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Non-merit based recruitment in public institutions



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Executive summary

On July 2, 2020, the British Embassy in Pristina signed two memorandums of understanding. One memorandum was signed with the Assembly of Kosovo and the other with the Government of Kosovo. Although signed in two separate ceremonies, the aims and substance of both memorandums are virtually identical. They represent the joint commitment to appoint independent and professional leaders in public institutions.

As with previous memorandums, on one hand, the British committed to assist Kosovo's institutions in recruiting senior positions within the civil service and independent institutions through a specialized recruitment company, which will recommend the best candidates for each position to the institutions of Kosovo. On the other hand, the institutions of Kosovo – the Assembly and the Government – committed to implement the recommendations of the British partner, thus selecting the best and highest ranked candidates from the short list prepared by the implementing partner. Such cooperation would help prevent nepotism and strengthen transparency, meritocracy, and good governance.

However, less than four months following the signing of the MOUs, Kosovo institutions began disregarding the commitments made to the British. In one case, Kosovo MPs didn't take into account the recommendations of the British partner, failing to select either of the two recommended candidates for the position of the Commissioner for Personal Data Protection. In another case, the selection office members of the Independent Oversight Board for the Civil Service, MPs ignored the ranking of the most successful candidates, as per the British partner's assessment, favoring people who were not on the list. Other monitoring reports indicate that previous governments and legislatures, in many cases, ignored the recommendations of the British partner to appoint merited, valued and eligible people in key positions.

This analysis argues that regular monitoring of the recruitment process by third parties leads to a better performance of the recruitment process. The findings also show that the British project has not only enhanced transparency, but the quality of applications as well. However, the high level of non-implementation of the recommendations of the British Embassy remains a point of concern, which is not only a violation of the commitments and a waste of the British taxpayers money, but also an indication that Kosovo institutions do not prioritize the installation of meritocracy in senior positions.

Introduction

Recruitment of senior positions in the civil service that is not based on merit was mentioned in virtually all European Commission reports on Kosovo, stating that non-merited recruitment further lowers the trust of citizens in the public administration.¹

To prevent nepotism and establish meritocracy in senior position employment in the civil service, public enterprises, and independent agencies, the British Embassy provided assistance to the Government and the Assembly of Kosovo. The first phase of this cooperation started in October 2016. The second phase of the project lasted from September 2018 to March 31, 2020. In July this year, the British Embassy extended the project with the Assembly and the Government throughout the term of the Assembly, and the Government respectively.

The implementation of this project entails a high budget cost. The total amount paid from October 2016 and until the completion of the current contract reaches 1,772,356 pounds (nearly 2 million euros). The new contract for the next three-year phase of the project (November 2020–October 2023) will amount to 2.8 million pounds (3.1 million euros).² The taxpayers of the United Kingdom pay for all of this.

This four-year cooperation ultimately aims to prevent nepotism and strengthen transparency and meritocracy. Theoretically, meritocracy means that senior positions in the society should be held by the most talented and motivated individuals, giving equal opportunities to all to compete. Numerous studies have argued that in addition to reducing corruption and nepotism,³ merit-based recruitment is also a prerequisite to establish an equal and development-driven society.⁴

The merit-based recruitment process, according to the SIGMA principles⁵, includes three main phases: a) application, b) evaluation and selection, and c) appointment. The merit-based application process must be competitive, unambiguous, non-discriminatory and with relevant criteria, transparent and through a simple application form.⁶ An equally important factor is that the smaller the number of documents required in the preliminary application phase, the lighter the burden is on applicants, resulting in a larger number of applications.⁷

The evaluation phase should feature well-defined criteria for the evaluation of candidates. If the knowledge and skills are not specified and remain rather generic, it is easier for political parties to give higher scores to their preferred candidates. In terms of the selection panel, a study conducted throughout the Western Balkans region concluded that selection committees are the weakest link in the recruitment process, often lacking political impartiality and professional independence. In other words, members of selection committees have often

1 European Commission Report on Kosovo 2020, <https://bit.ly/37yRlPF>

2 Reply via email from the British Embassy in Pristina, October 27, 2020

3 Haider. H., (2019), “Merit-based recruitment in the public sector: effectiveness and challenges”, <https://bit.ly/31BQEKy>

4 The Washington Post, “How Singapore is fixing its meritocracy”, <https://wapo.st/2HugeV5>

5 Support for Improvement of Governance and Management - SIGMA

6 SIGMA (2018), “Analysis of the professionalization of the senior civil service and the way forward for the Western Balkans”, <https://bit.ly/35pGkxp>

7 Ibid.

lacked adequate expertise and professional competencies to perform their role.⁸ The problem with the lack of expertise is more profound among the members of *ad hoc* committees.

