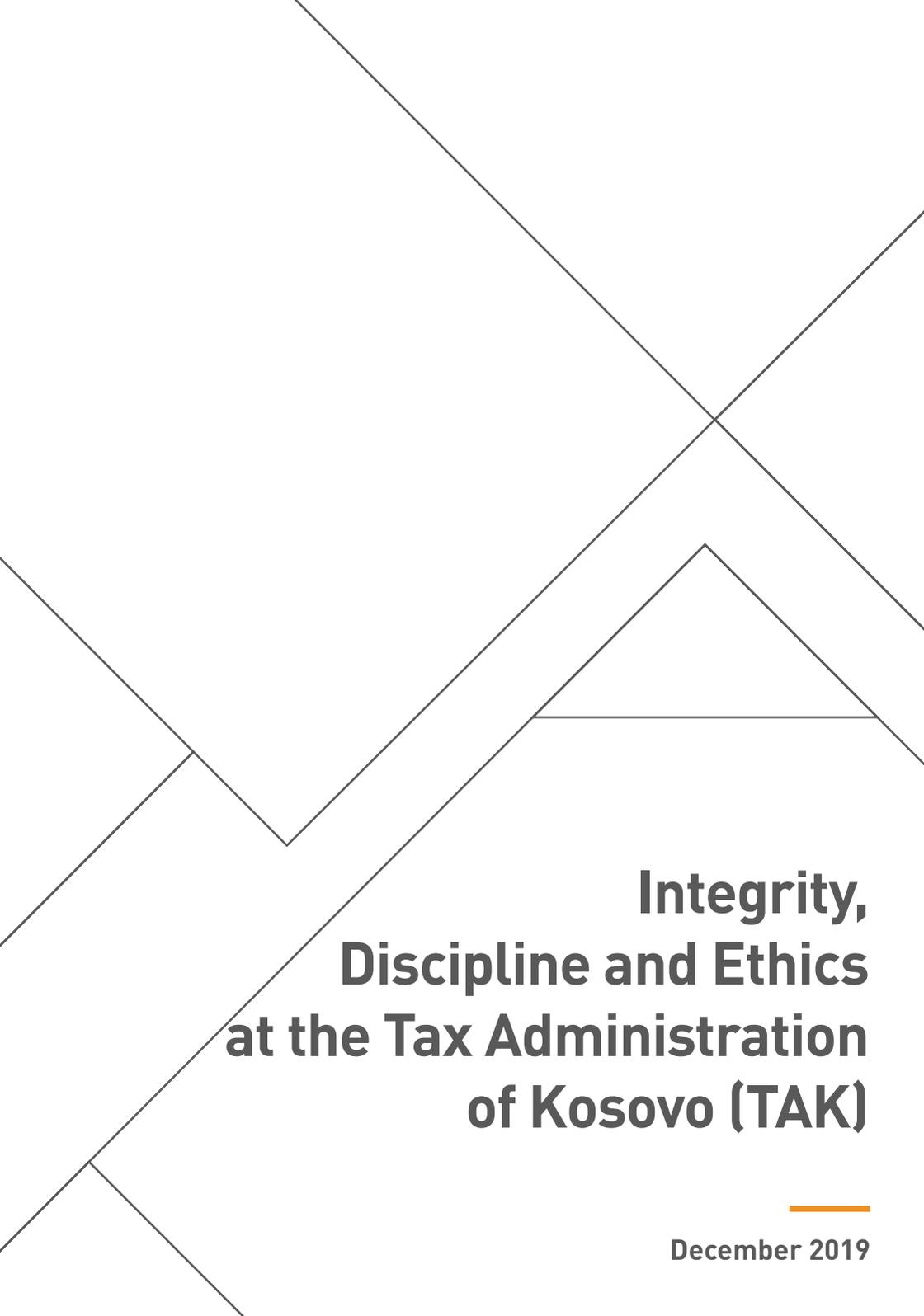




# Integrity, Discipline and Ethics at the Tax Administration of Kosovo (TAK)

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December 2019



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Discipline and Ethics  
at the Tax Administration  
of Kosovo (TAK)**

