



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



This project is funded by
The European Union

Indicators of level of media freedoms and journalists' safety [KOSOVO 2017]

Indicators of level of media freedoms and journalists' safety [KOSOVO 2017]

Author: Petrit Çollaku
November 2017

The original title

Indicators of level of media freedoms
and journalists' safety (Kosovo)

Publisher

Association of Journalists of Kosovo



Asociacioni i Gazetarëve të Kosovës
Association of Journalists of Kosovo

Author

Petrit Çollaku

Editor

Natyra Avdiu
Visar Sutaj

Lecturer

Florian Agalli

Design

One Solution



"This publication has been produced with the financial assistance of the European Union. The contents of this publication are the sole responsibility of the Association of Journalists' of Kosovo and can in no circumstances be regarded as reflecting the position of the European Union."

Executive Summary	7	C. Journalists' safety	29
A.Legal protection of media and journalists' freedoms	11	C.1 Safety and Impunity Statistics	29
A.1 Does the national legislation provide guarantees for media freedom and is it efficiently implemented in practice?	11	C.2 Do the state institutions and political actors undertake responsibility for protection of journalists?	31
A.2 Does the Defamation Law cause a 'chilling' effect among journalists?	16	C.3 Does the criminal and civil justice system deal effectively with threats and acts of violence against journalists?	32
A.3 Is there sufficient legal protection of political pluralism in the media before and during election campaigns?	17	Appendices	35
A.4 Is the freedom of journalists' work guaranteed and implemented in practice?	18	References and sources	37
A.5 What is the level of legal protection of journalists' sources?	20	Legal documents, policies	38
A.6 What is the level of protection of the right to access information?	20	Media articles	38
B. Journalists' position in the news-rooms, professional ethics and level of censorship	23		
B.1 Is the economic position of journalists abused to restrict their freedom?	23		
B.2 What is the level of editorial independence from media owners and managing bodies?	25		
B.3 What is the level of editorial independence of the journalists in the RTK?	25		
B.4 What is the level of editorial independence of the journalists in the non-profit sector?	26		
B.5 How much freedom do journalists have in the news production process?	26		



Executive Summary

This report presents the findings of the second round of research conducted within the regional project Western Balkan's Regional Platform for advocating media freedom and journalists' safety, which is implemented by national journalists' associations in Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia.

This report is a continuation of the base-line assessment, which presented in greater detail the legislative situation and socio-economic and political issues related to media freedom and journalists' safety and identified key challenges and recommendations for journalists' associations and other stakeholders. The main purpose of this research study is to reveal new developments and to compare media freedom and journalists' safety levels to those identified in 2016.

This research study was conducted by Petrit Çollaku following the common methodology for all five countries. The following methods were applied for data collection and analysis:

- Qualitative Documents Analysis (QDA) of: research studies and analyses 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 8 individuals (journalists, lawyers, media experts, representatives of public institutions or NGOs)
- Official statistical data requested from public institutions or collected from available websites or from other published sources.

Indicators A: Legal protection of media and journalists' freedoms

In general, Kosovo's Constitution and legal framework incorporate the main standards and safeguards protecting freedom of media and expression, but their implementation in practice is weak.

With regards to legislation, Kosovo's government engaged in a failed initiative to amend the Criminal Code, as it planned to reinstate libel and insult as a criminal offense, and prison sentences for individuals or media slandering the highest state organs. (Section A.1)

Interviewed journalists pointed out that the flood of portals has negatively impacted news reports, which are published without verification of sources, while the risk of slander remains the most challenging issue. Also, the Press Council of Kosovo has changed its code, treating op-eds like other pieces of news published in print media, when third parties complain of defamation and insult. (Section A.2, page 10)

The Radio Television of Kosovo has faced a number of challenges this year too. One of them concerns the failure to adopt the RTK law, which is expected to govern financing and property related issues. Interviewed journalists emphasized that political interference in the editorial independence of the Public Broadcaster has continued. (Section A.1)

On one occasion, when the President of Kosovo did not take questions from reporters, the AJK backed the dismayed journalists who spoke out against it.

The journalists had been invited by the President who, once his speech was over, immediately left the room. The AJK also reacted against the municipality of Fushë Kosova, which decided to interrupt communications with one medium. (Section A.4)

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

Poor working conditions and low wages continue to be the main complaints of journalists. Likewise, the absence of contracts is a challenge for this community, creating an atmosphere of insecurity in their work. The AJK has corresponded with the Labor Inspectorate, which has followed three cases of journalists' complaints; two cases involved groups of journalists who complained of breach of the labor law by the employer. (Section B.1)

During the 10-day campaign of the early parliamentary elections, several portals, primarily aimed at disseminating false news and negative propaganda against political parties and individuals running for election, were observed.

