

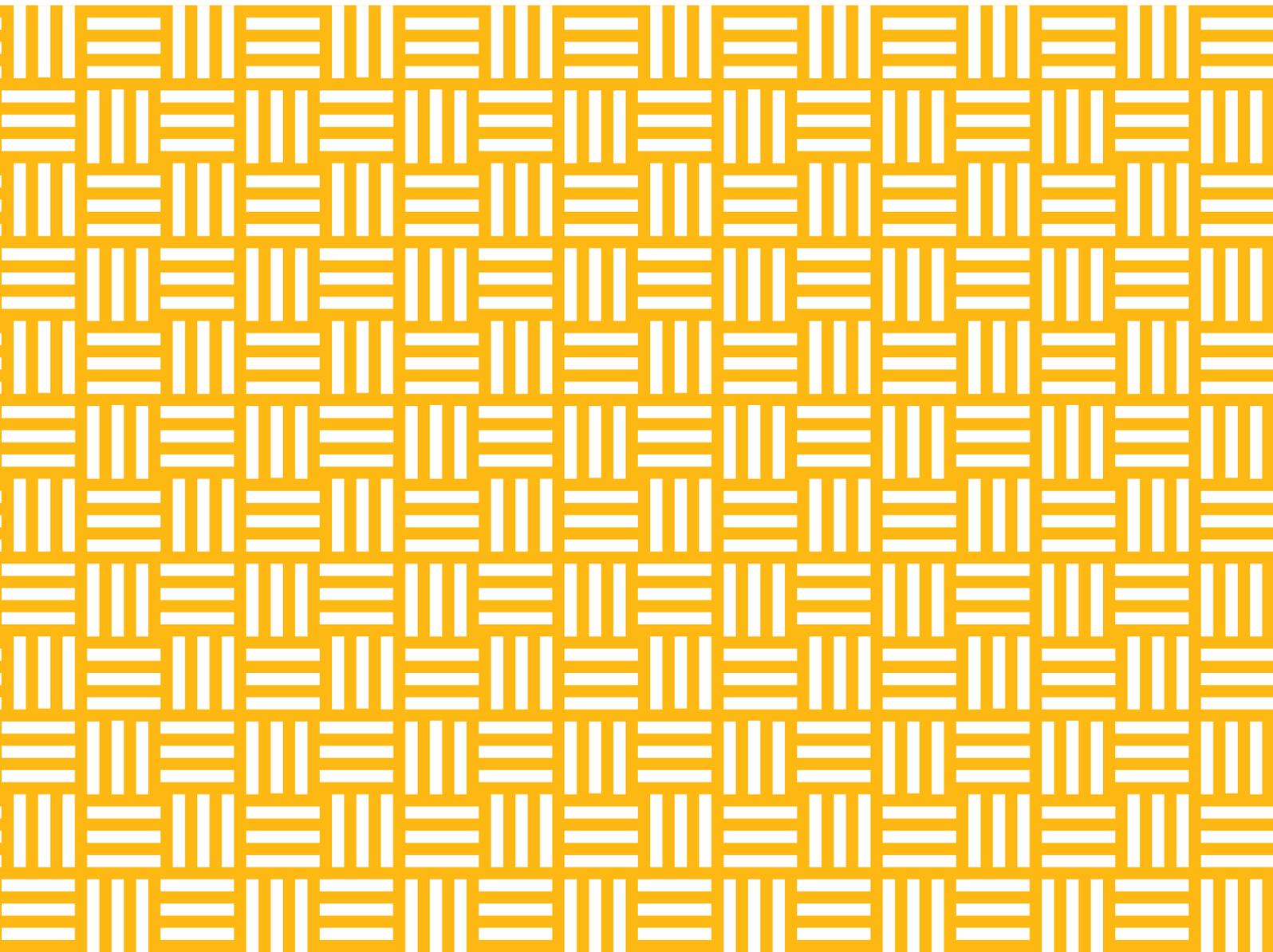


Platforma Regionale e Ballkanit Perëndimor për Avokim të
Lirisë së Medieve dhe Sigurisë së Gazetarëve
Western Balkan's Regional Platform for Advocating
Media Freedom and Journalists' Safety



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Indicators for the level of media freedom and journalists' safety [KOSOVO]



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Executive Summary

This report presents the findings of the research conducted within the regional project *Western Balkan's Regional Platform for advocating media freedom and journalists' safety*¹, which is implemented by national journalists' associations in Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. The main objective of the research was to provide base-line assessment and evidence on the level of media freedoms and journalists' safety, which will be further used in a regional mechanism for monitoring and advocating media freedoms and journalists' safety at local, national and regional level.

The research study was implemented by a regional research teams composed of a lead researcher² and five researchers at country level nominated by the national journalists' associations. The research in Kosovo was conducted by Petrit Collaku, on the basis of a common Methodology for all five countries. A range of different qualitative and quantitative methods were employed for data collection and analysis:

1 *The project is funded by the European Commission, under the Civil Society Facility and Media Programme 2014-2015. Support to regional thematic networks of Civil Society Organisations.*

2 *The research team was headed by Dr Snezana Trpevska, expert in Media Law and research methodology.*

- *Qualitative Documents Analysis (QDA)* of research studies and analysis produced by other research organizations, academia, NGOs, individual researchers etc.; official documents produced by public institutions (legal acts, by-laws, strategies, annual reports, minutes from meetings, press releases) and media coverage (texts, articles, news reports and other published materials).
- *Qualitative interviews* with 14 individuals (journalists, lawyers, media experts, representatives of public institutions or NGO's).
- *Survey* with 50³ journalists from different media organizations on the basis of a structured questionnaire developed within the Worlds of Journalism Study⁴.
- *Official statistic data* requested from public institutions or collected from available websites or from other published sources.

Despite marginal improvements, the overall situation concerning freedom of media and safety of journalists continues to be vulnerable in Kosovo. Journalists continue to be threatened and physically assaulted, while the justice system's approach to handle journalists' cases effectively is still challenging.

Indicators A: Legal Protection of Media and Journalists' Freedoms

The Constitution of Kosovo guarantees freedom of expression and media pluralism. In addition, there are several other legislative acts that regulate the work of journalists and the media. The media legal framework is considered to incorporate the main safeguards and standards protecting freedom of expression, although its implementation in practice remains weak (Section A.1).

Whilst the legislative framework provides guarantees for freedom of expression, media and information, the general assessment of all interviewed journalists and experts is that the implementation of such legal guarantees is poor. One of the reasons cited for this, is the

justice system's slow response even in cases of threats and physical assault against journalists.

Also, some state institutions have not seen fit to invite AJK in public hearings of the drafting of new regulations dealing with public communication. These instances are particularly significant due to the subject matter of the proposed regulations, yet Kosovo state institutions' lack of transparency has resulted in exclusion of valid contributions to a significant process, not only for journalists, but the public interest as a whole. The AJK recommends to public institutions to provide space for cooperation with the journalistic community when media legislation is in question in future. (Section A.1, page 12).

Public institutions in Kosovo provide the largest amount of advertising revenue for the media. Securing the contracts from public institutions affects the editorial policy of the media. However, the Ministry of Finance was unable to show statistics as to where the institutions have spent more. Still, some ministries reported about their expenses for advertisement in print and online media. (Section A.1, page 14)

The Radio Television of Kosovo (RTK), the public broadcaster, has faced a number of challenges recently. One of them relates to disagreements over its finances, as well as being challenged relating to its use of certain buildings. Further, due to its non confrontational reporting especially on those in government, it is significant that it was publicly criticized for the lack of editorial independence and interference of politics. At the same time, it has also been the target of hand grenade assaults last August, one at the television building and the other one at the house of the Director General. (Section A.1, page 14).

In recent years, Kosovo's legislation made several developments. In particular, it took an important direction to join the rest of the countries in the region by decriminalizing defamation. The 2012 Civil Law Against Defamation and Insult is not considered to provide enhanced protection for the benefit of state officials. The law has not been tested properly by the courts, while many lawsuits are waiting to be processed. (Section A.2)

The approach of the media sector to political parties and providing space in their news programs for them is one of facilitation. Many of the media in the country have covered the activities and attitudes of the various political representatives in their programs, especially in their news editions during the non-election period. In general, reports on media monitoring during election time reveal that the media have covered the campaigns of the political parties and candidates pursuant to the law. (Section A.3)

3 *The survey is conducted on a purposive quota sample of 50 journalists from different type of media in Kosovo: 10 journalists from the public broadcaster, 16 from private radio and TV stations, 5 from private print media, 5 from news agencies, 14 from online media. It is important to note that although the quota sample does not allow the drawing of generalizations on the level of the entire population of journalists, the answers received from the survey still provide valuable insights on the current situation with media and journalists' freedoms in Kosovo.*

4 Available at: <http://www.worldsofjournalism.org/>

Journalists in Kosovo do not have to be licensed by the state authorities in order to start their career in journalism. Also, there are no attempts by state authorities to impose licensing or other requirements for print and Internet-based media. (Section A.4). On several occasions, the AJK has been notified of several cases of non-admission of journalists to attend events by government officials, due to previous critical reporting. (page 22)

Also, another important development in the country's legislation is the adoption of the Law on Protection of Journalism Sources. The law was welcomed by the journalist community that aims to protect their work. Sporadic cases are reported when journalists were threatened by state institutions to reveal the source of information. (Section A.5, page 25)

One of the biggest challenges that journalists face is the poor implementation of the Law on Access to Public Documents (Section A.6). Though the government praises itself to allow access to public documents, interviewed and surveyed journalists claim that state institutions do not disclose public documents necessary for their reporting.

Indicators B:
Journalists' position in the newsrooms, professional ethics and level of censorship

A further concern that was identified in the research includes the lack of contracts for journalists, who consider that as a direct pressure exerted upon them by media owners. This pressure affects journalists' independence and impartiality. (Section B.1)

Work experience and employment, to an extent, may bridge the gap in providing an insight into the practicalities of the profession. However, there isn't a lot of investment in developing journalists or their skills set. In the survey with journalists it was stated that their salaries range from 200 to 500 euro (Section B.1).

Journalists also complain of salary delays and in some cases the delay lasts for several months. Not having financial security is of particular concern because journalists may become dependent on owners who in turn misuse them with regard to reporting whether it is choosing reporting perspectives of a story or reporting the story at all.

Lack of media ownership continues to remain problematic, particularly related to some online media. This pressure has brought journalists in an uncomfortable and unsustainable position, and some of them point out

that when operating in such an environment, journalists build an awareness and even self-censorship regarding the type of news story that should be brought to the newsroom that fits the views and objective of the owner (Section B.2).

The public broadcaster has its own code of conduct and it is considered to be very advanced. However, the majority of the interviewed journalists claim that the code is poorly implemented in practice by RTK's journalists and this is due to active political interference directly on the editorial policy. (Section B.3)

The non-profit media comply with the general code of ethics for print and visual media, whilst some have internal codes of conduct. The non-profit sector of media stands better in relation to finances, having in mind that they function solely based on donations. The non-profit sector has been smeared with allegations on questionable financing and sources. (Section B.4)

Journalists say they feel they enjoy greater freedom to suggest topics and less freedom to decide which aspects of a news story should be emphasized or the perspective that a story should encompass. (Section B.5)

Indicators C:
Journalists' Safety

The safety of journalists remains a concern and contributing to this is the ineffectiveness of the justice system. The research found out that there are no filtering mechanisms in place in the justice system to deal effectively with cases of threatened or attacked journalists, especially women journalist. (Section C.1)

With regard to any incidents that are reported against journalists and by journalists, the Kosovo police complete their investigation and forward cases to the prosecution. The latter was unable to report how many cases are still under investigation and how many indictments have been issued in the last three years. (Section C.1)

Journalists are likely to be vulnerable victims due to a number of reasons, including who is alleged to be making the threats, as this could be their employer or an individual they are seeking to report on, such as a public official. (Section C.1)

One of the historic cases that remain unresolved and a great challenge for the justice system is its failure to properly investigate, identify and prosecute the perpetrators of the three murdered journalists that have been killed after the war. A particular concerning element of

this case is that the murders of journalists are considered to be politically motivated. (Section C.1)

The investigation begins with the police, the prosecution and extends all the ways to the courts who should focus their efforts to identify those victims who are vulnerable, ensure reports of any crime are properly investigated and matters are dealt with swiftly and without undue delay. As it is well known, justice delayed is justice denied, although of further concern is that the field in which a journalists work may result in a situation becoming volatile very quickly, and an uncoordinated and less than timely approach may result with detrimental consequences for journalists, including loss of life. (Section C.2)

There are some cases that local courts gave rulings for suspended sentences for the perpetrators of threats. In the case of the attempted murder of a journalist in his working place, it took the court on year to reach a verdict, which resulted in the perpetrator being punished to four years in prison. (Section C.3)

Further, it is reported that the rule-of-law in Kosovo does not track the whole chain of actors in attacks, which not only does not result in justice for those victims of crime, it also has a negative impact on perception and potential effectiveness of law enforcement. (Section C.3)

The safety of journalists remains a concern especially due to the unpredictable behaviour of employers and public figures towards journalists, whether it is state officials or business owners, and having an effective justice system is fundamental. As the current situation is far from desirable, it is of utmost importance that Kosovo's justice system takes necessary steps to improve its effectiveness when dealing with threats and attacks against media and journalists and ensure that the whole chains of actors in the attacks are thoroughly investigated. (Section C.3)

Recommendations

Public institutions should actively consider ways to improve implementation of the Law on Access to Public Documents and responses should be provided promptly.