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## Key findings

- In accordance with the law and in line with the recommendations provided in the previous report, the General Director of TAK demanded declarations of assets from TAK officials, which were then verified by the Professional Standards Division of TAK;
- The General Director of TAK demanded officials choose between working at TAK and being politically engaged, which resulted in 32 TAK officials resigning either from TAK or their political position. Four (4) were senior officials. Meanwhile, one senior official chose to resign from TAK and continue his political engagement.
- TAK conducted recruitment procedures through open calls as well as internal promotions. However, not all of them were finalized before the new Law on Public Officials entered into force because the procedures for the approval of these positions were not initiated until May 2019, one day before the new law entered into force. These recruitments were therefore based on the now abolished Law on Civil Servants;
- The BIRN team was not allowed to monitor the employment process, with the exception of one internal vacancy/recruitment procedure which was annulled;
- In 2019, the Disciplinary Commission held seven (7) hearings, however it was impossible for BIRN and D+ to monitor the hearings due to never being informed about them, despite commitment to notify the team when hearings of the Commission would be held. Like last year, BIRN and D+ only obtained the final decisions of the Commission and were denied the opportunity to monitor directly;
- The sanctions issued by the Disciplinary Commission seem very minor when compared to the violations committed. Contradictions were noted when issuing sanctions for the same violations, and more concretely, heavier sanctions were issued for potentially more minor violations where damaging the budget was involved, while lighter sanctions were issued for potentially more severe damage to the budget;
- The Commission for Resolving Disputes and Complaints sent back four (4) decisions of the Disciplinary Commission for re-evaluation, mainly because the parties involved in the procedures were not notified in due time. BIRN and D+ were permitted to monitor only one hearing of this Commission;
- The Independent Oversight Board for the Civil Service of Kosovo (IOBCSK) received 54 complaints from disgruntled candidates who took part in recruitment procedures at TAK. However, the IOBCSK was not able to take a decision in any of the cases, due to it lacking mandated members since December 2018;

- Regulation 13/2019 on the internal organisation and systematisation of jobs was issued by TAK after the recommendation of the Ministry of Finances for the General Director to sign it. However, the regulation was not issued in accordance with the applicable legislation on the organisation and functioning of public administration. The internal organisation of ministries and executive agencies should be regulated and adopted using sub-legal acts which are first signed by the Prime Minister;
- During interviews with accountants, numerous cases of pressure exerted by TAK inspectors were cited, especially towards small businesses and accountants engaged in these businesses. Moreover, the interviews also revealed cases when inspectors illegally kept the accounts of businesses by using their official position to lure various businesses into employing inspectors who also are accountants so that these businesses are then privileged when dealing with TAK;
- In 13 interviews that BIRN and D+ held with accountants, six of them stressed the lack of security provided by TAK to businesses or physical persons who submit complaints to TAK regarding diverse irregularities vis-a-vis tax inspectors;
- Based on the analysis of declaration of assets of TAK officials, BIRN discovered that 31 businesses are associated with senior TAK officials. Incidentally, in September 2019, BIRN filed a request for access to information at TAK, inquiring whether these businesses had ever undergone tax inspections by TAK. According to TAK, eight (8) of the 31 businesses have undergone tax inspections while 33 follow up activities have been conducted;
- In 2019, BIRN submitted 40 reports to TAK with information related to tax evasion and the informal economy. As a result of these reports, TAK made 107 searches of various businesses across the entire territory of the Republic of Kosovo, and the fines issued up until now exceed 50,000 euros;
- According to TAK, they noted a 10.4% increase in tax collection over the period of January-October 2019 when compared with the same period in 2018. Similarly, debt collection increased by 32%, meanwhile the debt stock decreased by 5.6%. There was also an increase in confiscations and last warnings before confiscation occurs issued during this period in comparison to 2018;
- Out of the recommendations provided to TAK in last year's report, seven (7) have been completed, five (5) are in the process of completion and two (2) have not been addressed at all;

## Introduction

Millions of euros which could otherwise be dedicated to schools, hospitals and social welfare still end up in the pockets of corrupt businessmen and people connected to them. Several sources have established that the informal economy at the national level is estimated to be around 400 million euros, and improving this situation is a challenge.

The Tax Administration of Kosovo is the main body responsible for collecting tax within the country, and consequently is to blame when it comes to failures in tax collection. Last year's National Audit Office report concluded that TAK does not yet possess accurate data on the number of businesses that are not equipped with fiscal cash registers, as required by legislation. According to TAK data, the number of businesses that undertake business activities is 63,025. Out of these businesses, 32,048 businesses are required to possess fiscal cash registers while only 1,071 do.

Despite management decision to depoliticize TAK, the latter remains far from exercising full control over tax in the country, or achieving a higher collection rate. The monitoring recently discovered that a portion of its staff have strong connections with political parties and large businesses, especially its accountants. This is the second year in a row that BIRN and D+ have monitored TAK mechanisms that intended to be used to discipline its employees for wrongdoing, aiming to identify problems and provide solutions through concrete recommendations.

Monitoring during the first year was focused on the procedures and technical findings of disciplinary process by identifying problems and providing solutions through recommendations. Noting TAK's engagement in fulfilling the recommendations and improving disciplinary procedures, BIRN and D+ turned their attention towards analysing new areas that had been identified as problematic, including the political influence on TAK and the connections of TAK officials with businesses and accountants.

For the purposes of this report, the declaration of assets of 29 TAK officials were analysed and reviewed. Connections with businesses were published while BIRN demanded from TAK information on whether these businesses had been inspected. A TAK response revealed that eight (8) of the 31 businesses have undergone tax inspections while they also conducted 33 follow up activities; Additionally, thirteen (13) meetings with accountants took place, with six (6) of them stressing the connections between TAK inspectors and accountants, while in two cases the information obtained through the meetings was also shared with TAK.