Two cases have been recorded by the police after two portals reported one suspected person for the maintenance of a portal that disseminated fake news. (Section B.2)

The RTK's Independent Trade Union has reacted several times, criticizing the Public Broadcaster's management for financial mismanagement and employment without competition. The unionists also reacted against the decision of the General Director of the RTK, who took disciplinary action against the Union's Chairman.

They considered it as the revenge of the General Director, because of the activities of the head of the union. (Section B.3)

Indicators C: Journalists' safety

The beginning of the year was marked by cases of verbal threats, life threats, and physical attacks on journalists. It was noticed that new MPs in the Assembly of Kosovo, after the June 11 elections, have conveyed spiteful messages against several journalists, and on one occasion an MP even issued life

threats against the editor-in-chief of a portal. (Section C.1)

Justice and security institutions were more active in protecting journalists this year, after the recom-

mendations made last year by the AJK's Report on Journalists' Safety. However, it has been observed that the prosecution of certain cases, with suspected and identified perpetrators, has not progressed effectively, slowing down the appearance of such cases before courts. (Section C.2)



A

Legal protection of media and journalists' freedoms

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

In general, the legal framework for media regulation guarantees the fundamental norms for the protection of media and journalists' freedoms. While the legal framework is appropriate for media freedom, based on the overall assessment of interviewed journalists and experts, it is poorly implemented in practice. One of the reasons behind the current state is reportedly the slow reaction of the justice system in cases of threats and physical attacks on journalists.

The Association of Journalists of Kosovo, including several civil society organizations, responded with harsh opposition when it became public knowledge that the Ministry of Justice was drafting a draft law amending the Criminal Code of Kosovo, attempting to criminalize libel and defamation again. The bill was made public on 20 April 2017, when the Legal Office of the Ministry of Justice requested feedback from several civil society organizations regarding the revision of decriminalization of defamation. Under the new bill, insult and defamation against state leaders, including the president, would be a serious criminal offense, and libel sentences would range from three months up to five years in prison.

Moreover, these changes to the Criminal Code would carry sanctions for defamation against the state and insulting of state symbols. These sanctions were foreseen in Article 134, as follows:

"Whoever publicly, in a meeting, or through the distribution of written materials, slanders against a constitutional body, the President, the Assembly, the Government, the Constitutional Court of the Republic of Kosovo or one of their members in this capacity, in a manner detrimental to the respect for the state and thus deliberately supports efforts against the continuation of the existence of the Republic of Kosovo or against its constitutional principles, shall be punished by imprisonment of three months to five years", according to point 1 of the document.

Several civil society organizations rejected the draft law proposed by the Ministry of Justice for amending the Criminal Code of the Republic of Kosovo, stating that this draft law deeply violates the fundamental principles of a democratic state. The protest was organized on May 3 by the AJK, on the occasion of marking the World Press Freedom Day. Protesting organizations stressed that the criminalization of defamation and insult is a step towards authoritarianism in Kosovo and completely contrary to the path of European reforms.

Following the civil society reaction around the country, the Ministry of Justice removed these proposals from the draft law. In this case, the President of the country was also criticized, since he was the one who established the commission, even though he denied having any involvement in these proposals.

The Ministry of Justice argued that the proposals for these changes were generally based on the best and most advanced European Union models, and in particular the German one, claiming compliance with the European Convention on Human Rights and the case law of the European Court on Human Rights.

From the perspective of legal experts and civil society activists, the adaptation of the German model has no logical meaning, mainly because of the weak mechanisms of accountability existing in the country, and in this case also in the justice system.

A media law expert said that these attempts by the state to re-criminalize defamation were dangerous

for the country's future. She added that the ministry was wrong when it argued that the proposals were in accordance with the European Convention, highlighting the famous case of Cumpana and Mazare v. Romania (2004)¹, in which the Strasbourg Court made it clear that imprisonment sentences for libel are in violation of Article 10 of the Convention, which guarantees the right to freedom of expression.