The final process of appointment is just as important. According to SIGMA, it is very important to clearly define the limits of political interference at this stage of recruitment. Otherwise, it can ruin all efforts to establish a merit-based recruitment and undermine the credibility of the whole process, and will result in the appointment of incompetent people.

Content of the memorandum and list of positions under supervision

The Memorandum of Understanding signed between the institutions of Kosovo and the British Embassy in Pristina in July this year is a continuation of the earlier cooperation. The involvement of the British in the merit-based recruitment was also welcomed by former Prime Minister, Ramush Haradinaj, and former Speaker of the Assembly, Kadri Veseli. As their predecessors, Prime Minister Avdullah Hoti, and Assembly Speaker Vjosa Osmani welcomed the assistance of the British, and committed to follow their recommendations for a merit-based recruitment.

The objective of the memorandum signed by the parties is said to be the joint effort to appoint strong, independent and professional leaders in public institutions, through a fair and transparent recruitment process.⁹ Although the British assistance is limited to only a number of positions and institutions, as explained below, this support from the British Embassy, in addition to strengthening the capacities of public institutions in undertaking challenging reforms through a more professional, accountable and transparent policy-making, also aims to restore the trust in public institutions. In other words, the project aims to set a new standard for the recruitment process for public appointments in Kosovo.

More specifically, the British Embassy is committed to engaging a professional recruitment firm which, in person or through telework, as a result of the COVID-19 pandemic, will assist in the technical processes of recruitment, by:

- Mentoring and advising recruitment committees in preparing the vacancy,
- Monitoring the shortlisting processes of applicants,
- Monitoring the candidate interview process,
- Recommending the successful candidates.

8 Haider. H., (2019), "Merit-based recruitment in the public sector: effectiveness and challenges", <https://bit.ly/31BQEKy>

9 See Memorandum of Understanding with the Government of Kosovo <https://bit.ly/2Hpgkd4> and the Memorandum of Understanding with the Assembly of Kosovo <https://bit.ly/31ABv2X>

The signatory parties have agreed on a joint list of vacant senior management positions to be supported by this project. The Memorandum of Understanding between the Government and the British Embassy specifies three types of senior vacancies agreed:

- a) Vacant senior management positions in state administration institutions according to the Law on Public Officials;
- b) Vacant senior management positions according to the Law on Publicly Owned Enterprises; and
- c) Other senior management positions that are regulated by other laws, as requested by one party and agreed by the other party.

There were various recruitment positions during the four years of implementation of this project, CEOs of POEs, general secretaries in ministries, board members in POEs, independent agencies and institutions, as well as other senior positions.¹⁰

Currently, the partners to this MOU have agreed to oversee only 12 positions (Table 1), although the number of positions is expected to increase to about 100 in the next three years, as envisaged in the Embassy's contract with the recruitment company.¹¹

Table 1. List of senior vacancies agreed between the Government, the Assembly and the British Embassy

	Position	Institution
1	Members	Procurement Review Body
2	Board Directors	Kosovo Energy Corporation JSC (KEK);
3	Chief Executive Officer	Kosovo Energy Corporation JSC (KEK);
4	Director General	Kosovo Customs
5	Board Members	Hydro-Economic Enterprise "Iber Lepenc"
6	Board Members	Telecom of Kosovo
7	Chief Executive Officer	Telecom of Kosovo
8	Board Directors	Regional Water Supply Company Prishtina J.S.C, Prishtina;
9	Members	Energy Regulatory Office
10	Members	Independent Commission for Mines and Minerals
11	Commissioner	National Agency for Personal Data Protection
12	Members	Independent Oversight Board for the Civil Service

Source: Government of Kosovo, Office of the Prime Minister

¹⁰ See the full list of positions overseen by the British project, <https://bit.ly/2TvUTdf>

¹¹ Reply via email from the British Embassy in Pristina, October 27, 2020

Both MOUs indicate that additional positions may be added or removed to the agreed list of vacancies, upon the request of one party and with the consent of the other party. In practical terms, the MOU states that the British partner will suggest a shortlist of candidates¹², but the final selection of successful candidates, from the shortlisted eligible candidates, will be made by relevant institutions of Kosovo. However, Kosovo's institutions committed to appoint "the highest-ranked candidate from the shortlist prepared by the implementing partner", as stated in both MOUs (Article 3, item 9).