Monitoring revealed that for many years, senior officials of TAK held high management positions within political parties in contradiction to its Code of Ethics. Tolerating such senior officials for many years while they also held high political positions has damaged the credibility of TAK, while it has also shown a lack of willingness and readiness of these officials to enforce the law.

Apart from this, BIRN and D+ have expressed their readiness to continue direct monitoring of processes within TAK. BIRN submitted continuous requests to monitor disciplinary procedures within TAK but despite the persistence, commitments and the agreement to allow the monitoring, our team was not notified to monitor any of the disciplinary hearings, although 7 such hearings were held.

Over the year, BIRN made efforts to monitor the recruitment process for TAK inspectors, but despite the clarifications provided by the Ministry of Public Administration, the monitors were not allowed to do so. This was justified by saying that monitoring is not envisaged in the law, thus it is in their discretion to allow it or not.

This process resulted in employment of people connected to politics, as eight of the individuals hired to become new tax inspectors are connected to political parties.<sup>1</sup> In another internal recruitment process, BIRN was allowed to directly monitor, however the process was not monitored because it was annulled before even starting.

Parallel to the monitoring, the project also held educational activities with citizens to encourage them to report fiscal and tax evasion. 68 reports were submitted by citizens, which were then sent to relevant units within TAK, which resulted in 107 tax inspections/searches happening in various businesses and consequently with 50 thousand euros in fines issued in the last nine months.

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<sup>1</sup> These were noted in articles in BIRN's KALLXO.com page, where all articles are available. The following is an example of such reporting: [shorturl.at/devZ8](http://shorturl.at/devZ8)

## Integrity in TAK

### Public positions vs. Political positions: resignations in TAK

The Law on Public Officials that entered into force in September 2019, addressed the regulation of political rights of civil servants in more detail than the now abolished Law on Civil Service. According to the Law on Public Officials, civil servants (with the exception of senior management employees) may be members of political parties, but may not be members of (central or municipal) managing bodies of a political party. Meanwhile, senior management officials, as well as not being able to be members of steering bodies in political parties, may not be members of political parties either.<sup>2</sup>

Based on this, BIRN notified TAK that some of its officials are politically engaged, which is a violation of the respective law. The notification was submitted to the Division of Professional Standards, which is obliged to investigate allegations of violations of the law by TAK officials. As a result of the notification, the General Director of TAK requested all officials who are politically engaged to resign from their political positions by September 16, 2019, otherwise measures foreseen by the law for such violations would be taken against them.

Consequently, five (5) officials for whom BIRN submitted reports to TAK resigned either from their political engagement or from TAK itself. One (1) TAK official opted to continue his political engagement and resigned from his position as the manager of TAK branch in Prizren, while four (4) other officials resigned from their political positions and continued their engagement in TAK. Overall, 32 TAK officials resigned from political engagements after the demand of TAK General Director to choose between working at TAK or engaging in politics.

## Internal organisation and recruitments in TAK

### Legal changes

Similar to the Law on Civil Service that was abolished by the Law on Public Officials which entered into force on September 12, 2019, employees of TAK are civil servants employed by TAK, with TAK enjoying the status of an executive agency in the scope of the Ministry of Finance.

In the timespan of six months between the adoption of the law and its entrance into force, the Ministry of Public Administration (MPA) prepared a number of sub-legal acts (about 10) regulating the implementation of the law. However, despite having undergone the public consultation stage, due to the situation of a 'incumbent government' occurring as of July 11, the bylaws have still not been adopted and consequently are inapplicable. As such, cases of ministries and institutions functioning in accordance with the legislation on civil service opening internal and external vacancies even beyond September 12 based on the old Law on Civil Service and corresponding regulations on recruitment and promotion is quite common.

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<sup>2</sup> Law no. 06/L-114 on Public Officials, Article 22: [shorturl.at/dmxT7](http://shorturl.at/dmxT7)

Taking this into account, the MPA issued a letter/instruction to these institutions demanding them not to open external vacancies for recruitment positions that require decision-making from the Government but also called for either external vacancies or internal promotion to continue but through application of articles 34 to 39 of the new Law on Public Officials (but only for recruitment procedures that do not require any decision-making from the Government). A similar wording was used regarding disciplinary procedures, complaints and disputes, meaning that even if the procedures were initiated during the time the Law on Civil Service was in force, in case there is such a demand or the new law is more favourable to the civil servant, they may continue the procedure by applying the new Law on Public Officials.<sup>3</sup>

Nevertheless, application of the Law on Public Officials was suspended by the Constitutional Court on November 15, 2019 after a request by the Ombudsperson to review compliance of some of the articles of this Law with the Kosovo Constitution. Through this request they demanded that the disputed provisions of the Law be immediately suspended until a final verdict is reached by the Constitutional Court. The latter, without judging the admissibility or merits of the case, decided on the provisional measure of suspending implementation of the Law on Public Officials in its entirety from the date of the issuance of the decision (November 15) until February 28, 2020.<sup>4</sup>