"The lesson that Minister Hoxha, President Thaçi, government officials, lawmakers, and all legal officers involved in lawmaking have to draw from this case is that the times when copy-pasting laws from democratic countries was reason enough to impose rules and laws on Kosovar society, are over."²

In 2012, the new Criminal Code was adopted and Kosovar lawmakers removed the previous prison sentence for the criminal offenses of defamation and insult. The civil law against defamation and insult now regulates civil liability for defamation and insult.³

At a glance, the Kosovo Assembly managed to pass the amendments to the copyright law in October 2016. Six articles were added to this law, while 30 other articles were amended with the aim of approximating and harmonizing the law with European Union directives. One of the articles that was changed is the duration of copyright, from 10 years to 70 years.⁴

The Association of Journalists of Kosovo participated in the public consultation regarding the regulation of the criteria, standards and procedures of public funding of NGOs. The AJK was informed that the Ministry of Finance, as sponsor of the regulation, accepted most of the comments of the association provided during the public consultation process. The purpose of this regulation is to increase transparency and accountability when spending public money.

To this purpose, the AJK has requested that the responsible institutions must be bound by regulation to publish the names of the members of the commissions that evaluate the applications, as well as the plans, rules, results and reports on the grant-

¹ Available at: <http://www.5rb.com/case/cumpana-and-mazare-v-romania/>

² Flutura Kusari, media law expert, interview held on June 26, 2017

³ Law No. 02/L-65 Civil law against defamation and insult, promulgated by UNMIK Regulation 2007/13

⁴ Law No. 05/L-047 on Amending and Supplementing the Law No. 04/L-065 on Copyright and Related Rights. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=13022>

ing of public funds to the non-governmental sector. Thus, it will be easier for the media to obtain information from public authorities on public funding of non-governmental organizations. The Ministry of Finance approved the regulation on 13 June 2017⁵.

The parliamentary media commission was criticized for holding a closed hearing for the media, where members of this commission voted on a number of changes to the draft law on the RTK. The RTK's Independent Trade Union (SPRTK) reacted against the parliamentary media commission, considering that closing the doors of the hearing violated the right of the public to be informed about public media.

"The SPRTK considers that closed discussions and lack of transparency make the situation within the institution even more difficult," is stated in the union's response.⁶

Even the European Union office in Kosovo reacted against the closed hearing where the amendments to this law were voted, expressing concern about the lack of transparency.⁷

In May 2017, Kosovo's government adopted the concept paper that seeks to amend the law on access to public documents and the law on personal data protection. The Association of Journalists of Kosovo and several other NGOs have been involved in the debate and have sent their feedback to the Office of the Prime Minister, opposing several changes to the law.

According to the concept paper, the role of the State Agency for the Protection of Personal Data is to be strengthened, in order to add executive powers to its decision-making process in cases of access to public documents. This agency is foreseen to act as a second instance for all cases in which institutions refused access to public documents to the applicant. Also, in all cases in which an institution fails to comply with the Agency's decision, the Agency will take measures, i.e. it will sanction said institution.

However, the AJK and three NGOs, through a letter sent on September 6, 2016, to the outgoing Prime

Minister Isa Mustafa, objected to this point in the document, saying that

"such a power is functionally inadequate for the concerned Agency, which has a legal obligation not to allow the disclosure of information when it believes it is inconsistent with the protection of personal data."

The AJK, Kosovo Democratic Institute, Youth Initiative for Human Rights (YIHR) and Flutura Kusari, a media law expert, asked from the Office of the Prime Minister not to change the law at this point and that the People's Advocate should continue to be the institution where parties file complaints when they are denied the right to access public documents.

"We consider that the current law should be amended to increase the competencies of the People's Advocate to force competent institutions to release public documents, not to transfer such responsibility to the SAPPD," reads the letter.

In 2011, the government decided that all public tenders should be advertised on the website of the Kosovo Public Procurement Commission. At that time, print media close to the government benefited and managed to survive only through this type of revenue.⁸

According to the Kosovo government's 2016 work report, the Office of Community Affairs allocated €188,000 to non-majority community media, multiethnic media and some production houses. This appears to be the only mechanism for financing minority media by Kosovo's government. However, the method of allocating the grants has been criticized by the Association of Kosovo Serb Journalists and the Association of Journalists of Kosovo, saying that the Office of Community Affairs within the Office of the Prime Minister is not transparent, requesting even a public report on competition from this office.

