report to the KJC in relation to the assets that were identified as out of use and assets that should be decommissioned or alienated. Furthermore, the situation with the e-Asset system is same as in the previous year.

**Risk** Poor controls in Asset management and failure to fully operate the E-Asset system, hinder the management and control of available Assets, and increase the risk of loss and misuse of assets.

**Recommendation 7** Chairman of KJC, the Director of the SKJC and Presidents of relevant Courts should review current controls to ensure efficient management and registration of all assets. Further on, should ensure decommission of Assets that are out of order, based on the assessments of the respective commission and to harmonize the evaluation and inventory reports that precede accurate presentation of Asset data in the AFS. Further on, to undertake specific actions to operate the e-Asset system, to allow registration of all assets under €1,000.

## 3.9 Handling of Cash and Cash Equivalents

Petty Cash was handled in compliance with Regulation 01/2013 on Expenditure of Public Money. All transactions of petty cash were registered in respective accounts when justifying expenditures that are carried out from the Petty Cash fund.

### Recommendations

We have no recommendations in this area.

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<sup>11</sup> Invoices in the amount of 204,142€ and 4,785€ were presented in aggregate, but the value of IT equipment and Inventory presented in the invoice are under the €1000.

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### 3.10 Receivables

Based on information presented in the AFS, account receivable for 2017 was €159,000. If we compare it to the previous year report (2016) there is a decrease in A/R by €2,000. The AR are made of court decisions that were not executed till the end of 2017.

#### **Recommendations**

We have no recommendations in this area.

### 3.11 Outstanding Liabilities

The statement of liabilities not paid to suppliers at the end of 2017 was €376,454. These liabilities are carried forward to be paid in 2018. However this only reflects a part of the budgetary challenge faced by KJC. Compared with 2016, there was an increase of Outstanding Liabilities in the amount of €103,726 or 38%.

#### **Recommendations**

We have no recommendations in this area.

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## 4 Progress in implementing recommendations

Our Audit Report on the 2016 AFS resulted in 11 key recommendations. KJC prepared an Action Plan within 30 days upon receipt of audit report, stating how all recommendations will be implemented.

At the end of our 2017 audit, six recommendations have been implemented; three were in process; and two have not been addressed yet. Also, there were nine recommendation carried forward from the year 2015, six have been implemented and three were in process. For a more thorough description of the recommendations and how they are addressed, see Annex II.

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### Issue 8 - Implementing Prior and Earlier Year Recommendations

**Finding** The current level of addressing the recommendations is not satisfactory because KJC has not applied any formal process to review and monitor the manner of implementing the recommendations and identifying obstacles to fully address them. Such an approach is required to provide continuous improvement overall organisation.

**Risk** The lack of effective monitoring in implementation of recommendations has resulted in continued weaknesses in the area of Wages and Salaries, Subsidies and in Asset management.

**Recommendation 8** Chairman of KJC, the Director of the SKJC and Presidents of relevant Courts should ensure that the action plan is reviewed, analysing the underlying causes of non-implemented recommendations, setting a new timetable and accountability mechanisms towards all persons who are responsible for implementation of recommendations. The areas of greater significance should be addressed firstly. Implementation of this plan should be monitored constantly.

## 5 Good Governance

### Introduction

Good Governance implies basic principles of accountability, effectiveness of controls, risk management, independence of internal audit, coordination of NAO with internal audit and good governance with public assets.

A key tool supporting effective governance is the implementation of audit recommendations as this demonstrates that Management are seeking to develop existing processes and controls. The level of compliance with FMC requirements by Budget Organizations is monitored by the self-

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assessment checklists completed by all BOs, which are submitted at the end of the year to the Ministry of Finance.

Specific areas of our governance-related reviews have been the accountability and risk management process, while the other components are handled within the chapters or subchapters above.

## Overall Governance Conclusion

The KJC has prepared a risk management report identifying several risks, but those risks were not based on its objectives.

A key tool in support of effective governance is the implementation of audit recommendations, and KJC has failed to address all the recommendations from previous years. While, the Self-assessment Checklist was completed in time according to the legal requirements set forth in the MoF rules.

### 5.1 Internal Audit System

The Internal Audit Unit (IAU) is comprised of IAU Director and three auditors. IAU has approved the Annual Strategic Plan. In 2017, IAU has planned and carried out seven regular audits.