This means that both the Government and the Assembly of Kosovo committed to selecting the best candidates recommended by the British recruitment company. Moreover, if the company fails to identify a good candidate, the competition process must be repeated. Failure to implement the project under this MOU, or the failure of the implementing partner to fulfill any of the commitments of this MOU, will result in the termination of the agreement (Article 5).

Unlike previous MOUs which had a limited implementation period, the current MOUs will become effective when signed by the current parties and will be applicable throughout the mandate of the Government of Kosovo, and the Assembly, respectively.

Breaking of commitments for a merit-based recruitment

Although still early for a full assessment of the performance of the British project on merit-based recruitment, the first recruitments allude to a poor start. Kosovo's institutions have failed to fulfill the commitments to comply with the British partner's recommendations for appointment.

One of those cases concerns the selection of the Commissioner of the State Agency for Personal Data Protection. Following the interviews conducted on August 10 and 11, 2020, the project's implementing partners recommended two suitable candidates for the position.¹³ However, neither candidate received the required 61 votes of MPs in the session of the Assembly of Kosovo held on August 14. Prior to the session, the British Embassy sent a letter to the Assembly reminding them on the commitment stated in the Memorandum of Understanding.¹⁴ It seems, however, that the MPs disregarded this recommendation. The British Embassy in Pristina responded by stating that "the failure to appoint any of the candidates calls into question the stated commitment of political parties to implement the memorandum of understanding."¹⁵

In another recruitment process, the appointment of five members of the Independent Oversight Board of the Kosovo Civil Service, in the interviews conducted on September 21-25, 2020, implementing partners proposed nine names to the Assembly, as potential candidates to fill the five vacant positions.¹⁶ In the session of October 8, Kosovo MPs elected five members, one of whom was not listed in the recommendation. MPs also disregarded the score ranking recommended by the implementing partner, thus choosing the last candidate,

¹² The short list of candidates, in addition to being submitted to the relevant institutions, is also published on the project's website www.kosovoselection.org

¹³ <https://bit.ly/35psn2q>, accessed on 21.10.2020

¹⁴ Transcript of the plenary session of August 14, 2020, of the Assembly of Kosovo, <https://bit.ly/35rp6iV>

¹⁵ <https://bit.ly/3jpnH1g>, accessed on 21.10.2020

¹⁶ <https://bit.ly/35psn2q>, accessed on 21.10.2020

disregarding candidates topping the list¹⁷, although the MOU stated that “Kosovo institutions commit to select the best/highest ranked candidate from the shortlist prepared by the Implementing Partner”¹⁸.

Government of Kosovo has also published several vacancies for directors of boards of POEs (Table 2), some of which are part of the list agreed for monitoring by the British partner.¹⁹ The government has already published a broader list of candidates across a number of boards, but interviews by the British partner are yet to start, as other candidates have 30 days to appeal. It remains to be seen whether the recommendations of the British partner in these processes will be taken into account.

Table 2. Current vacancies²⁰ according to the processes opened by the Government of Kosovo, to be monitored by the British partner

Position	Institutions
Board directors	Telecom of Kosovo JSC (TK)
Board directors	Post of Kosovo JSC (PK)
Board directors	Kosovo Energy Corporation JSC (KEK)
Board directors	NPH Iber Lepenc JSC
Board directors	Kosovo Railways - InfraKos JSC Fushe Kosova
Board directors	Regional Water Company Hidroregjioni Jugor J.S.C Prizren
Board directors	Regional Water Supply Company Prishtina J.S.C, Pristina
Board directors	Regional Water Supply Company Radoniqi J.S.C, Gjakova
Board directors	Regional Water Supply Company Mitrovica J.S.C, Mitrovica
Board directors	Regional Water Supply Company Hidromorava J.S.C, Gjilan
Members of the oversight board	TREPÇA JSC

Source: Government of Kosovo

¹⁷ Decision of the Assembly on the selection of members of the Independent Oversight Board of the Civil Service, <https://bit.ly/34oaykZ>

¹⁸ Article 3, item 9 of the Memorandum of Understanding, <https://bit.ly/2Hs3PO7>

¹⁹ Both competitions stipulate that the recruitment process can be monitored by representatives of the British Senior Management Appointments Project.