State institutions to deal effectively with cases on threats and attacks against journalists, including considering establishing filtering mechanisms and working closely with journalist's organizations.

Media owners to provide working contracts to employees and respect the labour law. The Labour Inspectorate to ensure that the Labour Law is enforced so that journalists do not become victims of exploitation.

Labour Inspectorate to perform regular inspections at media houses and to issue annual reports on media state related to labour rights of media employees.

Police to treat with priority all cases against journalists including physical assaults, threats, intimidation and blackmail.

Police to ensure that its officers will take part in training and debate on the relations between security forces and media.

Police to ensure that it will investigate thoroughly the cases involving journalists being imposed to risk. Police will ensure that it will investigate the whole chain of the attack.

Prosecution to treat with priority the cases of journalists and to offer processes in place for fast track of cases impending to justice.

Prosecution to ensure that its staff will take part in training and debate on the relations between prosecution and media.

Strengthen the Ombudsman by offering opportunities to increase capacities and continue to engage with media.

The courts to treat with priority the cases against journalists, including physical assaults, threats, intimidation and blackmail.

The courts to create processes in place, such as a database, where all cases of journalists are recorded and archived.

Political parties to restrain the pressure in the work of the public broadcaster, Radio Television of Kosovo.

The Kosovo Assembly to focus on the Radio Television of Kosovo to find a way for long-term financing and to resolve property issues

The Kosovo Assembly to ensure greater supervision of the work of the public broadcaster, the Radio Television of Kosovo, and adopt a greater role in promoting and scrutinizing the implementation of freedom of expression, media and information

Self-regulatory bodies (IMC and PCK) to continue to engage with media outlets and the public, so that they implement their mandate and contribute to promotion and protection of freedom of expression, media and information.

Indicators for the level of media freedom and journalists' safety

The set of *Indicators for the level of media freedom and journalists' safety in the Western Balkans* are developed to meet the specific needs and objectives of the journalists' associations to advocate for greater media freedoms in their countries and for better conditions and freedom of journalists' work. In the recent years, several inter-governmental or international organizations have adopted guidelines or methodologies for comparative assessment of media freedom and journalists' safety in different countries. Among the most renowned assessments or methodologies are those published by the following organizations:

- Council of Europe: *Indicators for Media in a Democracy*⁵
- UNESCO: *Media Development Indicators (MDI)*⁶ and *Journalists' Safety Indicators: National level*⁷
- USAID – IREX: *Media Sustainability Index*⁸
- Freedom House: *Freedom of the Press Survey*⁹

5 Council of Europe, *Resolution 1636 (2008) Indicators for media in a democracy*, Accessed on October 20, 2016: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17684&lang=en>

6 UNESCO, *Media Development Indicators (MDI)*, Accessed on October 20, 2016: <http://unesdoc.unesco.org/images/0016/001631/163102e.pdf>

7 UNESCO, *Journalists' Safety Indicators: National level*, Accessed on October 20, 2016: http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/images/Themes/Freedom_of_expression/safety_of_journalists/JSI_national_eng_20150820.pdf

8 IREX, *Media Sustainability Index*, Accessed on October 20, 2016:

<https://www.irex.org/resource/media-sustainability-index-msi-methodology>

9 Freedom House, *Freedom of the Press Survey*, Accessed on October 20, 2016: <https://freedomhouse.org/report/freedom-press-2015/methodology>

- BBC World Service Trust: *African Media Development Initiative*¹⁰
- Committee to protect Journalists: *Violence against journalists*¹¹
- Reporters without Borders: *World Press Freedom Index*¹²

In addition to the listed methodologies, special consideration has been given to the European Commission strategic framework aimed at assessing the fulfilment of the political goals in the fields of freedom of expression and integrity of media. This framework is summarized in the *DG Enlargement Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014-2020*¹³. The Guidelines are of key importance for the network of journalists' associations in the region since they have taken into consideration the common contextual problems with the media freedoms in the region and therefore provide the basis for both national and regional approach to addressing the common problems. In addition, the relevance of this document for the journalists' associations comes from the fact that they are themselves identified in the Guidelines as one of the key drivers of the media reforms in the region.

Taken as a whole, the listed methodologies and guidelines offer a good starting point to define indicators in line with the needs and priorities of the NJAs in the Western Balkans. However, most of them are designed to serve the objectives of the international organizations and are more focused on detecting comparable national data and general global trends on media freedoms. Moreover, they do not prescribe a fixed methodological approach, preferring to offer a comprehensive list from which indicators should be tailored to the particularities of the national context. Next, they have been drawn up in the developed Western democracies and therefore lack certain degree of customization essential for reflecting the local media context in the Balkan countries. Therefore, while reviewing all these documents, only those indicators are taken into consideration which may reflect the specific perspective of the NJAs in advocating for better protection of journalists' work and freedom in their countries. The main focus has been put on the implementation of the legal guarantees

of the freedom of expression and media independence, on a range of factors that prevent the journalists to freely exercise their daily work in the newsrooms and on the conditions under which the journalists can be safe and protected from intimidation, harassment or violence.

The *Indicators for the level of media freedom and journalists' safety in the Western Balkans* are structured in three categories while each category consists of a number of indicators:

Legal protection of media and journalists' freedoms

A.1 Does the national legislation provide for guarantees for media freedom and is it efficiently implemented in practice?

A.2 Does the Defamation Law cause a 'chilling' effect among journalists?

A.3 Is there sufficient legal protection of political pluralism in the media before and during election campaigns?

A.4 Is the freedom of journalists' work guaranteed in the law?

A.5 What is the level of legal protection of journalists' sources?

A.6 What is the level of protection of the right to access information?

10 BBC World Service Trust, *African Media Development Initiative*, Accessed on October 20, 2016: http://downloads.bbc.co.uk/worldservice/trust/pdf/AMDI/AMDI_summary_Report.pdf

11 Committee To Protect Journalists, *Violence against journalists*, Accessed on October 20, 2016: <https://www.cpj.org>

12 Reporters without Borders, *World Press Freedom Index*, Accessed on October 20, 2016: <https://rsf.org/index2014/en-index2014.php>

13 DG Enlargement Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014-2020, Accessed on October 20, 2016: http://ec.europa.eu/enlargement/pdf/press_corner/elarg-guidelines-for-media-freedom-and-integrity_210214.pdf

Journalists' position in the newsrooms, professional ethics and level of censorship

B.1 Is the economic position of journalists abused to restrict their freedom?

B.2 What is the level of editorial independence from media owners and managing bodies?

B.3 What is the level of editorial independence of the journalists in the PBS?

B.4 What is the level of editorial independence of the journalists in the non-profit sector?

B.5 How much freedom do journalists have in the news production process?

Journalists' safety

C.1 Safety and Impunity Statistics

C.2 Do the state institutions and political actors undertake responsibility for protection of journalists?

C.3 Does the criminal and civil justice system deal effectively with threats and acts of violence against journalists?

A

Legal Protection of Media and Journalists' Freedoms

In general, the media legal framework has the basic safeguards and standards to protect the freedom of media and journalists. There are several laws that have been adopted in relation to media by Kosovo's Assembly in the recent years. There are opinions expressed in this report that lawmakers have to focus on the update of media legislation, due to continuous development of the media, in particular online ones. New laws that would set higher standards as well as precedents, such as the Civil Law against Defamation and Insult, are not tested by courts. Journalists complain that the Law on Access to Public Documents and the Law on Protection of Journalism Sources are not respected by state institutions. There are examples of cases of exclusion of the journalist community by state institutions in debates, in their preparations of new regulations related to public communications.

A.1 Does the national legislation provide guarantees for media freedom and is it efficiently implemented in practice?

Due to its history and the need for reconstruction following the war, Kosovo's legal system and legislative framework continue to undergo a phase of reconstruction. At the same time, in the field of freedom of expression, freedom of the media and information, from the time of the United Nations Mission in Kosovo (UNMIK), continuing with the independence and post independence, a comprehensive framework has come into existence.

The Kosovo Constitution guarantees freedom of expression and pluralism of media. In particular, it provides “the right to express oneself, to disseminate and receive information, opinion and other messages without impediment.”¹⁴ Similarly, the right to access documents¹⁵ and pluralism of the media, including prohibition of censorship,¹⁶ are guaranteed. Yet, the Constitution recognizes that there can be circumstances where such rights are not enjoyed in the fullest sense. Such limitations include the potential to restrict freedom of expression by law “where it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity or religion.”¹⁷ With regard to the right to information, it is recognized that access to certain information may be limited by law due to “privacy, business trade secrets or security clarifications”¹⁸ and in instances where media may publish untrue, incomplete or inaccurate information, an individual should have the right to correction in accordance with the law.¹⁹

International standards relating to freedom of expression, media and information rights as provided for in European Convention on Human Rights and the International Covenant on Civil and Political Rights, among others, are also guaranteed through the Constitution.²⁰ Further, the case law of the European Court of Human Rights (ECtHR) is relevant in that Constitutional rights are to be interpreted in line with the decisions of the ECtHR.²¹

Such international and constitutional guarantees are reinforced within the national legal framework through a number of laws which regulate the work of journalists and media. One of the most recent pieces of legislation approved by Kosovo’s Parliament is the Law on Protection of Journalism Sources, which further offers legal guarantees for journalists and media.

The legislation concerning the right to access to public documents went further with the adoption of the law on protection of personal data²² and the law on classification of information and security clearance²³. In 2015, the Assembly approved the new law on the Ombudsman, abolishing the 2010 law.

Access to Internet is regulated by the new Law on Electronic Communications, adopted in 2012, which abolished the 2007 law. The Regulatory Authority of Electronic and Postal Communications is the regulatory body that implements and supervises the legal framework defined by this law.²⁴

Whilst the legislative framework provides guarantees for freedom of expression, media and information, the general assessment of all interviewed journalists and experts is that the implementation of such legal guarantees is poor. One of the reasons cited for this, is the justice system’s slow response in cases of threats and physical assault against journalists.

The Association of Journalist of Kosovo (AJK) as a collective organization has experienced the lack of transparency by public institution in two instances, when it was excluded from participating in a process of developing regulations relevant for media in Kosovo. The AJK and Press Council of Kosovo (PCK) reacted on their exclusion by the Prime Minister’s office over a draft regulation on the protection of children by media.²⁵ The AJK and PCK were informed about the draft regulation after they were asked by the UNICEF office in Kosovo to comment on the draft. Both organizations were of the opinion that this lack of transparency could not be ignored and have abstained from taking part, as well as requesting an explanation from the Prime Minister’s Office. Initially, the request for an explanation was ignored and eventually the explanation provided was that neither organization has a role to contribute towards this regulation, which is obstructive and non-transparent.

The lack of involvement of professional organizations and lack of transparency in such important processes is somewhat of a regular occurrence among public institutions. Earlier this year, the Kosovo’s Prosecutorial Council adopted a regulation on communicating with the public, although it did not involve the AJK early enough when the regulation was being discussed.

There are no attempts by the state authorities to impose licensing or other requirements for the print and Internet-based media. However, when established, media outlets have to choose a business structure that requires some form of registration and, in this sense, starting and registering a business is not necessarily burdensome and such registration can be completed at the Kosovo Business Registration Agency (ARBK).²⁶

The print and online media are self-regulated by the PCK, an NGO based organization, where media, wheth-

14 Constitution of the Republic of Kosovo, Article 40 (1)

15 Constitution of the Republic of Kosovo, Article 41 (1)

16 Constitution of the Republic of Kosovo, Article 42 (1)

17 Constitution of the Republic of Kosovo, Article 40 (2)

18 Constitution of the Republic of Kosovo, Article 41 (2)

19 Constitution of the Republic of Kosovo, Article 42 (2)

20 Constitution of the Republic of Kosovo, Article 22

21 Constitution of the Republic of Kosovo, Article 53

22 Law No. 03/L-172 on the protection of personal data. Accessible at: <https://gzkrks.gov.net/ActDetail.aspx?ActID=2676>

23 Law No. 03/L-178 on classification of information and security clearance. Accessible at: <https://gzkrks.gov.net/ActDetail.aspx?ActID=2690>

24 Accessible at: <http://www.arkep-rks.org/?cid=2,1>

25 Accessible at: <https://www.facebook.com/asociacionigazetareve/?ref=ts>

26 Accessible at: <http://www.arbk.org/en/Home>

er in print or online, become members and declare to abide by its Code of Ethics, and it enables any individual who has a grievance regarding reporting about them to raise a complaint.

At the same time, another positive aspect of the online world in Kosovo, as noted by journalists and experts, is that neither could recall any single case when state authorities attempted to restrict the right to Internet access or to seek blocking or filtering internet content. With a very computer-literate young population and with access to technology this is very important, as it enables any citizen to receive and impart information, and portals have a key role in this process, provided that they exercise such rights responsibly and within the confines of the law.

A media expert said that the increase of online media has brought a far greater space for freedom of speech in Kosovo. She stated that citizen's complains about the stories are checked by 20 members of the press council who come from online media and who decide on whether there is a violation of the code of ethics.