KJC Audit Committee is comprised of three members, whose mandate has ended in July 2017. This Committee has convened only once on 21.06.2017, discussing 2016 IAU Annual Report, and no conclusion was made on what actions should the Management take to address the recommendations given by IAU.

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#### Issue 9 - Audit Committee

<b>Finding</b>	According to the AI no. 11/2010 on the Establishment and Functioning of the Audit Committee in the Public Sector Entity, requires each PSE to establish the AC. We have noticed that KJC has not established AC since July 2017.
<b>Risk</b>	Non-establishment of the AC results in the failure to review IAU reports, which increases the risk for the management not to be informed in order to take adequate measures towards IAU raised issues.
<b>Recommendation 9</b>	Chairman of KJC and the Director of the SKJC should ensure that the Audit Committee is established.

## 5.2 Management Reporting, Accountability and Risk Management

A range of internal controls are applied by Management to ensure that systems and operate as intended, we have noticed that the measures applied are weak and ineffective and therefore do not provide an effective and timely response to the identified operational problems.

The KJC Secretariat (KJCS), seven Basic Courts, the Court of Appeals, the Supreme Court, the Special Chamber, the Performance Review Unit and the Office of the Disciplinary Committee are operating within the KJC. The AFS of all units are consolidated into the AFS of KJC, and submitted to the Treasury as a whole. KJC units have their own responsibilities separate from the SKJC carried over by the Administrative Instruction 01/2015. The KJC internal reporting process is applied according to the chain of accountability and organizational structure.

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### Issue 10 -Management Controls and Risk Management- High Priority

**Finding** Our review of managerial controls implemented in the main financial system has highlighted weaknesses which diminish the effectiveness of the financial management in general. Particularly, controls over Asset management were ineffective.

The KJC has managed to prepare the list of risks, but the identified risks were not based on organization's objectives, and they are not monitored, nor response actions are planned in case of their occurrence.

**Risk** Lack of effective risk management and objective monitoring may result in failure to meet them. This is because actions needed to prevent or avoid the impact of such issues will not be undertaken in a planned and systematic manner.

**Recommendation 10** Chairman of KJC and the Director of the KJCS should ensure that the risk register is prepared in compliance with objectives, and direct responsibility for risk management is delegated to a designated officer who will ensure monitoring and reporting related to risks on a regular basis.

**This report is a translation from the Albanian original version. In case of discrepancies, Albanian version shall prevail.**

## Annex I: Explanation of the different types of opinion applied by NAO

(extract from ISSAI 200)

### Form of opinion

147. The auditor should express **an unmodified opinion if** it is concluded that the financial statements are prepared, in all material respects, in accordance with the applicable financial framework.

If the auditor concludes that, based on the audit evidence obtained, the financial statements as a whole are not free from material misstatement, or is unable to obtain sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement, the auditor should modify the opinion in the auditor's report in accordance with the section on "Determining the type of modification to the auditor's opinion".

148. If financial statements prepared in accordance with the requirements of a fair presentation framework do not achieve fair presentation, the auditor should discuss the matter with the management and, depending on the requirements of the applicable financial reporting framework and how the matter is resolved, determine whether it is necessary to modify the audit opinion.

### Modifications to the opinion in the auditor's report

151. The auditor should modify the opinion in the auditor's report if it is concluded that, based on the audit evidence obtained, the financial statements as a whole are not free from material misstatement, or if the auditor was unable to obtain sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement. Auditors may issue three types of modified opinions: a qualified opinion, an adverse opinion and a disclaimer of opinion.

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*Determining the type of modification to the auditor's opinion*

152. The decision regarding which type of modified opinion is appropriate depends upon:

- The nature of the matter giving rise to the modification – that is, whether the financial statements are materially misstated or, in the event that it was impossible to obtain sufficient appropriate audit evidence, may be materially misstated; and
- The auditor's judgment about the pervasiveness of the effects or possible effects of the matter on the financial statements.

153. The auditor should express a **qualified opinion if**: (1) having obtained sufficient appropriate audit evidence, the auditor concludes that misstatements, individually or in the aggregate, are material, but not pervasive, to the financial statements; or (2) the auditor was unable to obtain sufficient appropriate audit evidence on which to base an opinion, but concludes that the effects on the financial statements of any undetected misstatements could be material but not pervasive.