### **Internal organisation of TAK**

The organisation of state administration had been regulated by the Law on State Administration up until the new Law on Organisation and Functioning of the State Administration and Independent Agencies entered into force. This law was adopted by the Kosovo Assembly on February 2, while it was published in the Official Gazette on March 1, 2019 and entered into force on April 1, 2019.<sup>5</sup>

Amongst other things, the Law foresees more specific and strict rules regarding levels of organisation of ministries, rules of organisation of regulatory agencies, executive agencies, procedures for approval of internal organisation, oversight, organisation of joint services and limitations to executive agencies composed of less than 50 employees to organize general services separately from the responsible ministry.

Furthermore, according to the law, internal organization of ministries and executive agencies shall be approved through a sub-legal act by the Prime Minister, upon proposal of the responsible minister and prior approval of the minister responsible for public administration and the opinion of the minister responsible for finance. In addition, according to this law, initially the Kosovo Government adopts the Regulation on Standard of Internal Organisation of institutions of state administration and other elements and afterwards ministries and executive agencies adopt their own individual regulations on organisation and systematisation of jobs.<sup>6</sup>

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<sup>3</sup> Law no. 06/L-114 on Public Officials, Article 83, point 9.

<sup>4</sup> Decision on temporary measure, Case KO 203/19: [shorturl.at/dkruC](http://shorturl.at/dkruC)

<sup>5</sup> Law no. 06/L-113 Organisation and Functioning of the State Administration and Independent Agencies: [shorturl.at/fMV56](http://shorturl.at/fMV56)

<sup>6</sup> Law no. 06/L-113 Organisation and Functioning of the State Administration and Independent Agencies, Article 28, pointst 3 and 6.

Despite this, TAK issued Regulation 13/2019 for the Internal Organisation and Systematization of Jobs in TAK dated May 17 2019 and signed by the General Director of TAK. According to TAK, the Regulation was issued in the absence of sub-legal acts on the organisation and functioning of state administration and executive agencies after obtaining the approval of the Ministry of Finance.

### **External recruitment**

Up until November 2019, TAK had six open vacancies aiming to recruit for 25 positions. For one position in IT support, on the TAK website there has been no announcement of a successful candidate.<sup>7</sup>

The recruitment procedure for the 25 positions was completed, with 20 for tax inspectors, one IT official, one administrative official, one software systems senior developer, one software systems senior administrator and one personnel official. With the exception of the one position that has not yet been filled, all recruitment procedures for the previous positions were concluded before the new Law on Public Officials entered into force.

The incomplete position was first advertised on September 13<sup>8</sup> and relaunched on September 29.<sup>9</sup> The vacancy notice was based on rules from the Law on Civil Service, even though this has been abolished since September 12.

According to the Law on Public Officials, institutions must ensure that all advertised vacancies and other procedures are completed before the new law enters into force. However if procedures continue after the law enters into force they must continue using the new provisions. As per this rule, the position was advertised on September 13, after the legislation it was based on had been abolished, and despite its readvertisement on September 27, TAK continued to base the vacancy on the already abolished Law on Civil Service.

### **Internal recruitment (Career advancements)**

Recruitment through internal vacancies (career advancements) at TAK were completed while the Law on Civil Service and the regulations deriving from that Law were still in force. Although recruitment through internal vacancies for career advancements are not required by law to be made public through the website, a certain number of positions were published.

However, this did not mean that the entire process was published, which requires at least two procedures to be completed: an announcement of the vacancy and notification of a successful candidate. For example, on April 1, 2019, an internal vacancy was opened for the position of High Tax Official, but there was no further information provided as to whether the promotion procedure was completed on the TAK website.

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<sup>7</sup> Tax Administration of Kosova, employment: [shorturl.at/gtyOS](http://shorturl.at/gtyOS)

<sup>8</sup> Tax Administration of Kosova, notice for recruitment, 13.09.2019: [shorturl.at/AJPRU](http://shorturl.at/AJPRU)

<sup>9</sup> Tax Administration of Kosova, extension of deadline for open vacancies, 27.09.2019: [shorturl.at/hACYO](http://shorturl.at/hACYO)

On the other hand, on June 28, 2019, three notifications for successful candidates were made for 10 positions overall: one for eight Team Leader positions at TAK Regional Directorates, another for the position of Team Leader at TAK DTM and another for the position of Senior Personnel Official, but there were no announcements made that these internal vacancies were to be advertised or filled.

Hence, in the first case, an internal vacancy was launched in April with no notification as to how the process moved further, while in the second case, notifications were made concerning the successful candidates but it was not revealed when the vacancies were announced. Although the announcement of internal vacancies is not obligatory by law, there should be a consistency of notification about processes from the beginning to the end.