*"There is kind of naming and shaming among them. Also, there was this belief before that you could not say to a journalist that you missed a point. Today, with the social media presence, there is the possibility for everyone to comment or confirm or deny a story. This way the responsibility of the journalist is questioned almost immediately."*²⁷

With regard to audiovisual media, the Independent Media Commission (IMC) of Kosovo is a regulatory authority that regulates the audiovisual sphere. The Constitution of the Republic of Kosovo particularly awards to the IMC the responsibility to regulate the range of broadcasting frequencies in the country, issue licenses to public and private broadcasters, establish and implement the policies.²⁸ The Constitution also provides that "the members of the Independent Media Commission shall be elected in a transparent process".²⁹ The work of the IMC is also dealt with by the legislative framework with the most recent law approved in 2012, which abolished an earlier law from 2007.³⁰ Within this regulator, the board members are nominated by the government and voted based on majority by the Kosovo Assembly. Despite the institution having a key role in realizing the freedom of expression, media and information rights, the appointments of board members are widely considered to be politicized. In December 2013, two board members were dismissed

because of their involvement in politics.³¹ This development paralyzed the IMC's functionality, as it left it without the necessary quorum until April 2014, when two members were appointed by the Kosovo Assembly, returning the body to operational mode. "I don't believe the IMC is independent, since its members are elected by the Kosovo Assembly."³² Additionally, the IMC was criticized for not being able to meet the deadline for transition to a digital broadcasting system in Kosovo by June 2015.

The IREX report for Kosovo, on business management of media, states that although slow economic development affects also the media industry, advertising is developing. However, "government subsidies, subscriptions and users' fees are still problematic."³³ The Freedom House report says that public institutions in Kosovo provide the largest amount of advertising revenue for media.³⁴ Reports also reveal that the securing the contracts from public institutions affects the editorial policy of media.

The 2015 annual report of Kosovo's government states that the government has spent 1,599,000 euros for marketing.³⁵ The Ministry of Finance was unable to show statistics as where the public institutions have spent more and in what kind of media. However, the Ministry of Finance stated that it can offer only its own spending for vacancy advertising, claiming to have spent 3,855 euros in the period January-September 2016.³⁶

Nevertheless, there are other ministries that share some of their budget to allocate money directly to online media for paid advertisement, which are noted at some portals. The Ministry of Agriculture and Rural Development has paid for banners at several portals advertising some of its activities. Similarly, the Ministry of Foreign Affairs advertised in few portals for an activity. The Ministry of Labour and Social Welfare decided to advertise in a news portal and in a news agency as well. The Ministry of Labour said that "the ministry of labour pays 200 euro per month to "Botapress.info" and another 400 euro to news agency "Kosovapress". The Ministry of Agriculture said that it has allocated 82,690 euros for 2016 from its budget to advertise its activities while more than a half of it is spent so far. The ministry has signed 39 agree-

27 Flutura Kusari, media law expert, interview held on April 26th, 2016

28 Constitution of the Republic of Kosovo, Article 141

29 Ibid 11, Article 55

30 Law No. 04/L-044 on the independent media commission.

31 Lajmi, "Two members of IMC dismissed" (Shkarkohen dy anëtarë të KPM'së), Lajmi.net, December 26, 2013. Accessed on October 11, 2016: <http://lajmi.net/shkarkohen-dy-anetare-te-kpmse/>

32 Parim Olluri, journalist, interviewed on April 27th, 2016

33 IREX, Media Sustainability Index 2016, p.75. Accessed on October 11, 2016: <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-urasia-2016-kosovo.pdf>

34 Freedom House, Freedom of the press 2015, Accessed on October 11, 2016: <https://freedomhouse.org/report/freedom-press/2015/kosovo>

35 Ministry of Finances, Annual financial report, p.23. Pristina:2016: <http://mf.rks-gov.net/desk/inc/media/3BAC8FEA-4544-4169-94BA-0D619CF6745C.pdf>

36 Muharrem Shahini, email to author, October 19, 2016

ments, out of which 5 are daily newspapers and 34 are online media portals. In 2011, the government decided that all public tenders are advertised on the Kosovo's Public Procurement Commission website. At that time, print media close to government benefited and managed to survive only through this kind of revenues.

"At that time, you could have seen the profile and political orientation of the media. For example, there was a daily newspaper "Infopress" that had up to 40 advertisements per day. And we know what kind of profile and news they published. And since the banning of public tenders in media, that newspaper closed shortly after."³⁷

The public broadcaster is the Radio and Television of Kosovo (RTK) and it is regulated by the law approved in 2012.³⁸ The public broadcaster, which is financed by the Kosovo budget, includes all minority languages (Serbian, Bosnian, Turkish and Roma) in the scheme. The Serbian minority has its own channel in RTK 2 since June 2013.

Two attacks against the public broadcaster marked this year as the most violent cases against media and journalists. On August 22nd, 2016, a hand grenade exploded near the building of the RTK. The second grenade attack followed after a week, at the home of RTK's general director Mentor Shala. The attacks occurred during the high political tensions in the country.

The institutional autonomy and editorial independence of the public broadcaster is guaranteed by law³⁹. The supervisory board of the RTK represents the society at large, including minorities, but it has been widely criticised because their nominations comes from political parties. Also, the institutional autonomy and editorial independence of the public broadcaster has been a subject of political interference during recent years. Political appointments for editorial positions have undermined the most watched channel in the country.⁴⁰ Many interviewed journalists believe that their colleagues at the RTK know in advance what kind of stories will not be broadcasted.

"The RTK is the biggest medium in Kosovo and there are paradoxes that surprise you. The biggest problem here is self-censorship. The (political) power has no need to call you on the phone because there are certain people there (RTK) that knows where's the limit, up to where you can go."⁴¹

An anonymous journalist stated that there is a practice of high profile politicians, particularly from government, to invite RTK journalists to cover their visits abroad and publish positive stories. The expenses for journalists are covered through public money.

"They (politicians) invite journalists by name to cover an event. The government takes on expenses and all the journalist has to do is to run after the visa. There was a case when a politician was angry at the invited journalist for the way the event was broadcast."⁴²

The new law on the RTK, which was approved in 2012, foresaw the financing from Kosovo budget for another three years, after which another independent financial mechanism was expected to be established. However, the broadcaster continues to be financed by the Kosovo budget. Since the beginning of this year, financial arrangements were made every three months. The president of the board of the RTK, Ismet Bexheti stated, in a roundtable held in July 2015, that the board does support financing directly from the budget of Kosovo.⁴³ On the other hand, the trade union sent a letter to the parliamentary media commission demanding that financing of RTK should be done from citizens.⁴⁴ At the same time, the Kosovo Privatisation Agency (KPA), which runs the country's socially-owned properties, has asked the RTK to vacate the building and other premises, because the real owner is the Radio Television of Prishtina (RTP), which was Kosovo's state television before the war, but is no longer broadcasting.⁴⁵ Also, the KPA has asked the RTK to pay rent to the RTP for using the property.

At present, the funding arrangements continue to maintain a link with politics, which many in the field do not trust, as this is viewed as a method of control by consecutive governments in relation to the reported news. In addition to this, other methods of favouritism are reported, whether it is with editors, managers or journal-

37 Besnik Boletini, *journalist at NGO "Cohu"*, interview held on April 27th, 2016

38 Law No. 04/L-046 on Radio and Television of Kosovo. Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2812>

39 Law No.04/L-046 on Radio and Television of Kosovo, Article 18

40 INDEP, *The State of the Media in Kosovo, 2015* (Prishtina, Kosovo, INDEP, 2015), p. 15

41 Artan Haraqija, *freelancer*, interview held on May 3rd, 2016

42 Anonymous *journalist*, interview held on May 10th, 2016

43 Kaltrina Rexhepi, "RTK's finances from government, lowers credibility" (*Financimi i RTK-së nga Qeveria Uj Besueshmërine*), *Kallxo.com*, July 1, 2015. Accessed on October 22, 2016

44 Accessible at: <https://web.facebook.com/search/top/?q=sindikata%20sprtk%20profil%20zyrtar>

45 Erjona Papova, *Perparim Isufi*, "Kosovo Broadcaster Faces Threat of Eviction", *Balkan Insight*, May 26, 2016, Accessed on August 2, 2016; <http://www.balkaninsight.com/en/article/kosovo-public-broadcaster-under-privatization-agency-threats-05-24-2016>

ists, which brings into disrepute any code of ethics that exists. Whilst the public broadcaster may well be under pressure to perform and at times may be at the centre of attacks by unknown individuals, the approach used to impart information is noticeably different from other news channels, which leaves room to question its independence and its links with the government.

A.2 Do Defamation Laws cause a 'chilling effect' among journalists?

An important step was the decriminalizing of defamation and insult. This change has resulted in any such cases being initiated through the civil courts only. The Civil Law against Defamation and Insult regulates civil legal responsibility for defamation and insult.⁴⁶ However, it is important to note that despite being regulated by one piece of legislation, decriminalization took some time, as the Criminal Code required amendments to remove prison sentences if a defamation or insult occurred.⁴⁷

In 2012, the new Criminal Code was adopted and the lawmakers in Kosovo have removed prison sentences for the offences of defamation and insult that existed before. The law provides that where defamation or insult is alleged to have occurred within a media outlet, such an outlet is required to provide space for a response within 8 days following such a request being made.

One of the positive aspects of the Civil Law Against Defamation and Insult is that it does not contain any provisions that are severe or protective for the benefit of state officials. In this regard, media experts claim that the new law is acceptable, but the implementation in practice remains poor. One of the defects that were noted with the law is that it does not provide a clarification as how someone can or should file a suit.

“It is important to mention in the law as to what remedies are available within a civil case, whether a claimant is requesting to recover economic damage, or sue for compensation. The law does not deal with the issue adequately, which leaves it in the hands of lawyers to choose whichever way they want to proceed.”⁴⁸

Importantly, the law foresees an obligation towards the injured person to mitigate the harm seeking a remedy from the publisher of an allegedly defamatory or insulting expression and filing a claim with any appropriate regulatory body such as the Independent Media Commission (which regulates the audiovisual media) and the Press Council (regulatory authority of print and online media). By incorporating such an obligation to mitigate within the law, it ensures that litigation should not be the first consideration. Further, by engaging with such mechanisms, the potential adverse impact on journalists and journalism may be not as significant, because all parties concerned can learn through a non litigious process. The law demands effective and appropriate compensation for persons whose reputation was harmed by the publication of defamatory material.

The journalists' community considers that the Civil Law against Defamation and Insult will also protect the journalism environment from media outlets that are suspicious and have no ownership data. This involves some online media that have been operating for some time and now are closed, but have published propaganda on behalf of the group of interest. “The law needs implementation. We can't protect journalists that have published defamations. Also, we should take care if a judge has respected partially the law, and sentenced journalists where defamation was not present.”⁴⁹

In this regard, it is important to note that journalists view the law as making an important contribution towards raising journalism standards, in that they expect those who engage in misconduct to be dealt with, but at the same time there is a need to remain vigilant to ensure that cases where a defamation suit is inappropriately used are not left unchallenged. The lack of ownership, especially online, can have a negative impact on the overall reputation of journalists with regard to defamation and in some instances some may view it as a loop hole to engage in any conduct.

The latest European Commission's Progress Report for Kosovo states that freedom of media and expression are constitutionally guaranteed, and legislation on libel, hate speech and defamation are in line with European Court of Human Rights case law, but the effective implementation remains a challenge.⁵⁰ However, a media law expert said that the overall media legislation needs to be adapted to the continuous developments occurring in the online media and as such there is a need to update the legislation. The Law Against Defamation and Insult has not been fully tested in court which would set an example if the law was adequate.

⁴⁶ Law No. 02/L-65 Civil Law Against Defamation and Insult, promulgated by UNMIK Regulation 2007/13

⁴⁷ Code No. 04/L-082 Criminal Code of Kosovo, 13 July 2012, as amended and supplemented on 9 November 2012 by the Law No. 04/L-129

⁴⁸ Flutura Sheremeti, media expert, interview held on May 5th, 2016

⁴⁹ Anonymous journalist, interview held on May 3rd, 2016

⁵⁰ European Commission, Progress Report Kosovo 2015, http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_kosovo.pdf

“Another factor that is lacking is the court precedents. This means that if we have effective courts, the legislation would have been developed further related to court cases. There would have been many standards set by which the journalists can be based on.”⁵¹

Another important consideration is that the law provides that no one is kept responsible for defamation or insult for a statement which the court assessed to be a statement of opinion, “on the condition that the opinion is expressed in good faith and has some foundation in fact.”⁵² On matters of public concern or where the injured person is or was a public official or is a candidate for public office, “there may only be responsibility for defamation or insult if the author knew that the information was false or acted in reckless disregard of its veracity.” In all cases, the law forbids any requirements to reveal a confidential source of information. Also, the law states that in all actions of defamation or insult, except in matters of public concern, the burden of proof shall fall on the defendant. A journalist said that the defamation suits can be difficult for journalists because they have to prepare themselves with regard to any cases ending up in court, indicating that the case brought may be against them personally instead of the news outlet and the latter may not necessarily support the journalist in legal proceedings such as by providing legal representation.

“You can sue a journalists based on three sentences. For journalists it is difficult because they have to spent time in order to prepare. The Civil Law against Defamation has this basic shortcoming and it should be for a debate whether there is a need to change it. If someone sues the journalist for defamation, the journalist is obliged to bring to the court proof of what was written. The burden of proof remains with the journalists. On the contrary, it should be the claimant who brings to the court the proof if the journalist has written defamation.”⁵³

There are 20 lawsuits in courts against journalists on charges for defamation and/or libel. Out of this number, two lawsuits are brought to the court by two opposition MPs against two online portals.