154. The auditor should express an **adverse opinion if**, having obtained sufficient appropriate audit evidence, the auditor concludes that misstatements, individually or in the aggregate, are both material and pervasive to the financial statements.

155. The auditor should **disclaim an opinion if**, having been unable to obtain sufficient appropriate audit evidence on which to base the opinion, the auditor concludes that the effects on the financial statements of any undetected misstatements could be both material and pervasive. If, after accepting the engagement, the auditor becomes aware that management has imposed a limitation on the audit scope that the auditor considers likely to result in the need to express a qualified opinion or to disclaim an opinion on the financial statements, the auditor should request that management remove the limitation.

156. If expressing a modified audit opinion, the auditor should also modify the heading to correspond with the type of opinion expressed. ISSAI 1705<sup>19</sup> provides additional guidance on the specific language to use when expressing a modified opinion and describing the auditor's responsibility. It also includes illustrative examples of reports.

*Emphasis of Matter paragraphs and Other Matters paragraphs in the auditor's report*

157. If the auditor considers it necessary to draw users' attention to a matter presented or disclosed in the financial statements that is of such importance that it is fundamental to their understanding of the financial statements, but there is sufficient appropriate evidence that the matter is not materially misstated in the financial statements, the auditor should include an Emphasis of Matter paragraph in the auditor's report. Emphasis of Matter paragraphs should only refer to information presented or disclosed in the financial statements.

158. An Emphasis of Matter paragraph should:

- be included immediately after the opinion;
- use the Heading “Emphasis of Matter” or another appropriate heading;
- include a clear reference to the matter being emphasised and indicate where the relevant disclosures that fully describe the matter can be found in the financial statements; and
- indicate that the auditor’s opinion is not modified in respect of the matter emphasised.

159. If the auditor considers it necessary to communicate a matter, other than those that are presented or disclosed in the financial statements, which, in the auditor’s judgement, is relevant to users’ understanding of the audit, the auditor’s responsibilities or the auditor’s report, and provided this is not prohibited by law or regulation, this should be done in a paragraph with the heading “Other Matter,” or another appropriate heading. This paragraph should appear immediately after the opinion and any Emphasis of Matter paragraph.

## Annex II: Progress in implementing Prior and Earlier Year Recommendations

Audit Component	Recommendation carried forward from 2015	Implemented during 2017	Under implementation during 2017	Not implemented
2.3 Prior Year Recommendations	The Chairman of KJC should ensure that a revised action plan is implemented which clearly sets out a timetable for addressing the recommendations made by the AG with accountable staff members identified and with initial focus on those of greatest significance.		Partial implementation of recommendations, there are still some recommendations in process and their formal monitoring was not performed.	
2.5.1 Risk Assessment	The Chairman of KJC should ensure that it has produced a plan for identification, assessment and elimination of risks which may arise during the execution of strategic and annual objectives, and has named a person accountable for risk management for monthly reporting on the implementation of requirements in this area.		In 2017 KJC has drafted the List of Risks , but they were not monitoring it.	
3.7 Assets and Liabilities	The Chairman of KJC should ensure that causes of non-functioning of existing controls in this area are identified, and actions required are undertaken so that the E-asset system is put into function as soon as possible. In cases of need, responsible		In 2017 KJC has attempted to put into function the E-Asset, but has not done it yet.	

	officers should be provided with necessary training in using the e-asset application.			
Audit Component	Recommendation given in 2016	Implemented	Under implementation	Not implemented
1.2 Compliance with AFS and other reporting requirements	<p>The Chairman of Kosovo Judicial Council should ensure that a detailed analysis is undertaken to determine the causes on emphasis of the matter.</p> <p>In this respect, appropriate actions should be undertaken to ensure that all assets are registered and become a subject to depreciation by applying their respective rates. Furthermore, the management should conduct a detailed review of AFS drafts, with particular focus on high risk areas and / or in areas where errors have been identified.</p>		Despite efforts KJC was still facing problems with registration of assets.	
2.1 Progress on the Implementation of Prior Year Recommendations	The Chairman of KJC should ensure the continuous monitoring of the progress of the action plan by the persons responsible for the full implementation of the AP's recommendations within set deadlines. Additional actions should be undertaken to overcome the barriers emerged during the implementation of these recommendations.			Not implemented.