### **Inspectors, businesses and accountants**

Out of all the interviewed accountants, 90 percent indicated that they faced many difficulties in the course of their profession. Tax inspectors were the primary source of these difficulties in the majority of cases, in particular when they used their public office to exercise authority over or pressure accountants. Pressure from tax inspectors was exerted for various reasons, and was always directed towards small businesses. Meanwhile, accountants that keep the books for bigger businesses have not noted many problems coming from personal experiences and according to them, the tax inspectors that are engaged with the Department of Big Taxpayers (DBT) are professional, although they admit that they know of, or have heard about, some of the negative issues mentioned.

Accountants complain that inspectors often speed up the process with the purpose of closing the visit and search as soon as possible, making the process a box-ticking exercise in order to reach their set targets quickly. Some accountants complain that during their visits, tax inspectors demanded accountants undertake tasks that the inspectors should carry out themselves. They demand accountants to have financial analyses at hand, while in normal circumstances, that should be the job of the inspectors themselves. Additionally, tax inspectors request accountants to secure certain documents for them (financial statements, list of salaries etc.) which can be easily obtained online.

According to the accountants, there is a large number of inspectors, and inspectors' family members, who are engaged in accounting. They emphasize that the inspectors use their position to seduce businesses so that they can be chosen to keep their books, justifying it with the prospect of these businesses enjoying certain privileges from TAK. According to them, this happens only to small and new businesses who have started operations recently.

The Division of Professional Standards possesses data regarding family members of inspectors engaged in accounting. BIRN requested access to this data, however according to TAK's response, this data is confidential.

Due to the sensitive nature of their work and potential for conflict of interest, tax inspectors are not allowed to keep accounts or get involved in tax-related issues. In this regard, conflicts of interest or financial conflicts related to a dispute or any other previous direct or indirect financial, business, professional, family or friendly connections with any of the parties that may influence the impartiality of an official or create a feeling of bias must be avoided.<sup>10</sup>

One of the most troubling problems highlighted by accountants (stressed out by six (6) of the interviewed accountants) and businesses is the lack of safety that TAK provides to businesses or physical persons who submit complaints to TAK regarding irregularities related to tax inspectors. According to them, the problems that may be brought upon a business or person as a consequence of such complaints are so big that they simply prevent businesses or individuals from reporting irregularities. In their experience, such complaints are not kept confidential and in one way or another, the name of the company that reported will be known and revenge against the business starts immediately. A lot of pressure is exercised on them which also impedes their work, and this is done both by the inspector against whom the complaint was filed and his/her colleagues.<sup>11</sup>

In such cases, the complainant is damaged, while there is impunity for the tax inspector. Accountants speak of cases when their complaints were completely ignored, despite having had all the evidence to prove the violation that was committed by the tax inspector. Additionally, great political interference is mentioned as well, noting that in a great deal of cases, tax inspectors "receive orders from above". However, apart from the inter-institutional influence, influence is also exercised by businesses connected to high profile political figures in such a way that they are neither inspected nor fined by tax inspectors.

Tax inspectors are also not careful about carrying their inspector's badges when visiting businesses. Another very common issue is their hesitation to communicate through email. Inspectors prefer to call on the phone, and thus not providing statements or written responses.<sup>12</sup>

In regards to inspectors' connections with businesses, during 2019, BIRN published three infographics on KALLXO.com which depicted the connections between TAK officials and various businesses across Kosovo. The connections were made following an analysis and revision of declaration of assets by senior TAK officials. They revealed that 31 businesses are directly connected to senior officials at TAK. In September 2019, BIRN submitted a request for access to information at TAK, inquiring whether these businesses had been the subject of tax inspections. According to TAK, 8 out of the 31 businesses have been subject to tax inspections, while thirty three (33) follow-up activities were also carried out.

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<sup>10</sup> *Code of Ethics and Conduct for Tax Administration of Kosova officials, Article 9, point 3: [shorturl.at/yCHJ2](http://shorturl.at/yCHJ2)*

<sup>11</sup> *Interviews with accountants who requested to remain anonymous, held between 3 and 15 July 2019.*

<sup>12</sup> *Ibid*

## Discipline at TAK

### Disciplinary Commission

Between January and October 2019, the Professional Standards Division (PSD) recommended the initiation of procedures against 19 TAK officials. Seven (7) of them were referred to the Disciplinary Commission in order to initiate procedures against them. For another three (3), issuing minor disciplinary measures was recommended, while for another nine (9) cases the individuals were referred to other competent authorities. One inspector was removed from the Tax Administration after having been found guilty of corruption.<sup>13</sup>

Monitoring disciplinary procedures is one of the main responsibilities foreseen in the Memorandum of Understanding signed between BIRN, Democracy Plus (D+) and TAK. Nevertheless, despite continuous commitments being made by the highest officials of the institution to allow monitoring and access to the Disciplinary Commission, this never occurred in 2019. Thus, as with the last report, this time as well BIRN has only analysed the decisions received from TAK.