Albulena Krasniqi, Vetevendosje MP (Self-determination) has initiated proceedings against two news portals and is asking a compensation for 1,5 million euros for publishing stories that said Krasniqi hid a tear gas canister in

her genitalia.⁵⁴ Krasniqi is suing both media in Prishtina for defamation and is asking 1 million euros from Indeksonline and 500,000 euros from Gazeta Express. The case is related to actions of opposition parties that were firing tear gas inside the Kosovo Assembly in a sign of protest against two controversial agreements with Serbia and Montenegro.

Rexhep Selimi, also an MP from Self-determination, sued Gazeta Express news portal for defamation related to a documentary called “Headquarters of Millionaires” in which they presented the wealth of former Kosovo Liberation Army commanders, alleging they profited after the war ended in 1999 in Kosovo. Selimi, a former KLA commander, stated that the portal is sued for defamation and there is nothing true in the documentary about his wealth.⁵⁵

There are five cases that journalists accuse each other for defamation and libel. The rest of the cases include prosecutors, judges and lawyers who were part of the stories, and sued media for libel. In addition, nine lawsuits have been dismissed because of the decriminalisation of defamation and libel in 2012. The lower courts have followed the Kosovo’s Supreme Court direction, which required all defamation cases to be treated as civil matters, which came as the result of decriminalisation of defamation and insult in 2012. In all these cases, judges have dismissed the cases as unfounded and have terminated the criminal proceedings.

Based on the survey with 50 journalists, most of them or 72% (32% + 12% + 28%) said that the defamation law has (extremely, very or somewhat) influenced in their work. Taking into consideration that journalists may personally face proceedings or that they may not be supported by their employer with legal representation, it is hard to envisage that this would not be a concern. In addition, the fact that legal proceedings may take a long time to be dealt with, due to a backlog in the courts, it may also have negative consequences for a journalists. This is because an employer may unjustifiably terminate that journalist’s employment or there may be a change in the journalist’s duties and stories he/she is permitted to work on.

51 Flutura Kusari, media law expert, interview held on April 26, 2016

52 Civil Law against defamation and insult, article 8.

53 Kreshnik Gashi, journalist, interview held on May 3rd, 2016

54 Erjona Popova, Kosovo MP Seeks Damages Over Tear Gas Claims”, *Balkan Insight*, March 24, 2016. Accessed on October 23, 2016: <http://www.balkaninsight.com/en/article/opposition-mp-sues-two-kosovo-media-for-1-5-m-03-24-2016>

55 Armend Zenelaj and Labinot Leposhitica, “Selimi submits lawsuits against “HQ of Millionaires” (Selimi Dorëzon Padinë Ndaj “Shtabit të Milionerëve)”, August 19, 2016. Accessed on October 23, 2016: <http://kallxo.com/selimi-dorezon-padine-ndaj-shtabit-te-milionereve/>

Table 1. Defamation law effect on journalists work

	Total
Extremely influential	16
Very influential	6
Somewhat influential	14
Little influential	4
Not influential	7
Not relevant to respondent's work	0
Don't know	2
Refused	1
Grand total	50

A.3 Is there sufficient legal protection of political pluralism in the media before and during election campaigns?

In general, there is media pluralism in Kosovo, including broadcast, print and online media. Kosovo's Constitution provides guarantees for media pluralism.⁵⁶ The Law on Independent Media Commission also supports the freedoms and media pluralism of audio-visual media services in Kosovo.⁵⁷

As of April 2016, Kosovo has 20 TV stations, five daily newspapers and 82 radio stations.⁵⁸ The number of online media remains unknown, although there are a number of portals with new ones being established and launched on a regular basis. According to the Media Sustainability Index 2016 of IREX, there are certain media organizations that are perceived to be affiliated with certain political agendas. "These can be either government- or business-vested agendas."⁵⁹

There is no legal provision that obliges media outlets in Kosovo in relation to political pluralism in non-election periods, but rather this issue is regulated by code of conducts for all media. The Independent Media Commission's Code of Conduct for audio-visual services says that audiovisual media services will not promote the interests of a political party or a political point of view. The Code further regulates that audiovisual media will not participate in a practice that could have the effect of promoting a political party to the exclusion of other political parties.

"There is political pluralism in Kosovo media. When it comes to public broadcaster, they do invite representatives of the politics, they call them for interviews, there are politicians, there are from the governing coalition. But, when it comes to news programs, then there is a big difference. It's about the story they rank the first in news, how much space they offer to political representatives."⁶⁰

⁵⁶ Kosovo Constitution, article 42

⁵⁷ Law No. 04/L-044 on the Independent Media Commission, article 5

⁵⁸ According to Independent Media Commission there are 36 cable operators and 56 Content Service Providers

⁵⁹ Irex, Media Sustainability Index: Kosovo 2016, p. 74, Accessed on June, 22, 2016: <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2016-kosovo.pdf>

⁶⁰ Liridon Llapashtica, former journalist, interview held on April 25th, 2016

The public broadcaster has its own Code of Conduct which demands all programs to be politically neutral.⁶¹ “The Professional Standards and Principles of Journalistic Ethics in the Programs of the RTK” says that journalists and editors are not allowed to give preferences to a certain political or ideological positions. On “Coverage of Political Parties”, the Code states that the RTK is not obliged, except during election campaigns, to share equal presence to political parties in its broadcasting. “However, the editors should aim over certain period (usually not more than a month), to give due prominence to all the main strands of argument and all the main parties. It is up to the judgment of RTK which party officials and other party members are invited to take part in individual programs.” Whether this is effectively reflected in practice is unclear, especially because the RTK at times reaches absurd decisions when it comes to reporting events of public importance, such as protests in recent times organized by opposition parties or the angle that stories take; at certain times there may be substance to the argument that a positive spin is being given to a news story or that the government is especially being portrayed in positive light.

The Election Law regulates media coverage during the election campaign which requires from all media to respect the Code of Conduct for Broadcast Media and the Code of Conduct (CoC) for Print Media as issued by the Independent Media Commission, in relation to all aspects of campaign coverage and advertising.⁶²

All media shall ensure that all certified political entities receive fair and equitable coverage during the electoral campaign. All broadcast public media shall air voter education material free of charge. The advertising spots of political parties shall be no longer than two minutes but it is forbidden to air the spots within the news program.

Interviewed journalists stated that the rules in place for media during election period are clear and advanced, but several media are recognized for taking sides for some political parties.

“There is a distinguished colour in media during election period. There are certain media that represent better some political parties, because they are close to them. Media gain some benefits, be it government or businesses that gain tenders from state. Those media continue to provide privilege for political parties that run the country.”⁶³

The Independent Media Commission (IMC) monitors audio-visual media during election campaigns. It’s an obligation not only for the Public broadcaster but also an obligation for private televisions to give equal timing to all political parties. The IMC monitored the media during the last parliamentary elections held on June 2014.⁶⁴ In general, the report states that 20 monitored TV stations acted on the whole correctly and in an unbiased way during the election campaign. The monitoring included news coverage, debates, interviews and campaign advertising. No children were spotted in advertising. The TV debates offered equal timing for all political party candidates.

Undisclosable support during elections perhaps is the weak link which has the potential to impact a wide section of the population. Whereas the benefits are enjoyed at a later stage through benefits and favours granted. Whilst at present there is no precedent in supporting a particular party, especially in the written press, this is a matter that requires further analysis and discussion among the media community in order to shed light on the close relationships that are struck, yet benefits are not apparent straight away to voters. This is because voters are not being given the full picture, may be influenced in an election and may well feel duped and any media outlet taking part in such practices would not be fulfilling its role in imparting information impartially.

61 RTK, *The Professional Standards and Principles of Journalistic Ethics in the Programs of RTK* http://www.rtklive.com/new/en/etc/RTK_Professional_Standards.pdf

62 Law No.03/L-073 on general elections in the Republic of Kosovo, Chapter VIII, Accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2722>

63 Kreshnik Gashi, *journalist, interview held on May 4th, 2016.*

64 <http://kpm-ks.org/?mod=dokumentet&faqja=19&gjuha=1>

A.4 Is freedom of journalists' work and association guaranteed and implemented in practice?

A positive aspect of the current legal framework is that journalists in Kosovo do not have to be licensed by the state authorities in order to start their career in journalism. After graduation in university, the young journalists seek internships which are usually found at bigger media houses. Journalists said that usually there is no agreement in place between interns and media owners. Few cases are reported that interns receive an income, although this tends to be very low. "I don't know how fair is to keep interns for six or eight months and get no payment for that at all. In the end, it remains unknown whether they will get a job. Or some, when they are hired, they get paid for 150 euro."⁶⁵ As students may be at risk of exploitation, especially if kept as an intern for an indefinite basis, expected to contribute like any other employee and without any employee benefits such as being paid, the Work Inspectorate should be more vigilant to ensure that such cases are being investigated.

Journalists are generally permitted access to report. However, some journalists from time to time have experienced difficulties or restrictions in gaining access without justifiable reasons. One journalist noted that accreditations issued by the authorities tend to isolate journalists to follow only a certain state institution. "In one case, I was not allowed to enter inside Kosovo's Assembly because my accreditation had expired. I think there should not be accreditations at all. Every journalist should have equal access to state institutions."⁶⁶

Out of the total number of interviewed journalists (23 respondents out of 50 were not eligible to answer this question due to less than five years of experience in journalism), 61% responded that they had been refused to report from certain places or events on the ground of not having accreditation or they've been refused because of previous criticism to respective authorities.

Table 2. Have you ever been refused to report from certain places or events on the ground of not having an accreditation issued by the authorities or on other ground?

	Total
Yes	16
No	10
Don't know	1
Refused	0
Grand total	27

Over the past years, few cases are reported from journalists from being refused for interviews or any information from state institutions in revenge for their previous critical reporting. The last case was reported to the AJK on April 2016 by Saranda Ramaj from Koha Ditore newspaper, who was not allowed by the head of Kosovo's Medicines Agency, Jeton Shala, to report on the day Prime Minister Isa Mustafa was visiting the agency.⁶⁷ Ramaj had previously written several articles about the wrongdoings in the medicines agency led by Shala.

The AJK also condemned the actions of the Kosovo's Football Federation for refusing for many months to give any information to sports journalist of daily newspaper "Zeri".⁶⁸ The association has also reacted against the decision of the Suhareke mayor, Sali Asllanaj, refusing the entrance of two journalists at the end of the annual conference.

On the whole, there could be an increase in transparency from public institutions towards journalists and media. For a number of years, the Office of the Prime Minister has chosen not to have a spokesperson or it engages one who is a Minister. Additionally, Prime Ministers have engaged with social media to provide updates. Whilst on the one hand the use of social media provides a more instantaneous method of communication, for the purpose of imparting information it does not do this satisfactorily. Using such methods, including not have a professional spokesperson, including the lack of regular briefings being held for the press, contributes to a lack of transparency and stops actions of the government, including policies, from being effectively scrutinized.

Journalists are organised in a professional organisation. They are free to conduct activities and there is no pressure exercised. The freedom of association is guaran-

⁶⁵ Taulant Qenaj, journalist, interview held on April 29th, 2016

⁶⁶ Kreshnik Gashi, journalist, interview held on May 5th, 2016

⁶⁷ Koha Ditore, "AGK: Pengimi i gazetares së "Kohës Ditore", ngufatje e lirisë së shprehjes (AJK: Obstructed journalist of "Koha Ditore", suffocating freedom of expression). Koha Ditore, April 12, 2016. Accessed on August 8, 2016: <http://koha.net/?id=27&l=107866>

⁶⁸ Zeri, "JAK reacts against the access of football federation towards Zeri newspaper., (AGK reagon ndaj qasjes së Federatës së Futbollit karshi gazetës "Zeri"). November 5, 2015. Accessed on October 27, 2016: <http://217172.190.248/sport/60282/agk-reagon-ndaj-qasjes-se-federates-se-futbollit-karshi-gazetes-zeri/>

teed in the country's Constitution which includes rights for everyone to establish an organisation without obtaining permissions.⁶⁹ The AJK is one of the main organisations which represents and defends the rights of journalists in Kosovo. There is also an association of independent broadcast media of Kosovo (AMPEK) that represents private broadcasters.⁷⁰

Earlier this year, the AJK held its assembly and elected the new president of the association and new members of the board. For some years, the association had faced many challenges and problems in regard to its organisational functionality. In May 2014, the association held an extraordinary assembly after widespread dissatisfaction from the journalist community with the then president of the association. This was an important opportunity for the AJK to consider a number of changes, including its statute and reconsidering the mandate of the nine board members, including the president, from two to three years. The AJK enjoys wide membership and has an important role to play in representing journalists and developing standards with more than 400 members registered in its database.

Following internal reorganisation, the association has been involved in debates related to media legislation and active in preserving journalist's rights. Back in 2012, the association demanded from the government to remove three controversial articles in the draft criminal code, in particular the removal of articles that maintained defamation as a criminal offence and permitted disclosure of source. Its efforts in uniting journalists were successful and resulted in the adoption of changes campaigned for.⁷¹

The association has also organised several public events. On October 2014, the association invited journalists and media representatives, civil society and citizens to protest in the city's main square. The aim of the protest was to raise public awareness regarding violence against journalists, in particular it drew attention to one case where a journalist was stabbed in his workplace .