²⁰ These vacancies were published in two separate competitions on July 15, 2020.

However, Kosovo institutions have shown in the past that they may not fulfill their commitment to comply with the recommendations of the British partner. A BIRN report, following a ten-month monitoring of the recruitment process (June 2018–March 2019), concluded that Kosovo institutions failed to implement the recommendations of the British Embassy to appoint meritorious, valued and eligible people in key positions”.²¹

According to this report, in some cases, the Government of Kosovo has avoided or completely excluded the British company from the selection process of board members, despite the MOU. Moreover, the Government of Kosovo had allowed candidates who were not recommended by the British company to be selected as heads of public companies or important boards.²² The Assembly of Kosovo has also failed to vote the candidates recommended by the British agency, it is said in this report, with only one out of six monitored cases in which the Assembly voted the successful candidates, as per the assessment of the British partner.

According to an internal evaluation of this project made by the British Embassy, from the beginning of the project and until March 2020, the British have participated in 85 recruitment processes. Only 33 cases, or 38.8%, were successful, meaning the appointment was in line with the recommendations of the British company. 14 cases, or 16.5%, were unsuccessful, meaning that the recommendations of the British partner were ignored or people who were not on the shortlist of the implementing partner were appointed. 20 recruitment processes, or 23.5%, were conducted without the full involvement of the British partner, despite the previously agreed lists.²³

Table 3. Results of 85 processes listed for supervision by the British partner

Fully satisfactory	33 (38.8%)
Partially satisfactory	2 (2.4%)
The process has ended, pending appointment	7 (8.2%)
Unsatisfactory	14 (16.5%)
Completed without the involvement of the implementing partner	20 (23.5%)
Started but may be delayed	9 (10.6%)

Source: <https://bit.ly/3kG5gXE>

Extreme politicization in the final stage - that of appointment, remains the biggest challenge of merit-based recruitment. According to the British Embassy, attracting qualified applicants, particularly those beyond the typical applicant for senior positions in the public sector, remains quite challenging. Kosovo has many talented professionals who have the potential and skills to make a real difference in their roles in the senior management in the public sector. However, the low level of public trust and the lack of confidence that the selection process will be done fairly and based on merit, leads to many professionals not applying.²⁴

21 BIRN 2019, “Carving out the pie: Monitoring of Recruitment Processes of Senior Managing Positions”, source: https://birn.eu.com/wp-content/uploads/2019/04/BIRN_ndarja-e-kulaqit_ENG_web.pdf

22 Ibid, page 8.

23 <https://bit.ly/31Sjvfy>, recently accessed on 28.10.2020

24 <https://bit.ly/3oiE1EK>, recently accessed on 20.10.2020

The findings of the British Embassy regarding the lack of trust in merit-based recruitment in the public sector are also supported by a UNDP survey data. The Public Pulse Survey, published in April 2020, shows that only 19.5% of respondents consider that employment in the public sector is done on a merit basis and 80.7% believe that employment in the public sector is not merit-based. According to the respondents, the main non-merit criteria for employment in the public sector are: family ties (30.8%), party affiliation (30.4%), bribes (13.8%), friends, and, to a smaller extent, physical appearance. Only 19.5% believe that education, vocational training and professional experience are important factors for employment in the public sector.²⁵ Contrary to the perceptions on employment in the public sector, the same survey shows that 41.1% of respondents consider that professional experience, education and vocational training are important factors for employment in the private sector.

Most attractive positions in the public sector in Kosovo are the boards of state-owned enterprises (SOEs) and independent institutions. Because of the high monthly income, distributed liability and minimal public accountability, ruling parties see these boards as employment opportunities for party members and their families, rather than as a professional body requiring adequate management. In the past, the Anti-Corruption Agency (ACA) had found several cases when the Government of Kosovo appointed board members in violation of applicable laws²⁶, and numerous media reports have uncovered direct interference of party officials in appointments for vacant positions in these institutions.