The following is an analysis of seven decisions from the Disciplinary Commission, two of which are on the same matter. As noted in last year's report, again in 2019 minor measures were often taken despite the serious nature of violations, despite the regulation foreseeing heavier measures for such cases. The regulation allows for the suspension of duties, withholding a third of employees salaries for a period of up to two months as well as termination of employment. However, none of these measures were issued by the Disciplinary Commission.

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<sup>13</sup> *TAX inspector convicted of corruption fired: [shorturl.at/pMX01](http://shorturl.at/pMX01)*

**Figure 1:** Decisions, violations and sanctions issued

<b>Decision</b>	<b>Violation</b>	<b>Sanction issued</b>
No. 4/2019	Serious violation of the Code of Ethics and providing false statements regarding conflict of interest.	Removal from office and transfer to another location, halting promotion for 3 years.
No. 104/2019	Serious violation with consequences to the party involved and the public authority.	Halting promotion for 2 years for an inspector and his leader.
No. 199/2019	Serious violation with consequences to the party involved and the public authority and violating professional conditions and principles.	After re-evaluation, the inspector was issued the same sanction and he is not permitted to be promoted for two years.
No. 198/2019	Serious violation with consequences to the party involved and the public authority.	After e-evaluation, the measure of forbidding promotion for two years was substituted with a verbal warning for the team leader.
No. 197/2019	Repeated minor violations	Written warning
No. 17/2019	Serious violation with consequences to the party involved and the public authority.	Removal from office and transfer to another location with similar duties and halting promotion for one year.
No. 205/2019	Repeated minor violations, abuse of official vehicle.	Written warning

**Source:** Decision of the Disciplinary Commission

If we review decision no. 4/2019 and adequately assess the nature of the violation committed by the inspector, it may be concluded that the latter should have received a heavier disciplinary measure. In this case, the inspector was under review because he did not declare a car during the internal declaration of assets at TAK. The procedure was also carried out due to the inspector not having declared a conflict of interest, as he hid the fact that his daughter works as an accountant. Furthermore, based on the decision obtained, the same inspector had conducted inspections at the business where his daughter keeps the books, and despite encountering irregularities, he did not refer the business in order for it to be issued a fine. Taking into account these violations, which were verified and proven by the Commission, and bearing in mind that the measure taken against him was a transfer and a ban from promotion for 3 years, it is considered that the measure is not proportionate to the violation committed by the inspector.

In the case in decision 17/2019, the Disciplinary Commission issued the decision to transfer two employees to another location and ban them from seeking promotion for one year, namely the inspector and the team leader of TAK in Prizren. The decisions were issued after concluding that after a visit to a business, both the leader and the inspector provided the verification needed to transform a business from an individual business to a limited liability company. However, according to the Commission, they had not analysed the situation of the business at all and they could have damaged the state budget by 3,651 euros in this case. Furthermore, for a violation of similar nature and with an even greater damage to the state budget, the Commission issued a lighter decision for two other employees, namely an inspector and team leader operating at TAK's Directorate in Prishtina.

With the decision 198/2019, the team leader was punished only with a written warning after the Commission concluded that he shut a business down after an inspection, but did not identify the tax evasion committed by the business amounting to 80,000 euros. Regarding this inspection, according to the decision 199/2019, the inspector that conducted the inspection without conducting the financial analysis or respecting procedures was punished with a ban on seeking promotion for a period of two years.

Having analysed three decisions from the same chairperson of the Disciplinary Commission, it may be considered that based on the amount of damage that could have been caused to the budget of Kosovo, the officials should have received harsher disciplinary measures. The Commission must uphold the same standards and apply them in cases of similar violations. Depending on the damage, they should issue harsher measures. The Commission should not have issued such a harsh measure against the two employees from Prizren for risking 3,651 euros, when in comparison it gave a lighter punishment to the employees in Prishtina who could have caused 80,000 euros worth of damage.

### **Commission for Resolving Disputes and Complaints**

The Commission for Resolving Disputes and Complaints (CRDC) issued seven decisions on complaints from parties not satisfied with the decisions of the Disciplinary Commission, and in one instance they decided on a complaint made against a director's decision to execute a disciplinary measure.

**Figure 2:** Eight decisions of the CRDC

<b>No. of the decision</b>	<b>Decisions of the Commission for Resolving Disputes and Complaints</b>
No. 185/2019	Complaint approved, case sent back for re-evaluation due to procedural violations
No. 186/2019	Complaint approved, case sent back for re-evaluation due to procedural violations
No. 187/2019	Complaint approved, case sent back for re-evaluation due to procedural violations
No. 71/2019	Complaint approved, decision of the Disciplinary Commission is annulled due to noncompliance with procedural provisions and wrongful verification of the factual situation
No. 70/2019	Complaint approved, decision of the Disciplinary Commission is annulled due to noncompliance with procedural provisions and wrongful verification of the factual situation
No. 166/2019	Complaint approved, decision of the Disciplinary Commission annulled due to procedural violations
No. 102/2019	Complaint rejected, decision of the General Director continues
No. 18/2019	Complaint rejected, decision of the Disciplinary Commission is confirmed

**Source:** Decisions of the CRDC

According to these decisions, in six cases, the CRDC concluded procedural violations of the Disciplinary Commission: in three cases, they sent the case back for revision of the decision and in another three cases the decisions were annulled.