The Association in recent years has also organized events to draw attention to issues occurring on the international and national stage. One of the events organized was in aid of "Je suis Charlie"⁷². The association organised a public event in solidarity to killed journalists by a terrorist attack at the offices of French satirical magazine "Charlie Hebdo" and this was relevant to the context of Kosovo due to developments in relation to extrem-

ism and the impact this may have on communities and freedom of expression in the future. In light of the fragile environment that exists at times for journalists, the AJK has also viewed it necessary to organize events to raise awareness such as the "Speak Up, Don't be Afraid" public event marking the World Day Freedom Day.

At times, the AJK has also seen it necessary to organize more direct action, such as organizing a protest in front of the Kosovo government building related to threats against journalist Vehbi Kajtazi who reported to the association to have received a threat by Prime Minister Isa Mustafa. Kajtazi said he had a received a phone call, through Viber, by PM Mustafa after he published a story that was related to the PM's brother. The story was related to the 2015 mass migration from Kosovo to western European countries, in which he reported that the PM's brother was one of the many Kosovars seeking asylum in Germany. The PM Mustafa used offensive language towards Kajtazi and threatened him. Kajtazi reported the case to police.⁷³

During 2016, the AJK condemned the request of the Turkish Embassy in Prishtina made to Kosovo authorities to take legal actions against journalist Berat Buzhala who criticised Turkish President Recep Tayyip Erdogan on social media. On July 15th, during the coup in Turkey, Buzhala wrote on Facebook a satirical comment calling on all Kosovars who are holidaying in Turkey to align with the army.⁷⁴ The comment was signed with an Internet emoticon with a tongue protruding. The Turkish ambassador to Kosovo sent a note to Kosovo's Foreign Ministry seeking legal action is taken against Buzhala. The ambassador's note mentioned the newly-adopted law in Kosovo which forbids citizens to join foreign armed conflicts. The association requested an apology from the Turkish Embassy in Prishtina as well as the ambassador's dismissal from Kosovo, on the basis that the satirical comment was within the confines of freedom of expression, it did not relate to an offence and it was most unusual for an ambassador to make such calls of local authorities. Kosovo's Foreign Minister, Enver Hoxhaj said that the note of Turkish Embassy to Kosovo is unacceptable and unusual.

The AJK believes that it is important to build on its successes and strengthen its capacities so that it is better prepared to react to an ever changing environment, which is not always progressive for journalists.

69 Constitution of the Republic of Kosova, Article 42

70 Accessible at: <http://ampek.org/>

71 Accessible at: <http://kallxo.com/gjnk/largohen-nenet-37-e-38-nga-kodi-penal/>

72 Group of authors, "Paris Terror Attack Victims Mourned in Balkans." *Balkan Insight*, January 8 2015. Accessed on October 21, 2016

73 Erjone Popova, "Kosovo Journalists Denounce PM's Alleged Threats"; *Balkan Insight*, March 22, 2016. Accessed August 4, 2016: <http://www.balkaninsight.com/en/article/kosovo-journalists-protest-against-prime-minister-s-threats-03-22-2016>

74 Taulant Osmani, "Journalists condemn Turkey's request to punish Kosovo journalist over coup comments"; *Prishtina Insight*, July 7, 2016. Accessed August 4, 2016: <http://prishtinainsight.com/journalists-condemn-turkeys-request-punish-kosovo-journalist-coup-comments/>

This includes working with other journalist associations. The association joined two journalists' federations, the European Federation of Journalists⁷⁵ and the International Federation of Journalists.⁷⁶

The guarantees for freedom of an association for employees and employers are provided by the Constitution and labour law. The latter states that the freedom is guaranteed without any interference from any other organisation or public body.⁷⁷ In addition, there is a special law that regulates the rights and freedom of trade unions in private and public sectors.⁷⁸ To date, in Kosovo there is no trade union for the interests of journalists. However, there are other trade unions for employees within the public broadcaster, such as the Independent Syndicate of the RTK (SPRTK) and the Syndicate of Employees of the RTK.

The SPRTK, as the oldest union at the RTK, organised several protests over the last years⁷⁹ against the management for wrongdoing and nepotism. Further, newsroom editors and journalist's organised a protest against the dismissal of the union's president and vice-president by RTK management. Both leaders returned to their positions.

The unions have also urged an investigation into the spending of the RTK budget by the management. On May 2016, the vice president of the union, Arsim Halili, who is also an editor, has been sacked from his job as editor, the second time within a short period of time, due to Halili's status on the social media network Facebook. The director general requested the immediate suspension of Halili because of offensive remarks he had made on social media against the LGBT community. Some have seen this as revenge against Halili's union activism. In April 2015, the management dismissed both Halili and the president of the Union, Fadil Hoxha, for allegedly violating the editorial policies. Few days later, the labour inspection ordered the return of Halili and Hoxha to their working places.

Despite the existing legal framework providing for union rights, it is evident that this is not fully enjoyed within the private sector. The current economic environment, which has a direct impact on media outlets, leaves journalists in the private sector exposed, as they do not have much bargaining power. At the same time, the poor implementation of the labour law contributes to the status quo. The AJK, as well as the unions, should continue to engage in this area so that better implementation can be secured in the future and union rights can be enjoyed by all.

The PCK has been established in 2005 and there are 20 members from print and online media. One of the criteria to meet for membership at the PCK is that the media has to present ownership data.⁸⁰ To date it has built a reputation in dealing with complaints from individuals or organisations, although it can further increase awareness about its role enabling more members of the public to seek redress.

75 *Koha Ditore*, "Journalists' Association joins European Federation of Journalists." *Koha Ditore*, June 8, 2016. Accessed on October 10, 2016: <http://koha.net/?id=1&l=102745>

76 *Kosova Press*, "Journalists Association of Kosovo joins International Federation of Journalists." (*Asociacioni i Gazetarëve të Kosovës është anëtarësuar në Federatën Ndërkombëtare të Gazetarëve*) *Kosova Press*, June 8, 2016. Accessed on: October 10, 2016: <http://www.kosovapress.com/sq/lajme/agk-pranohet-ne-federaten-nderkombetare-te-gazetarëve-75202/>

77 *Law No.03/L-212 on Labour*, Article 88

78 *Law No.04/L-011 for organizing trade union in Kosovo*

79 *Koha Ditore*, "Syndicate warns for nepotism in RTK." (*Sindikata tërheq vërejtjen për nepotizëm në RTK*). *Koha Ditore*, August 14, 2014. Accessed on October 14, 2014: <http://koha.net/?id=27&l=21548>

80 *The statute of the Press Council of Kosovo, Press Council of Kosovo*, Last modified October 23, 2016

A.5 What is the level of legal protection of the journalists' sources?

Another more recent development is the adoption of the Law on Protection of Journalism Sources.⁸¹ It contains only ten articles and it is applied to journalists and other media professionals that are engaged in the collection, processing and dissemination of information through the media. According to the law, journalists and media professionals have the right to remain in silence regarding their sources of information. Journalists are obliged to reveal the source of information only by the order of the court when necessary to prevent serious threat that would lead to the death of one or more persons.

Further, the law prohibits the search of houses, buildings of media companies, and other property of media such as cars or homes of journalists, if any measure of investigation that intends to identify the source of information. This is an important development because initially the matter of sources was to be addressed through the Criminal Code. However, with a number of protests relating to unjustifiable restrictions on media content relating to sources was eliminated, which would be to the detriment of journalists.

The Criminal Code was one of the key pieces of legislation with regard to protection of journalist sources. Its amendment took place in 2012 and it was being drafted by the Ministry of Justice. However, as it was due to maintain criminalization of defamation and had especially definitions as to who could face criminal sanction, the journalist community and civil society joined together and campaigned for those three articles in the code to be amended as they compromised freedom of media and safety of journalists.

In particular the community was against the article 37 that continued to provide sanctions for defamation and article 38 about the disclosure of source of information in cases of criminal proceedings.⁸² Following a successful campaign the lawmakers changed the articles thus decriminalising defamation as well as removing those sections relating to protection of journalist sources. The complete removal of protection of sources from the Criminal Code left this matter somewhat unregulated. However, this vacuum was supplemented when

the Kosovo's Parliament has adopted the Law on the Protection of Journalism Sources⁸³. This law is aimed at enforcing further the journalist's safety, confidentiality of sources and media environment in general. The journalist is obliged to reveal the source, only at the request of a competent court, and only if the "revelation of the identity of the source of information is necessary to prevent a serious threat to physical integrity which could lead to the death of one or more persons"⁸⁴.

The real test of the current law will be when requests by authorities for disclosure is made through proper channels and in cases where journalists are in a position to require the courts to scrutiny whether disclosure would be permissible. In light of the delays that continue to be present in the justice system, it is doubtful that such guidance may be provided in the future.

At the same time it is not the case that requests for disclosure have not already been made. During in-depth interviews, sporadic cases were mentioned when journalists were pressured to reveal their sources, without court order. Concrete examples show that the confidentiality of journalists' sources of information is not respected.

One of the cases is that, Faton Shoshi,⁸⁵ owner of online media "Indeksonline", it is alleged was contacted by a senior official from Kosovo's Intelligence Agency (KIA), Valon Salihu, who allegedly threatened Shoshi after he published an article related to KIA's director. Shoshi claims he was pressured by Salihu to meet the director of the KIA. The meeting did not take place after the KIA official noted that he was followed by Shoshi's colleagues. The journalists reported the case to the police. In August 2014, prosecution in Prishtina issued an indictment against Salihu and in June 2015, a trial session was cancelled by the judge due to the absence of the respondent.

In another case, Astrit Gashi, journalist of the "Blic" portal, it is alleged was threatened through telephone by the director of the Financial Investigation Unit (FIU)⁸⁶, Dardan Nuhiu, after the portal published a leaked confidential document of the FIU. It is alleged that Nuhiu threatened Gashi by allegedly telling him of consequences that would follow the publication.

81 Law No. 04/L-137 on the Protection of Journalism Sources

82 Koha Ditore, "Everyone against articles 37 and 38." ("Të gjithë" kundër neneve 37 dhe 38 të Kodit Penal). Koha Ditore, June 23, 2012. Accessed on October 10, 2016: <http://koha.net/?id=8&arkiva=1&l=104515>

83 The Law No.04/L-137 on the Protection of Journalism Sources

84 Ibid, Article 5

85 Telegrafi, "Shoshi: AKI tried to kidnap me." (Shoshi: AKI tentoi të më kidnapoj), Telegrafi.com, December 4, 2013. Accessed on October 10, 2016: <http://www.telegrafi.com/shoshi-aki-tentoi-te-me-kidnapoi/>

86 Kosova Press, "AGK kërkon të nisin procedurat disiplinore kundër Dardan Nuhiut (AJK demand to start disciplinary procedures against Dardan Nuhiu), April 4, 2016. Accessed on August 5, 2016: <http://www.kosovapress.com/sq/lajme/agk-kerkon-per-gegjiesi-nga-nuhiu-per-kercenimin-ndaj-gashit-39641/>

Journalists believe that the police officers and other state institutions need training for better understanding of this and other laws related to journalists rights in general. “In this aspect, there is a lack of self-awareness of police, prosecution and other institutions. They are not allowed to ask the journalist for the source”.⁸⁷ In light of the recent developments that have taken place, training may be a useful tool to discuss these changes and bring to the attention of duty bearers their obligation. In addition, it may be necessary to have processes in place within various institutions so that any requests made are done so officially and could stand scrutiny limiting the impact of pressure from particular institutions, if that was to be their approach in dealing with sources. The courts would have a key role in indicating access, availability and ability to deal with such cases promptly.

At the same time most of the journalists interviewed through the survey responded that they feel free to maintain contacts with sources of information while reporting on matters of public interest.

Most of the surveyed journalists responded that they feel free to maintain contacts with sources of information while reporting on matters of public interest. The surveyed journalists (44.4 %) said that the interaction with sources whose professional identity has to be respected has somewhat increased. (23 respondents out of 50 were not eligible to answer this question due to less than five years of experience in journalism).

Table 3. Interactions of journalists with sources whose professional confidentiality has to be respected.

	Total
Increased a lot	7
Somewhat increased	12
Did not change	7
Somewhat decreased	0
Decreased a lot	0
Don't know	1
Refused	0
Grand total	27

87 Flutura Kusari, media law expert, interview held on April 26th, 2016

A.6 What is the level of protection of the right to access information?

The Law on Access to Official Documents was adopted in 2010 which abolished the 2007 law based on a 2003 regulation promulgated by the Provisional Institutions of Self-government in Kosovo, under supervision of United Nations mission in Kosovo, UNMIK.⁸⁸ The latest amendments to the law have made important changes including shortening some deadlines for state institutions to respond to requests for information from 15 days to 7 days.

In addition, in 2012, Kosovo's government issued a regulation on official evidence of requests for access to public documents.⁸⁹ The regulation demands from all state institutions to track all request for access to public documents and deliver the report to the Prime Minister's office to issue an annual report. Another regulation was approved in 2012 which deals with fees for requests on access to public documents.⁹⁰ There are several fees to be paid in respect of requests to cover expenses to produce documents and copies. There are limited exemptions from fees including if information is sent electronically or the information can be provided in a limited number of pages.

As this piece of legislation is an important one for journalists, they dominate in requests that are made to public institution but they complain for lack of access to public documents by state authorities that are relevant for their reporting.⁹¹ Similar concerns are expressed by the relevant international organisations.⁹²

“There is an ongoing tendency from central and local government to remain closed towards the public and media too. There is a law on access to public documents, but we journalists are deprived not only access to documents but they do not provide a minimum of information.”⁹³

When access to documents is denied, the requester may file a complaint to the Ombudsman office. However, only two complaints are filed at the Ombudsman during

88 Law No. 03/L-215 on Access to Public Documents
 89 Regulation No. 04/2012 on official evidence of requests for access to public documents
 90 Regulation No. 02/2012/MF on fees on access to public documents
 91 In-depth interviews with 11 journalists and two media experts
 92 European Commission, Progress Report Kosovo 2015, http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_kosovo.pdf
 93 Anonymous journalist, interview held on April 26th, 2016

Table 4. How much transparency is demonstrated by the following institutions?