Conclusions

Although only four months have passed since the signing of the memorandum of understanding between the British Embassy and Kosovo institutions on meritorious recruitment, more than four years have passed since the start of the British project itself. Therefore, this brief analysis of the GAP Institute highlights the general advantages and challenges of this project, drawing the following conclusions:

- **The British Embassy project enhances the transparency and quality of applications.** In the four years of implementation, the British Embassy project, which aims to prevent nepotism, strengthen transparency and meritocracy, and restore trust in public institutions, has had a positive impact not only on merit-based recruitment to a number of important senior management positions, but also in creating a new recruitment monitoring culture. Together with civil society organizations, the British project has significantly increased the level of transparency in the selection process. Moreover, being under the monitoring of a professional body, the quality of applicants has also increased. Some of the appointed candidates stated they had not previously applied for senior positions in the public sector and would not have considered applying if it were not for the involvement of the British partner.²⁷

²⁵ UNDP 2020, Public Pulse XVIII, <https://bit.ly/3kmCATq>

²⁶ Anti-Corruption Agency (2016), <https://bit.ly/3kAeTXK>

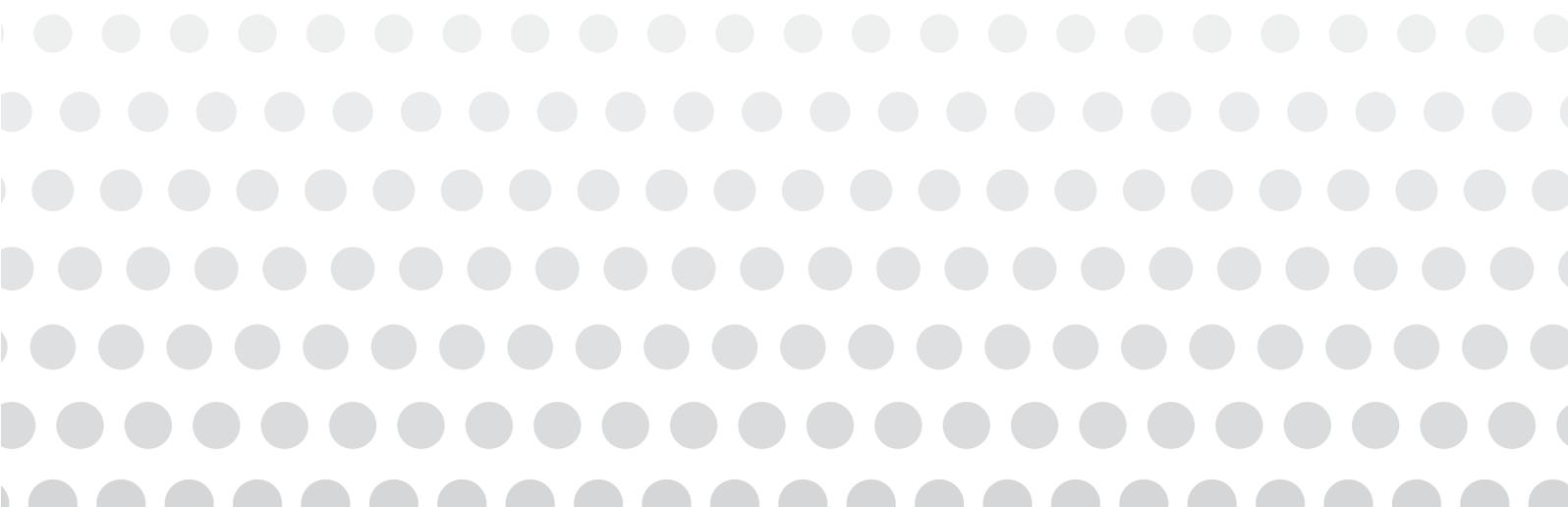
²⁷ <https://bit.ly/3oiE1EK>, recently accessed on 20.10.2020