2.2 Self-Assessment Checklist of FMC components	The Chairman of Kosovo Judicial Council should that the information provided on the functioning of FMC is complete. The completion of the questionnaire should be accompanied by a review mechanism to confirm the accuracy of the data presented. Moreover, a plan should be drafted to identify, assess and avoid risks that may arise during the achievement of strategic and annual objectives.		In 2017 KJC has prepared a List of Risks but did not monitor them, and the set risk did not cover the objectives and the Self-Assessment Checklist did not provide real situation.	
2.4 Internal Audit System	The Chairman of Kosovo Judicial Council should ensure close co-operation between management of AC and IAU to identify internal controls weaknesses and undertake appropriate actions to implement recommendations.	Implemented.		
3.1.1 Wages and salaries Issue 5 - Positions covered by acting staff for more than three months - High priority	The Chairman of Kosovo Judicial Council should undertake actions to stop the practice of covering positions with acting staff and initiate recruitment procedures in order fill these positions with regular staff on contracts based according to the legal definition.			Not implemented.
3.1.1 Wages and salaries Issue 6 - Decision on compensation	The Chairman of Kosovo Judicial Council should ensure that decision on overtime compensation are in accordance with the general rules and	Implemented.		

not in line with the Law on Labour - Medium Priority	principles of the Labour Law 03 / L-212, on salary supplements and other compensations.			
3.1.1 Wages and salaries Issue 7 - Weaknesses in the recruitment procedures - Medium Priority	The Chairman of Kosovo Judicial Council should ensure a transparent and effective recruitment process by respecting all legal requirements including the foreseen procedures and deadlines.	Implemented.		
3.1.2 Goods, Services and utilities Issue 8 - Exceeding of planned spending on official travel - High Priority	The Chairman of Kosovo Judicial Council should ensure that funds are spent according to the plan and priorities utilised appropriately in order to increase the efficiency and performance of the organisation. The taxpayers money should be spent carefully in order to deliver the most quality services.	Implemented.		
3.1.2 Goods, Services and utilities Issue - 9 Commitment and purchase order after the invoice receipt - Medium priority	The Chairman of KJC should ensure that no purchases are made unless funds are available, i.e. any supply should preceded by a purchase order. Supply and processing of payments should be made fully in compliance with LPFMA and Treasury rules.	Implemented.		
3.2.1 Capital and Non Capital Assets	The Chairman of KJC should ensure that all measures are undertaken to		In 2017, the KJC has made efforts to apply e-Assets, but it was still	

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	address the repeated problems in the e-asset system in order to enable an accurate and complete reporting on assets.		in the process to put into function this program.	
3.3 Outstanding Liabilities	The Chairman of KJC should ensure that additional controls over timely and correct reporting of liabilities under the Treasury Rule requirements are put in place and that they are followed up regularly until the payment is made.	Implemented.		

## Annex III: Letter of confirmation



### LETËR E KONFIRMIMIT

Për pajtueshmërinë me të gjeturat e Auditorit të Përgjithshëm për periudhën 01.01.2017 deri më 31.12.2017 dhe për implementimin e rekomandimeve.

Për: Zyrën Kombëtare të Auditimit

Vendi dhe data:

Prishtinë, 06.06.2018

I nderuar,

Përmes kësaj shkrese, konfirmoj se:

- kam pranuar draft raportin e Zyrës Kombëtare të Auditimit për Auditimin e Raportit Financiar të KGJK-së për periudhën 01.01.2017 deri më 31.12.2017 (në tekstin e mëtejshëm "Raporti");
- pajtohem me të gjeturat dhe rekomandimet dhe nuk kam ndonjë koment për përmbajtjen e Raportit; si dhe
- brenda 30 ditëve nga pranimi i Raportit final, do t'ju dorëzoj një plan të veprimit për implementimin e rekomandimeve, i cili do të përfshijë afatet kohore dhe stafin përgjegjës për implementimin e tyre.

Drejtori i Sekretariatit:

Shkëlzen Maligj

për 