	The parliament of Kosovo		The government of Kosovo		Political parties		Politicians in general		The judiciary/ the courts		The police		The military	
	Nr	%	Nr	%	Nr	%	Nr	%	Nr	%	Nr	%	Nr	%
complete transparency	2	7.41	2	7.41	0	0.00	1	3.70	0	0.00	1	3.70	2	7.41
a great deal of transparency	6	22.22	0	0.00	2	7.42	1	3.70	1	3.70	6	22.22	5	18.52
some transparency	12	44.44	11	40.74	6	22.22	5	18.53	13	48.15	13	48.16	10	37.04
little transparency	5	18.53	10	37.04	12	44.44	10	37.04	10	37.04	4	14.81	3	11.11
no transparency at all	1	3.70	3	11.11	6	22.22	9	33.33	2	7.41	2	7.41	3	11.11
Don't know	1	3.70	1	3.70	1	3.70	1	3.70	1	3.70	1	3.70	3	11.11
Refused	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1	3.70
TOTAL	27		27		27		27		27		27		27	

two years, 2008 and 2009⁹⁴, and 33 during 2015 with only 23 being admissible.⁹⁵ All ministries have appointed officials to deal with requests.

Journalists stated that government, political parties and the courts demonstrate little transparency. 77.78 per cent of journalists said that Kosovo government shows some or little transparency. Similar situation is with the judiciary – 85.19 percent of journalists said that courts show some or little transparency while no one said that the courts show complete transparency.

The Parliament of Kosovo is considered to be more transparent than other institutions. 22.22 percent of journalists said the parliament shows a great deal of transparency, whilst 7.41 per cent said parliament shows complete transparency.

The office of Prime Minister collects all data and issues an annual report. The 2015 report states that 1,960 out of 2,132 requests (or 91%) of all requests are granted to access to public documents.⁹⁶ The report states that 116 requests are refused and 56 requests allowed limited access.

Journalists made the largest number of requests to state institutions with 34% followed by individuals with 23%. The office of Prime Minister, ministries and other subordinate agencies received a total of 887 requests (41%). During 2015, more than half, namely 54.61 percent, of the requests for access to documents submitted to the Government of the Republic of Kosovo were for docu-

ments containing statistics, 17.30 percent were related to documents containing budgetary or expenditure data, whereas 12.02 percent of the requests were related decisions rendered. The requests submitted to government of Kosovo seek access to statistics, expenditure data and decisions.

Many journalists' said that it is the government and the ministries that do not usually reply in their requests for access to official documents. "The Kosovo Assembly is open to some stage. But, the government that has to implement the laws, is closed and it will not allow access to public documents. In some cases they are very late with replies, sometimes it takes months."⁹⁷

An interviewed journalist stated that the law should include a mechanism that would put pressure on those state institutions that do not deliver access to official documents and some of the legal experts provide additional argumentation for that.

"The Law on Access to Official Documents should define responsibility. As it is for the moment, it remains in the will of an official if he or she will provide the document. If we deal with a sensitive document that could expose wrongdoing or a misuse, the official will not deliver it."⁹⁸

One journalist said that the Law on Access to Official Documents lacks the qualification and classification of official documents which presents a major problem for the state institutions when dealing with formal requests. In one instance, Foreign Ministry delayed access for three months⁹⁹.

94 GAP, *Access to Public Documents, Parliamentary Research Series*, Prishtina: 2010, p.6. Accessed on October 10, 2016: http://www.institutigap.org/documents/65564_AccessDocuments.pdf

95 Ombudsperson Institution in Kosovo, *Annual Report 2015*, Prishtina: 2016: p.37 accessed on 23 October 2014: http://www.ombudspersonkosovo.org/repository/docs/Raport_Vjetor_2015_IAP_FINAL_351292.pdf

96 http://www.kryeministri-ks.net/repository/docs/2015_ANG.pdf

97 Anonymous journalist, interview held on May 3rd, 2016.

98 Ibid 20

99 Ibid 10

In 2014, the Balkans Investigative Reporting Network (BIRN) reported that Kosovo's institutions have replied up to 40 per cent of some 125 requests for access to public documents.¹⁰⁰ The requests were sent to the Office of the Prime Minister and various ministries, President's office and to the board of the Privatisation Agency. The report states that none of the requests could expose national security, state secrets or any ongoing investigations.

It is also the case that the law does not foresee any sanctions but it provides the right to a party requesting information to file a complaint at a competent court. Litigation may take time and be costly, however, changes in attitudes and work practices may only take place if precedents are achieved. For any refusals, journalists should engage in the first instance the Ombudsperson Institution. However, bearing in mind that only 23 complaints were accepted by the Ombudsperson in 2016, it is doubtful that this has become standard practice amongst journalists. Whilst it is to be accepted that making any complaint whether in a contentious or non-contentious forum can be time consuming, better implementation can only be established if all parties are willing to engage with the process.

An example of the positive impact that engaging with remedies can have is BIRN's litigation. It has won two legal battles with one against the Kosovo's Prime Minister's office and the second one against the Prosecutorial Council. In October 2015, a Prishtina court ruled that PM office must disclose expenses to the public.¹⁰¹ The request for public documents from the PM's office related to foreign travel expenses of the former Kosovo PM Hashim Thaci, who now serves as the country's President. The request with same information was also sent to six deputy prime ministers and four deputy ministers of the current Mustafa government. The PM's office had denied access to such information arguing that invoices for food and drinks could reveal religious and dietary information about individuals. However, the court disagreed and ordered that such information was in the public interest and should be disclosed.

The second legal case involved the Kosovo's Prosecutorial Council which rejected BIRN's request to access to public documents related to the Councils' disciplinary decisions.¹⁰² Prishtina court ruled that the Prosecutorial Council should disclose documents related to disciplinary measures taken against prosecutors for misconduct.

The data collected through the survey indicate that persistence is necessary in order to bring about change. 78% of the respondents in the survey confirmed that the institutions refused to provide them with the requested documents. The respondents stated that the requested documents to state institutions were necessary for their reporting. (23 respondents out of 50 were not eligible to answer this question due to less than five years of experience in journalism).

Table 5. Have you ever been refused by public authorities to get access to public information necessary for your reporting?

	Total
have never required access to public information	2
I have required access to public information but I have never been refused	3
I have required access to public information and I have been refused	21
Don't know	0
Refused	1
Total	27

¹⁰⁰ BIRN, *Report on Access to Public Documents 2013-2014, Prishtina:2013*. Accessed on August 6, 2016: http://www.drejtisianekosove.com/repository/docs/report_on_access_to_public_documents_2013-2014_824655.pdf

¹⁰¹ <http://www.balkaninsight.com/en/article/birn-wins-legal-case-against-kosovo-pm-s-office-10-29-2015>

¹⁰² <http://www.balkaninsight.com/en/article/birn-legal-victories-set-precedent-for-transparency-07-19-2016>

B

Journalists' position in the newsrooms, professional ethics and level of censorship

B.1 Is economic position of journalists abused to restrict their freedom?

The poor economic situation in Kosovo has had its negative effects on media as well. The biggest problem for media in Kosovo remains their financial sustainability, because the majority of media organisations depend on marketing income.¹⁰³ During the interviews, journalists stated that the lack of working contracts is one of the main methods used by media owners to pressure them: Problem number one is the lack of working contracts. A big part of journalists work without contracts. The journalists feel insecure because they can lose their jobs during the day.”¹⁰⁴

As this document is the basis of the working relationship, this can create a number of problems including insecurity and lack of protection in relation to treatment in the workplace, wages not being paid on time or being withheld, holiday entitlements not being recognised, lack of pension rights, among others. Not having a basic document means that other matters such as a benefits package is not even considered. For example, journalists are highly unlikely to have any sort of health insurance or social protection such as

¹⁰³ OSCE, *Freedom of Media and Safety of Journalists in Kosovo*, Pristina:2009, p.15. Accessed on October 10, 2016: <https://www.osce.org/kosovo/122390?download=true>

¹⁰⁴ Besnik Boletini, journalist, interviewed on April 27th, 2016

sick pay. Another concern was raised by journalists stating that they also face financial challenges, in particular when their salaries are paid late.

“There are journalists that are owed up to 15 months. Usually, the journalist’s do not leave from there. The owners do not have any legal responsibilities towards them because there are no regular working contracts in place. This way, the journalists are impeded to justice because they cannot prove that they have worked there.”¹⁰⁵

The situation is different with the public media, both TV and radio, in which the journalists receive competitive salaries and are entitled to health insurance too. Almost all private media outlets do not offer health insurance to employees. In Kosovo there is no official statistics about salaries in media. According to the survey conducted with journalists and editors, almost half of the journalist’s stated that their monthly salaries range from 200 to 500 euros. While salaries for editor’s range from 600 to 900 euros.

Table 6. In which of the following categories does your monthly salary fall, after taxes?

	Total
0-200 (Euro)	2
200-300	8
300-400	7
400-500	9
500-600	3
600-700	8
700-800	1
800-900	2
900-1000	1
More than 1000	0
I don't know	2
Refused	7
Total	50

Recently, the Executive Agency of Labour Inspection (EALI), supported by the Kosovo Journalist Association, carried out a two-month inspection in media outlets to check the working contracts of the employees and the safety and health at work.¹⁰⁶ During May and June, inspectors visited 34 media outlets in Prishtina region, which involved 1.896 employees. The inspectors have found out that 153 employees were working for a long

time with specific contracts and not permanent ones, while 21 employees lacked any contracts.

Moreover, in 649 cases media organisations have not compensated the overtime of their employees, the night shift was not paid in 83 cases, maternity leave was not paid in one case and in 26 cases employees were not compensated who worked on national holidays. The inspectors also found four cases related to persons with disabilities in which their rights were not respected. With regard to health and safety at work, inspectors found 782 employees had no medical checks, whilst nine companies lacked the emergency plan.

In the end of the inspection, EALI is thought to have sanctioned three media houses for violation of the labour law after they failed to respond to inspections demands. However, it is not clear what further action if any EALI took with regards to the number of violations that it found amongst media outlets, with many striking at the heart of the Labour Law. Post inspections the AJK followed up with EALI twice through official correspondence requesting its report on its findings but this request was refused

In the first instance, the AJK had asked from the inspector in chief that according to the law on access to public documents to deliver to the AJK the report where all cases of violations were found. AJK challenged this, which was subsequently refused. The Inspectorate did provide some information in the end but this was restricted to statistical data. It is not clear as to why the information provided was restricted in this way especially because it would be in the public interest to know the outcome of their investigation. However, if the EALI did not follow this up with enforcement action, which it is not believed that it did then its approach here is not so much serving the public interest as oppose to protecting the identity of those employers who flagrantly violate the law, yet do not face enforcement action even when investigated by regulators.

During the survey with journalists, 27 respondents (23 respondents out of 50 were not eligible to answer this question due to less than five years of experience in journalism) answered the question whether there has been an increase or a decrease of their economic position. Almost half of them (13 or 48%) said that there was no change which means that the situation is equally bad as previously, 9 (33%) answered for ‘somewhat decreased’, while 3 journalists (11%) answered ‘somewhat increased’. One journalist rated the option ‘increased a lot’, and one journalist said there was a ‘lot of decrease’.

¹⁰⁵ Besnik Boletini, journalist, interviewed on April 27, 2016

¹⁰⁶ Haxhijaj Alberina, “Gjobiten Tri Media” (Three Media Fined), Kallxo, July 9, 2016. Accessed on July 28, 2016: <http://kallxo.com/gjobiten-tri-media/>

Table 7. Average working hours of journalists (left) and the economic position of the journalist.

Orët mesatare të punës së gazetarëve	Totali	Pozita ekonomike e gazetarëve	Totali
Rritur shumë	1	Rritur shumë	1
Rritur disi	9	Rritur disi	3
Nuk ka ndryshuar	9	Nuk ka ndryshuar	13
Ulur disi	5	Ulur disi	9
Ulur shumë	1	Ulur shumë	1
Nuk e di	2	Nuk e di	0
Refuzoj	0	Refuzoj	0
Gjithsej	27	Gjithsej	27

B.2 What is the level of editorial independence from media owners and managing bodies?

Bigger media outlets have internal organisational structures that keep the newsrooms separate from managers and marketing departments, but independence is still questionable, because occasionally managers and owners attempt to influence the newsrooms in order to silence critical attitudes against the companies that publish their advertisements in their media outlets.¹⁰⁷

“Media in Kosovo close down because of the lack of finances. I have worked in several newsrooms and there is a physical separation between newsrooms and managers. But, you can hardly find one media outlet that keeps newsrooms independent. Owners and managers always interfere.”¹⁰⁸

Smaller media newsrooms that have two to three journalists do not have separate newsrooms from managers and marketing departments. Smaller media outlets, particularly online media, have small offices with newsrooms consisting of two to three journalist.