The Commission for Resolving Disputes and Complaints concluded that in these six cases, the Disciplinary Commission acted in violation of article 12 of the Regulation on Disciplinary Procedures that foresees that the alleged perpetrator of the violation must be informed in writing within three days from the moment his/her dossier was submitted to the Disciplinary Commission.

In none of these cases did human resources inform the alleged perpetrator as to the time or place where the hearings of the Disciplinary Commission would be held, nor did they advise them on the right to be accompanied by someone who may counsel them.

This was one of the main reasons why the Commission for Resolving Disputes and Complaints sent the cases back for review.

We believe that the Disciplinary Commission and the Human Resources Division fully neglected the decisions of the CRDC, because even though the cases were sent for review, they again reacted in the same way, without taking into account the CRDC's recommendations.

During this year, BIRN and D+ team monitored only one hearing of the CRDC. We have noted some improvements in procedure, particularly in notifying the parties and recording the hearings.

### **Complaints to the Independent Oversight Board of Civil Service**

From January 1 until now, the Independent Oversight Board of Civil Service (IOBCS) received 54 complaints from TAK employees and candidates that were not satisfied with recruitment procedures in vacancies launched by TAK. However, the complaints were not dealt with by the Oversight Board, due to the fact that four (4) members of the IOBCS saw their mandate expire in December 2018, while one (1) more member was appointed as a judge in January 2019.

The IOBCS currently has only two members. This makes it impossible for the IOBCS to decide on complaints received as according to the Law on the IOBCS, complaints are to be reviewed by a Collegium composed of three (3) members.

### **Number of reports**

For the period of January to December 2019, the KALLXO.com platform received 68 reports concerning tax evasion, the informal economy, political employments and nepotism. During this period, 53 legal letters were submitted to TAK regarding information on tax evasion, the informal economy, illegal betting stores, and requests for access to documents regarding employment, the political activities of senior officials of TAK, etc.

BIRN also submitted letters to the Prosecution and Police regarding illegal activities related to games of chance. As a consequence of these reports, seventeen (17) betting stores that were operating illegally were shut down. Until now, twenty (20) people were arrested, five (5) of whom were in pre-detention, while nine (9) were under house arrest and a decision for the initiation of investigations was issued.

### **Fines issued by TAK after receiving BIRN reports**

In 2018, BIRN submitted 40 legal letters to TAK containing information on tax evasion and the informal economy. As a consequence of this information, TAK inspected 107 businesses across the entire territory of the Republic of Kosovo. Inspectors have found irregularities and later issued fines for the majority of the inspected businesses. By October this year, the overall amount of fines issued by TAK's Office for Administrative Fines and Penalties (OAFP) was 50,372 euros. This report does not include fines issued during the months of October and November 2019.

### **TAK increases tax collection and confiscations and decreases tax debts**

During the period January–October 2019, TAK collected 432.4 million euros, which when compared to the same time period last year, identified an increase of 40.7 million euros or 10.4% (twice more than the increase of Kosovo's GDP). Similarly, the stock of tax debts decreased by 5.6% (20.9 million euros) compared to the end of 2018. Furthermore, tax debt collection reached 83.7 million euros during 2019, which makes for an increase of 32% in comparison to 63.4 million euros last year.

Figure 3: Tax debt collected during January–October 2019 and connection to debts created during the period of 2002-2018

**Figure 3:** Tax debt collected during January–October 2019 and connection to debts created during the period of 2002-2018