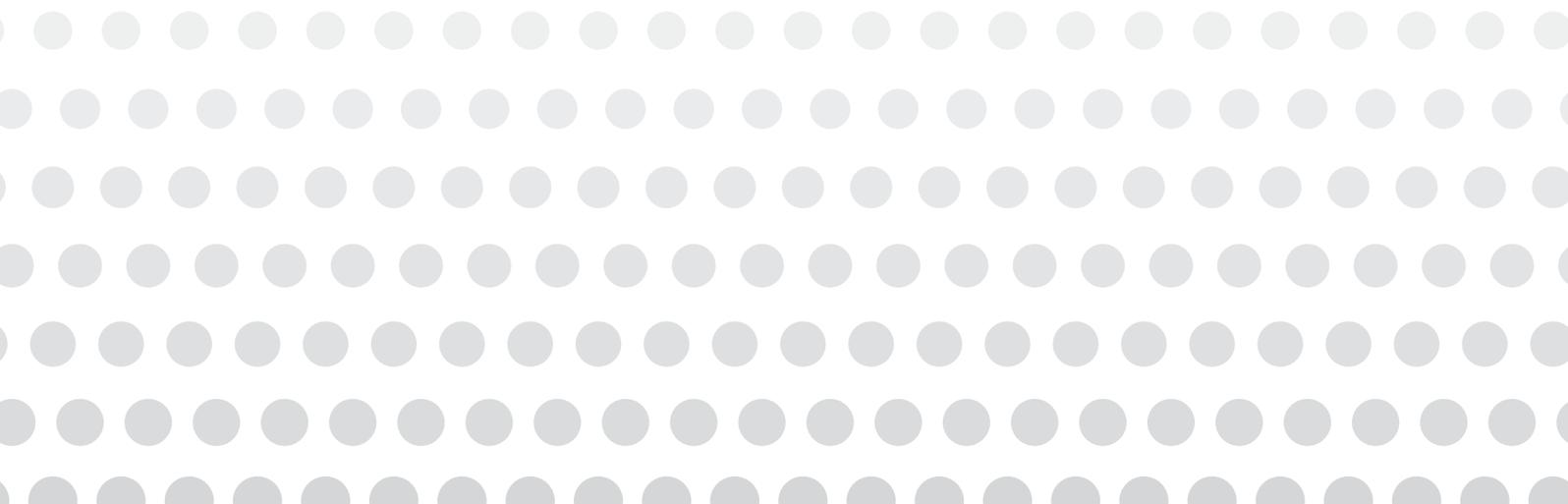
- **British support remains limited.** Although the British project raised the bar of transparency and meritocracy, their involvement is limited to a handful of positions and institutions. Under the current agreement, the list of senior vacancies agreed for monitoring between the Government, the Assembly, and the British Embassy only includes 12 positions. Certainly, according to the MOU, one party may request the inclusion of additional number of positions. This however, requires the consent of the other party. Even if the number of positions increases in the coming years, the British project may not include all public sector recruitment.
- **Ignoring the recommendations can lead to a premature withdrawal of the British partners.** The memorandum states that, the failure to implement the project as envisaged in the MOU, or changes which significantly impair the value of the project's contribution, may lead to the termination of this agreement. The way in which the implementation of the current agreements started, ignoring the recommendations of the British experts fully or partially in the first two cases of their involvement, may cause the British Embassy to withdraw from this cooperation. In another monitoring situation in early October, the US Embassy also announced its withdrawal from the process of overseeing the appointment of new members to the Kosovo Prosecutorial Council and the selection of Chief Prosecutors due to a lack of transparency and political interference.²⁸
- **The burden of responsibility for professional administration falls on the ruling parties.** Above all, ensuring a fair and competitive recruitment process requires political will. Installing meritocracy in appointing professionals to senior leadership positions is first and foremost an obligation of the ruling parties. Given that the ruling parties have a sufficient majority of votes in the Assembly and the Government to appoint merited persons in senior positions, the failure to approve the British recommendations in the absence of votes is unjustifiable.
- **Institutional recovery requires well-qualified people.** The politicization of public enterprises and independent agencies, through the appointment of unqualified persons, has led to an underperformance of these institutions. The citizens of Kosovo receive worse and more expensive services. Some of the positions agreed with the British partner relate to the top management of enterprises on the verge of bankruptcy as a result of mismanagement. Therefore, professionals that can be attracted by the British project are needed for their recovery. However, it is important to note that the role of the British partner is only advisory and the appointment decision ultimately lies with local institutions.

²⁸ US Embassy Kosovo, <https://bit.ly/3jkv5Lr>, recently accessed on 22.10.2020



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