“This is something that can really hardly be separated. Media today are led by individuals that do almost everything, and those individuals are in fact the managers. There is a centralised power of managers that confuses the business with professional reporting. This separation can happen when there is a financial sustainability of media.”¹⁰⁹

As this is a purely internal matter, it can be difficult to examine. The trend seems to be that those organisations that are bigger with a formal structure and are more likely to be better financed, may have the necessary controls in place to maintain independence. With smaller outlets including online portals, which depend on marketing income to operate, establishing a formal structure may be difficult to non-existent, which in part makes it much more difficult to ensure independence.

There are few media outlets that have adopted internal codes of ethics. Others comply with the general code of ethics adopted by the Press Council of Kosovo for print media. Private broadcasters comply with the general code of ethics of the Independent Media Commission.

¹⁰⁷ Freedom House, *Freedom of the press 2015*, Accessed on October 10, 2016: <https://freedomhouse.org/report/freedom-press/2015/kosovo>

¹⁰⁸ Anonymous journalist, interview held on April 26th, 2016

¹⁰⁹ Betim Musliu, journalist, interview held on April 29th, 2016

“I have worked in several media and there were no specific internal rules except they had only the codes that are compiled by the Council’s. But there are no internal rules except they tell what time to come to work and what time you have to leave. There is no investment by media and this should happen.”¹¹⁰

Reliance on the PCK’s Code of Ethics as a starting point can be an important step to establish better ethics in journalism. This in turn may persuade media outlets to subject themselves to the self-regulatory model especially in the case of online media and over time this can contribute towards improvement of ethics in journalism. This is partly because the experience of PCK may over time become internalized within media outlets, as members of PCK they may have to engage with the PCK and complaints that are made relating to the Code of Ethics. At present, whilst the focus may be on external documents, engaging in this process over time may result in improvements from within.

Within the private sector, the lack of working contracts and delays of salaries are the main reasons for the journalists in Kosovo to feel insecure and dependent from media owners. This leads to self-censorship which is one of the biggest problems in Kosovo journalism. Late payments of salaries are also another form of indirect pressure over the journalists. Delays are caused up to several months. Sometimes salaries are not paid in full amount.

“Interferences, lack of contracts, lack of payments are some of the internal pressures against journalists. There is this system in newsroom when they say that they have to run after advertisement because there is no money. And they say you cannot write about this company or another. This situation brings very often a self-censorship.”¹¹¹

Desk research as part of this project shows dozens of news portals that do not disclose ownership data and article by-lines do not include the name of the journalist. During in-depth interviews with journalists, many of them stated that news portals without ownership and editorial team data are behind political agendas. “All political parties have their own portals just to have the chance to attack each other in public. Maybe they (portals) are not known this way to public but the circle of journalists know that almost every political party has a portal.”¹¹²

Some journalists claim that such portals misuse freedom of speech and violate the code of ethics and as such, persons being attacked by articles, have no chance to react or to complain. “There are dozens of portals that have no emails and no contacts at all. If I am attacked, for example, where should I address my concern? Having this in mind, that you have no possibility to contact them, it means that they (portals) have a certain purpose and do not give any responsibility to anyone.”¹¹³

Opinions are divided about the recent emergence of portals in Kosovo media. Some journalists opined that news portals should have their own self-regulatory body that would be in a better position to supervise the overall work of portals. “Portals should have their own house. The future is towards the portals, the internet today is everything, there are web TVs everywhere in portals. The regulation of such portals should be done in a particular way, through an independent association.”¹¹⁴

110 Ibid 96

111 Besnik Boletini, journalist at NGO COHU, interviewed on April 27th, 2016

112 Anonymous journalist, interview held on May 3rd, 2016

113 Besnik Boletini, journalist, interviewed on April 27th, 2016

114 Betim Musliu, journalist, interview held on April 29th, 2016

B.3 What is the level of editorial independence of the journalists in the PBS?

PBS has its own code of conduct named “Professional standards and ethical principles in programs of RTK”.¹¹⁵ However, majority of the interviewed journalists claim that the code is poorly implemented in practice by RTK’s journalists and this is due to active political interference directly at editorial policy. One journalist commented: “I have studied the RTK’s internal rules and the code of conduct and I consider it contains advanced standards. Unfortunately, those are not implemented by journalists and the reason is simple. It’s the impact of politics at public broadcaster.”¹¹⁶ Another journalist also said: “RTK does not have independence. There are editors that are servants to politicians. There was a case when an editor sent an SMS which said: “Chief did you like the story”.”¹¹⁷

Despite having internal standards, the management of the Radio and Television of Kosovo (RTK) has been publicly criticised many times for interfering in the work of editors.

“Since there is a lot of public criticism against several individuals within the RTK that interfere in editorial policy and in the work of journalists, it says that something is really wrong there. This affects the work of journalists on what should they report or not. There are many problems that appeared in public, but they were not addressed enough.”¹¹⁸

In April 2015, 60 journalists and editors wrote a public letter criticising the management and the general director for interference, censorship and mismanagement. The letter, among others, stated that the journalists and editors are forced to include government officials in news coverage while censoring the involvement of the civil society activists.¹¹⁹

“The rules to keep newsrooms independent from the management were not respected. The external factors have impacted this. It’s the politics that influence the management. In general, there are direct political pressures that are exercised towards management and editors.”¹²⁰

Within the public broadcaster, the matter of finance is a key issue of concern because the Government uses that as a leverage to influence the editorial policy of the newsroom. Reviewing the public broadcasters reporting on a daily basis, it becomes apparent that their understanding of serving the public interest by scrutinizing government policies and initiatives is somewhat different from that portrayed in other outlets. Of significance is that at times the public broadcaster risks sounding as the government’s official spokesperson filling a vacuum where one is not appointed by reporting on meetings and official visits that have taken place, without providing any substantive content as to the subject matter of such meetings or scrutinizing government policies.

115 Accessible at http://www.rtklive.com/new/en/etc/RTK_Professional_Standards.pdf

116 Betim Musliu, journalist, interview held on April 29th, 2016

117 Taulant Qenaj, journalist, interview held on April 29th, 2016

118 Kreshnik Gashi, journalist, interview held on May 4th, 2016

119 Koha Ditore, “60 redaktorë e gazetarë të RTK-së reagojnë ndaj letrës së Shalës drejtuar Reporterëve pa Kufij.” (60 editors and journalists of RTK react against the letter of Shala to Reporters Without Borders) Koha Ditore, April 12, 2015. Accessed on July 30, 2016; <http://koha.net/?id=&l=52614>

120 Anonymous journalist, interview held on April 26, 2016

B.4 What is the level of editorial independence of the journalists in the non-profit sector?

The non-profit media comply with the general Code of Ethics for print and audiovisual media. Some have internal codes of conduct.

A number of non-profit media organisations in Kosovo are funded by international media organisations, foreign governments, embassies and the European Commission and other EU institutions. There are few not-for-profit organisations, such as the Balkan Investigative Reporting Network (BIRN), Cohu and the Kosovo Law Institute that have the focus on investigative journalism. Those media cover issues such as the justice system, public spending and corruption.

The non-profit sector of media stands better in relation to finances having in mind that they function solely based on donations. This sector provides trainings for journalists aimed for higher professional standards. "The non-profit sector does provide unbiased and professional reporting. I think that it's the embassies that may have influence on them (on non-profit sector)."¹²¹ Another interviewed journalist emphasized: "There was a criticism before, I don't know if it's still going on, but there was a question raised some time ago whether the editorial policy at non-profit sector is affected by donors."¹²²

On the whole, the non-profit sector, due to the issues that it is tackling, may face more challenges including backlash in relation to the issues that it is dealing with. The non-profit sector has been smeared with allegations on questionable financing and sources. BIRN director Jeta Xharra faced a smear campaign by the daily newspaper "Infopress" with several articles. The public threats against Xharra came after her team showed a television program on alleged mismanagement in Skenderaj/Srbica municipality where Sami Lushtaku is a mayor. In June 2013, the court in Prishtina acquitted five defendants accused of staging a hate campaign in the media against Xharra.¹²³ The accused were Sami Lushtaku, mayor of Skenderaj/Srbica municipality, Rexhep Hoti, the former owner of Infopress, the former editor-in-chief, Avni Azemi, and two former journalists, Rizah Hajdari and Qani Mehmedi. Infopress published 12 articles calling Xharra

as a 'Serbian spy', a "professional bomb" and an "embassy slut" among other insults.

Some organisations have also been attacked. In the night of June 11, 2015, the Serbian language portal "Kossev", located in the northern part of Mitrovica, was attacked with gun shots by unknown person.¹²⁴ Windows and outside walls of the building where hit. Kosovo police found nine weapon shells near the office. No human injuries reported. The motive of the attack is unknown.

B.5 How much freedom do journalists have in the news production process?

Journalists in Kosovo are relatively free to select stories on a daily basis. However, interviewed journalists stated that it is up to the editorial policy of the media outlet to decide on the selection of daily news stories to be reported on and the angle of the story that should be emphasised. Journalists also see the need to develop common sense when it comes to suggesting stories. In effect this result in knowing what they can propose as a story idea based on what the owners wants to see and hear.

"I believe that there is hesitation among great number of journalists to deal with certain topics. It seems they have fully embraced the editorial policies. It's not that they are not good journalists but it seems that made peace with the idea that they cannot work on big topics because they don't have the space where to transmit the stories."¹²⁵

During the survey, journalists were asked for many factors that can influence in their daily work. They stated that it is the editors that are most influential (extremely, very or somewhat influential - 84%) in their work, while the managers (44%) and owners (42%) are less influential. On the other side, politicians in general (14%) and government officials (14%) have much less influence on the daily work of the journalists then the individuals who work in their daily environment.

On censorship, journalists (30%) stated that it has somewhat influence in their work, while 28 percent of journalists said that censorship has no influence.

¹²¹ Taulant Qenaj, journalist, interview held on April 29th, 2016

¹²² Anonymous journalist, interview held on April 26th, 2016

¹²³ Edona Peci, "Court Acquits Defendants in BIRN Kosovo Case". Balkan Insight, June 5, 2013. Accessed August 2, 2016: <http://www.balkaninsight.com/en/article/defendants-in-birn-vs-infopress-case-acquitted>

¹²⁴ Kosova Press, "Armed people attack Kossev portal headquarters in north Kosovo". Kosova Press, June 11, 2015. Accessed on August 2, 2016: <http://www.kosovapress.com/en/security/sulmohet-me-arme-seliale-portalit-kossev-ne-veri-44410/>

¹²⁵ Kreshnik Gashi, journalist, interview held on May 4th, 2016

Table 8. How much influence each of the categories has on your work?

	Extremely influential (%)	Very influential (%)	Somewhat influential (%)	Little influential (%)	Not influential (%)	Not relevant to respondent's work (%)	Don't know (%)	Refused (%)
Your personal values and beliefs	11	9	18	4	5	3	0	0
Your peers on the staff	2	8	26	9	5	0	0	0
Your editorial supervisors and higher editors	14	20	50	14	2	0	0	0
The managers of your news organization	8	6	30	36	16	2	2	0
The owners of your news organization	8	14	20	24	26	6	2	0
Editorial policy	6	21	15	5	3	0	0	0
Marketing	1	2	9	16	16	4	2	0
Profit expectations	1	1	5	11	28	3	1	0
Audience research and data	12	23	8	6	0	1	0	0
Availability of news-gathering resources	15	17	13	2	2	1	0	0
Time limits	19	19	12	0	0	0	0	0
Journalism ethics	39	9	1	0	1	0	0	0
Religious considerations	3	2	9	5	23	7	1	0
Defamation Law	16	6	14	4	7	0	2	1
Your friends, acquaintances and family	3	4	17	13	13	13	0	0
Colleagues in other media	2	1	26	10	11		0	0
Feedback from the audience	6	20	18	4	2		0	0
Competing news organizations	6	11	19	8	6		0	0
Media laws and regulation	14	25	7	2	1		1	0
Information access	22	21	7	0	0		0	0
Censorship	10	18	30	12	28		2	0
Government officials	0	4	10	24	62		0	0
Politicians	2	4	8	16	70		0	0
Pressure groups								
Business people	0	4	6	24	66		0	0
Public Relations	2	16	23	4	5		0	0
The military, police and state security	2	9	9	9	20		1	0

C.1 Safety and Impunity Statistics

There are sporadic cases of threats and attacks against journalists in Kosovo. For 2016, the AJK registered 12 cases of threats and attacks, while in 2015 the association registered 15 cases, including threats, physical attacks, intimidation and property damage.

Table 9. Statistics of threats and attacks against journalists

Years	Threats	Physical assaults	Intimidation	Property damage	Attacks with bombs/ weapons	Total
2014	5	11				16
2015	5	1	7	1	1	15
2016 (until October 24)	6	1	2	1	2	12
						43

From 2013 until August 2016, Kosovo police registered 62 cases reported by Kosovo journalists. 18 cases are still under police investigation, while police have submitted the rest to the Prishtina prosecution. The majority of cases are attributed to threats, several

cases are related to physical assaults, and damage and/or theft of property against journalists. Four cases are reported only in 2016.

During 2013, according to police statistics, 14 cases are reported by journalists, out of which 10 are related to threats. Three journalists were physically attacked. On May 1st, 2013, early in the morning, the home of Mufail Limani, editor-in-chief of RTK was attacked.¹²⁶ Police reported that a gas canister was used for the attack and the blast caused only material damage. Police named the offence as “causing general danger” and the reasons behind the attack remain unknown.