**Amount of debts accumulated during January–October 2019, which are connected to debts created during 2002-2018**

Years/tax accounts	CD	CI	CM	IR	IS	PD	QS	TV	WM	WR	Total
2002			1,680						7		1,687
2003		3,087	512						41		3,640
2004		4,101	3,041					5	13		7,161
2005		6,495	3,647							4,000	14,142
2006		3,914	2,823						6,022		12,758
2007		5,678	51,209					288	25,622		82,797
2008		3,874	33,046			1,827		11,578	1,372		51,697
2009	3,611	3,659	10,431	426	1,043	105		49,142	1,413	33	69,863
2010	26,291	5,944	15,618	1,009	5,133	1,152		96,073	6,310	57	157,588
2011	19,694	8,866	7,158	938	4,360	18,463		41,339	15,720	821	117,359
2012	67,935	29,999	26,712	2,882	27,497	45,090	452	145,489	13,934	156	360,146
2013	175,335	51,947	46,224	2,358	41,678	84,622	1,911	291,186	16,792	17,802	729,855
2014	740,208	51,848	70,143	2,625	39,053	141,567	4,095	360,347	16,212	80,129	1,506,228
2015	726,746	89,724	104,067	2,760	67,982	212,168	9,085	1,181,249	57,208	92,477	2,543,467
2016	1,924,008	125,743	304,926	1,750	72,608	365,752	15,386	1,804,947	134,704	127,576	4,877,400
2017	1,540,570	188,196	650,235	3,409	94,471	837,930	45,969	2,603,708	236,772	168,667	6,369,928
2018	426	277,310	2,732,143	10,902	143,034	33,159	83,217	7,597,438	1,351,802	413,303	12,642,734
Total	5,224,825	860,384	4,063,615	29,058	496,860	1,741,836	160,116	14,182,789	1,883,944	905,022	29,548,449

**Source:** TAK

Meanwhile, in terms of confiscation, the data from the following figure shows the comparison between the number of confiscations and last warnings issued before the actual confiscation occurs during the period of January–October 2019 and the numbers from the same period in 2018.

**Figure 4:** Comparison between confiscations during the period of January–October 2018 and the same period of time during 2019.

Regions	Actions with police Confiscations 2018	Actions with police Confiscations 2019	Final remarks before confiscations 2018	Final remarks before confiscations 2019
DTM		-	93	78
PRISTINA 1			9	129
PRISTINA 2			9	171
PRISTINA 3			14	629
GILAN	2	1	763	1,134
FERIZAJ		128	4	7
PRIZREN 1		10	81	23
PRIZREN 2	4	58	117	150
PEJA		5	1	22
GJAKOVA		-		3
MITROVICA	68	259		36
TOTAL:	74	493	1,417	2,382

**Source:** TAK

### Implementation of recommendations provided last year

Nr.	Recommendation	Addressed	In process	Not addressed
1	The General Director must issue a decision obliging new officials to declare their assets;	✓		
2	The new Law on Tax Administration and Procedures must include the issue of declaration of assets with the Anti-Corruption Agency for TAK inspectors;	✓		
3	TAK must organize a public lottery for the verification of the assets of its officials;			✓
4	TAK must educate citizens to report officials who are in conflict with the law;		✓	
5	The Professional Standards Office must have additional staff and resources;		✓	
6	TAK must promote a free hotline, which must be accessible 24/7;		✓	
7	The Disciplinary Commission must take measures to address IOBCS observations;	✓		
8	TAK must harshen its sanctions policy against disciplinary offenders;			✓
9	TAK commissions must start recording minutes according to the standards required by the Law on General Administrative Procedures;	✓		
10	The schedules of disciplinary hearings and complaints must be made public and announced in a timely manner;		✓	

11	Disciplinary commissions must have appropriate working spaces;	✓		
12	The Disciplinary Commission must always take into account gender diversity in its composition, in order to eliminate the possibility that its decisions are returned for review for this reason;	✓		
13	The Disciplinary Commission must refer to the relevant legal provisions on the basis of which it imposes a disciplinary measure;		✓	
14	The Disciplinary Commission must consider imposing other serious disciplinary measures, and not use the same disciplinary measure in every decision. The violation and disciplinary measures must be proportional, because the disciplinary measure "removal from office and transfer.." fails to achieve the desired effect in each case;		✓	
15	TAK, along with the Ministry of Public Administration, must change the two-day term for the direct supervisor to file a violation with the Human Resources Office. The term must be significantly longer, and such that it allows sufficient time for the direct supervisor to initiate a disciplinary case.	✓		

## Recommendations

Based on the above report, the following recommendations are provided with the purpose of improving the integrity of TAK:

- TAK must continue addressing the recommendations provided in the 2018 report, primarily focusing on the three recommendations that remain fully unaddressed until now;
- TAK must harshen its sentencing policies against officials found to be in a conflict of interest or in violation of other policies as noted in this report;
- Regulation 13/2019 on the internal organisation and systematisation of jobs should be abolished and replaced with a new regulation to be issued in accordance with applicable legislation;
- The Disciplinary Commission and the CRDC must be open to monitoring by BIRN and D+ teams in compliance with the Memorandum of Understanding reached between both parties;
- The Disciplinary Commission must take into consideration the reasons for having their procedures sent back for re-evaluation and take into account the recommendations of the second instance/appeals;
- TAK must provide interpretations and explanations of the primary and secondary legislation for other parties working primarily with this law as well (accountants);
- The role of the Taxpayer Advocate must become functional and its work promoted;
- TAK must provide access to the list of family members of TAK employees who are involved in the accounting business in order to avoid potential conflicts of interest;
- The Intelligence Unit of TAK must establish contact with accountants and open a reporting line for cases of potential conflict of interest between TAK officials and accountants;
- TAK must increase the number of businesses using fiscal cash registers;

## **Disclaimer**

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