Table 9. Police statistics on attacks against journalists

Cases reported to police	2013	2014	2015	2016 (until August)	Total
Threats	10	11	10	2	33
Verbal threats					
Physical assaults	3	6	2	1	12
Property – theft and damage			12	1	13
Intimidation					
Attempted murder		1			1
Explosives, grenades used for attack	1			2	3
					62

During 2014, 18 journalists reported cases to the Kosovo police. Only four cases continue to be under police investigation, while the rest are forwarded to prosecution. The majority of them include threats. The most serious case is considered to be the case of the attempted murder against Milot Hasimja, journalist of Klan Kosova television who was attacked by a member of the public with a knife within his workplace in response to a newstory where the attacker was reported upon.¹²⁷

Another incident is that report on July 2nd, 2014 by Mefail Bajqinovci, journalist of the private broadcaster, KTV, who reported to police to have received a telephone threat from an anonymous person.¹²⁸ Bajqinovci runs a TV show which deals mainly with corruption and organized crime issues. He stated to receive the threat after his show which discussed high profile murders in Kosovo. Police investigation revealed that the call came from Dubrava prison.

A number of threats through Facebook were made during 2014 particularly against journalists that reported on Islamic radicalism and extremism in Kosovo. The journalists Visar Duriqi of Gazeta Express portal, Artan Haraqija, a freelancer, and Arbana Xharra, editor-in-chief of daily Zeri, reported death threats via Facebook. Visar Duriqi reported to police a death threat he received on August 15th, 2014 through his Facebook account.

Another attack was reported on June 22nd, 2014 where three journalists were attacked by unknown persons during a protest in Mitrovica that opposed the settlement of the barricade on the main city’s bridge that divides the two along ethnic lines. There were clashes between protestors and police. The journalists, Behar Mustafa from Balkan Investigative Reporting Network (BIRN), Faton Ismaili from Gazeta Express portal and Kajtaz Gecaj from daily newspaper Zeri were attacked by protestors. Mustafa received slight injury.¹²⁹

During 2015, according to Kosovo police data, there are 24 cases reported by journalists. Out of these cases, eight are forwarded to prosecution for further investigations. Journalists reported cases of threats and physical assaults. Idriz Morina, editor-in-chief of daily newspaper “Bota Sot” is alleged to have received death threats from Nuredin Lushtaku, an MP and former Kosovo Liberation Army (KLA) commander, related to a Morina’s comment on Lushtaku’s involvement in KLA.

Further, on June 11th, 2015, two photo-journalists, Blerim Uka of Indeks Online portal and Driton Paqarada of daily Koha Ditore, allegedly were mistreated by a police officer during an event in Mitrovica stadium. The case is still under police investigation. During this year, ten journalists reported to police for damage and theft of their property.

¹²⁶ EBU, “EBU condemns attack on editor of Kosovo Public Broadcaster”, May 3, 2013. Accessed on October 23, 2016: <https://www.ebu.ch/contents/news/2013/04/ebu-condemns-attack-on-editor-of.html>

¹²⁷ Roy Greenslade, “TV journalist in Kosovo stabbed by man angered by televised report”, *The Guardian*, October 29, 2014. Accessed on October 23, 2016: <https://www.theguardian.com/media/greenslade/2014/oct/29/journalist-safety-kosovo>

¹²⁸ Njomza Salih, “Journalist Mefail Bajqinovci threatened” (*Kercenohet Gazetari Mefail Bajqinovci*), July 2, 2014. Accessed on October 23, 2016: <http://kallxo.com/gjnk/kercenohet-gazetari-mefail-bajqinovci/>

¹²⁹ Telegrafi, “AGK condemns attacks against journalists in Mitrovica” (*AGK dënon dhunën ndaj gazetareve në Mitrovicë*), June 22, 2014. Accessed on October 23, 2016: <http://telegrafi.com/agk-denon-dhunen-ndaj-gazetareve-ne-mitrovice/>

Idriz Morina, editor-in-chief of daily newspaper Bota Sot” was threatened several times during his career, with the last one in 2015 when he was threatened by an MP. AJK condemned the threat against Morina¹³⁰, although Morina said that he was never invited for interviews by prosecution nor has any of his cases went for trial. “In one case of threat, one person was arrested but the case was not proceeded to court.”¹³¹

There are also historic cases that have not been resolved involving journalists with three cases of murdered journalists in Kosovo that happened after the war that ended in 1999, which remain unresolved. The last case of murdered journalists happened in 2005. All the cases are reported to be politically motivated and none of the perpetrators have faced justice so far.

Within the historic cases, Kosovo has also seen the shooting of journalists. Shefki Popova, a journalist of the former Albanian-daily newspaper “Rilindja” was shot dead on September 10th, 2000 near his home in Vushtrri.¹³² The motive of the killing remains unknown. Two unidentified persons were noticed running away after the shooting. At the time of his death, Popova was running in municipal elections as a candidate of Social Democratic Party of Kosovo.

Another fatality occurred on October 19th, 2001, when Bekim Kastrati, journalist of daily Bota Sot was murdered in an ambush entering Skenderaj. He was driving together with other three men. The daily Bota Sot is widely regarded as close to LDK.¹³³

Whereas on June 3rd, 2005, Bardhyl Ajeti, also a reporter for Bota Sot, was shot dead.¹³⁴ Ajeti was shot in the head at close range from a passing car, while he was in his broken car pulled by someone else. Ajeti wrote daily editorials and he often criticized opposition party figures.

Many of these cases whether historic or more recent attacks remain unresolved. In light of the important duty that journalists have in imparting information on issues of public importance, investigation of these cases is of the utmost important. This is also important because more often than not the attacks that take place are in some way related to reporting that journalists have engaged in. In other words their injuries or loss of life have occurred whilst serving the public interest. As such it is important that a firm message is sent by the justice system that such attacks will not be tolerated no matter who instigates them and investigations and proceedings will be conducted in a timely manner.

130 *Telegrafi*, “AJK condemns the threat against editor in chief of “Bota Sot”. August 1, 2015, (AGK dënon kërcënimin ndaj kryeredaktorit të “Botës Sot”). Accessed on October 26, 2016: <http://telegrafi.com/agk-denon-kercenimin-ndaj-kryeredaktorit-te-botes-sot/>

131 Idriz Morina, editor-in chief of daily newspaper “Bota Sot”, replied to author on September 27, 2016

132 Accessible at: <https://cpj.org/killed/2000/shefki-popova.php>

133 Accessible at: <https://www.cpj.org/killed/2001/bekim-kastrati.php>

134 Accessible at: <https://www.cpj.org/killed/2005/bardhyl-ajeti.php>

C.2 Do state institutions and political actors take responsibility for protection of journalists?

The program of the Government of the Republic of Kosovo 2015-2018 has a chapter focusing on the guarantees that have to be provided for freedom of speech and professional standards. The government committed itself in the document, that issues such as “autonomy of journalists and publishers, protection of professional standards of journalism, the right to reply and correction for the public should be regulated by the relevant legislation according to international democratic standards.”¹³⁵ The government and the parliament condemn very rarely the attacks against journalists. However, both can take a more active role with the respective Committees in the Assembly who have a key role in overseeing implementation of legislation and raising issues of public importance including scrutinizing government decisions and lack thereof.

There is no particular government mechanism for monitoring and reporting on threats, harassment and violence towards journalists. It is the Kosovo police that keep records of attacks and threats against journalists, as long as the cases are reported to this institution. At the same time, the Ombudsperson Institution may have an important role to play when there is inaction from institutions in investigating or proceeding with a manner. Other institutions may also have a role to play such as the Labour Inspectorate or the National Agency for Personal Data Protection. Many of these institutions need to work together in order to align their processes and ensure that effective protection is provided for journalists.

C.3 Does the criminal and civil justice system deal effectively with threats and acts of violence against journalists?

Neither prosecution nor the courts in Kosovo register separately the criminal cases that are against journalists. Also, there are no special procedures put in place that can deal appropriately with attacks on journalists, particularly women journalist. “Absolutely there is no effectiveness of the justice system on violence against journalists. There are a lot of examples when the cases are clear, with proves and perpetrators are known but justice is so slow to deal with such cases.”¹³⁶

There are two cases when measures of protection are provided to two journalists by Kosovo police. On September 3rd, 2014, Reporters Without Borders expressed concerns for the safety of a journalist in Kosovo who was threatened by Muslim radicals and demanded from authorities to offer protection for the journalist.¹³⁷

Two days later, Kosovo police offered the protection for the journalist. The second case involved an investigative journalist who published leaked wiretaps involving a Kosovo MP. On August 2016, Kosovo police offered close protection to the journalist after he informed them that he in person and the news staff are under surveillance by unknown people. The journalist refused close protection.¹³⁸

Interviewed journalists said that the justice system in Kosovo is not effective when the journalists are threatened or intimidated. One of the cases that were mentioned was the one of the threat against the son of the Prime Minister Isa Mustafa. The case happened in 2015, the person that threatened the PM’s son via Facebook was arrested, indicted and sentenced within three days. “When an MP from the opposition party, receives a threat via Facebook, which was a worse case than that of the Prime Minister’s son, then police and prosecution fall asleep. This is a selective justice.”¹³⁹

¹³⁵ http://www.kryeministri-ks.net/repository/docs/Government_Programme_2015-2018_eng_10_mars.pdf

¹³⁶ Anonymous journalist, interview held on
¹³⁷ Accessible at: <https://rsf.org/en/news/authorities-urged-protect-kosovar-reporter-threatened-muslim-radicals>

¹³⁸ Accessible at: https://www.youtube.com/watch?v=vbclw_8RYZw

¹³⁹ Betim Musliu, journalist, interview held on April 29th, 2016

A number of cases have been dealt with by the court in recent years. During the municipal elections in 2013, a team of a journalist and cameraman of Serbian language RTV Puls were attacked. Marko Stankovic, cameraman was beaten by a group of people, after the crew went to film a reported incident in a polling station in Partes village. Stankovic's camera was also destroyed. Basic Court in Gjilan sentenced four persons involved in the case. Each of them was sentenced to three months in prison and 200 euros fine.¹⁴⁰

In the same year, Adem Lushaj, the correspondent of the daily newspaper Bota Sot reported to the police a threat he received by a local municipal official.¹⁴¹ Lushaj said he was threatened through telephone call by a municipal official. The official was not happy about Lushaj's article. The article was based on a local opposition party's press release that criticised the party in power, in which the official's name was also mentioned. On January 15th, 2014, the local court ruled that the official was guilty and decided to impose a fine of 500 euros. The Court suspended the fine meaning the official would not have to pay it unless he commits another offence within a year.

During 2014, Milot Hasimja, journalist of private television Klan Kosova was in the office at the time of the attack.¹⁴² He was stabbed with a knife in his head and in the neck by a young man. The perpetrator was part of a report the journalist did and apparently he was not happy with it. On November 5th, 2015, the Basic Court in Prishtina sentenced the author of crime to four years in prison and 1,000 euros fine.

Whereas during 2015, the local court in Gjakova gave a suspended sentence of one year in prison against the author of the threat. The offender will not go to prison unless he commits an offence during two years period of time. The court decided to confiscate a cell phone and a camera that were used for the offence.¹⁴³

Evidently, the police, prosecution and the courts have a key role to play to ensure that matters are dealt with in a timely manner. The cases indicate that on the whole the justice system did respond to the issues that were faced by each journalist. However, with regard to cases of violence against journalists it is to be recognised that time is of the essence as justice delayed may be justice denied. On this basis, filtering mechanisms should be considered within the police, prosecution and courts, so that such cases can be dealt with alongside other vulnerable victims to ensure that access to justice is not impeded and a strong deterrent is delivered to anyone who attacks journalists whilst on duty, irrespective of their wealth or position in society.

¹⁴⁰ Tefik Dushica, administrator of Gjilan prosecution office, email to author on April 15, 2016

¹⁴¹ Armend Zenelaj, "Education director in Decan sentenced for threatening a journalist", *Kallxo.com*, January 15, 2014. Accessed on October 23, 2016: <http://kallxo.com/gjink/drejtori-i-arsimit-ne-decan-denohet-per-kercenim-ndaj-gazetarit-tv/>

¹⁴² Fillorete Korjuhi, "Sovran Sylja sentenced to 4 years in prison for the attack against journalist Milot Hasimja", *Klan Kosova*, November 5, 2015. Accessed on October 23, 2016: <http://klankosova.tv/sovransylja-u-denua-me-4-vjet-burgim-per-sulmin-ndaj-gazetarit-milot-hasimja-video/>

¹⁴³ Visar Duriqi, victim, email to author August 5, 2016

List of interviewed persons

Name	Position/Organisation	Date of the interview
Liridon Llapashtica	Former journalist	April 25th 2016
(anonymous)	Journalist in newspaper	April 26th 2016
Flutura Kusari	Media law expert	April 26th 2016
Parim Olluri	Journalist at Insajderi.com	April 27th 2016
Besnik Boletini	Journalist in preportr.com	April 27th 2016
Taulant Qenaj	Journalist in private television	April 29th 2016
Betim Musliu	NGO Kosovo Law Institute	April 29th 2016
Artan Haraqija	Freelance journalist	May 3rd 2016
(anonymous)	Journalist in newspaper	May 4th 2016
Kreshnik Gashi	Journalist in BIRN	May 4th 2016
Furtuna Sheremeti	Law expert	May 5th 2016
Fatos Shala	Journalist at gazetaexpress.com	May 5th 2016
(anonymous)	Journalist in a TV station	May 10th 2016
Zenun Pajaziti	Member of Parliament	May 26th 2016

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