The Association of Kosovo Serb Journalists, which has followed this event over this year, emphasizes especially that the process of awarding grants is se-

⁵ Regulation MF - No. - 04/2017 On Criteria, Standards and Procedures for Public Financing of NGOs, <https://gzk.rks-gov.net/ActsByCategoryInst.aspx?Index=3&InstID=30&CatID=23>

⁶ Safejournalists.net, Parliamentary Commission secretly discusses draft law on RTK, <http://safejournalists.net/ks/komisioni-parlamentar-p%D1%91r-media-takohet-fshehurazi-p%D1%91r-t%D1%91-diskutuar-draft-ligjin-p%D1%91r-rtk/>

⁷ Available at: https://eeas.europa.eu/delegations/kosovo/19399/eu-kosovo-concerned-over-lack-transparency-amending-rtk-law_en

⁸ Western Balkan Regional Platform for Advocating Media Freedom and Journalists' Safety, Media Freedom and Journalist's Safety Indicators, p.18, accessed August 9, 2017: <http://safejournalists.net/wp-content/uploads/2016/12/Raporti-i-plot%C3%AB.pdf>

cret. "Although the deadline for application for projects was May 25, the office has not yet published the results of this call," says the joint reaction of the associations.⁹

Also, the associations are asking for the release of names of the members of the evaluation panel, as well as the release of the criteria for selecting the members of the panel.

Below, we present a table of grant beneficiaries for 2016, which the AJK received through the application for access to public documents.

Table 1. List of NGOs and media and the amount of the grant obtained

TV Puls - EUR 3,000	Radio Contact Plus -3,000	Radio Klokok – 3,000	Dankos Plus Production – 3,000
Radio Vibe NGO – 4,000	Gracanica online@info – 2,000	TV Mreza – 5,000	Students Rights Council NGO - 1,000
Etika NGO – 1,000	Prosperity NGO and Radio - 1,000	Kosova online NGO – 2,000	Medija Centar NGO – 6.000
Inicijativa za razvoj IZRAZ NGO – 7,000	Centre for proactive action NGO– 8,000	Video productions FOKUS - 8,500	Publishing House Glas Naroda - 9,000
CDR Partesh NGO– 4,000	Max production (Zoran Maksimovic) – 4,000	Radio Gorazdevac – 7,500	Aktiv NGO – 8,000
OJQ dhe Radio Vala Rinore – 2.000	B92 open – 9.000	RIMA – 9.000	OJQ Akcija zajednick i pomoci – 8.000
OJQ Meridian ZP – 9.000	Bioskop Geto Production – 8.000	Radio Viktoria – 6,000	OJQ Slobodna Produc-cija – 7.000
OJQ Srpsko Slovo – 8.000	Produksioni Globus – 5.000	TV MIR – 9.000	Radio KIM – 1.500
OJQ Fortesa Kamenicë – 5.000	OJQ Radio 038 Gracanica – 3.500	TV ZOOM – 8.000	

⁹ Available at: https://www.facebook.com/pg/associationmagazine/posts/?ref=page_internal

The Public Broadcaster, Radio Television of Kosovo (RTK), continued to be the target of criticism during the first months of this year, for allowing politics to intervene directly in its editorial independence.

It has often been the case that government and ruling party activities are broadcast as the first piece of news by the RTK. For a long time, it was observed that the newscast would start with the activities of the Speaker of the Parliament at the time, Kadri Veseli. Prime Minister Isa Mustafa of the Democratic League of Kosovo reacted against this, shortly after forming the government with the Democratic Party of Kosovo (PDK), when he claimed that the RTK was acting like a party medium, implying that more time was being devoted to his government partner in the public media.¹⁰

Stronger criticisms have been made by the opposition party, the Self-Determination Movement (VV), whose members in some appearances made at the end of 2016 criticized the RTK's management and

editor-in-chief of being openly sided with the government. At a press conference, the VV presented the editor-in-chief's links to a senior anti-terrorism unit official¹¹ who had conducted investigations against a number of VV activists who were arrested for a terrorist attack on the Kosovo Assembly.¹²

The RTK's autonomy and independence are protected by the law,¹³ which was adopted in 2012, but was intended by legislators to last only three years, until the management would find a new and independent funding mechanism. However, the new draft law on the RTK foresees a EUR 2.5 fee per household collected through electricity bills and also the allocation of 0.4 percent of the country's budget, and is expected to be approved in the future by the Kosovo Assembly.

The broadcaster continues to be financed from the Kosovo budget in quarterly cycles. From January until June 2017, the RTK was funded with EUR 5.5 million from the Kosovo budget.

¹⁰ Indeksonline, January 17, 2015, accessed August 11, 2017: <http://telegrafi.com/mustafa-akuzon-rtk-ne-po-sillet-si-medium-partiak/>

¹¹ Insajderi, "VV reveals the link between the deputy director of counter terrorism and the PDK," August 30, 2016, accessed August 11, 2017: <http://www.insajderi.com/vv-akuzon-zevendesdrejtorin-e-antiterrorizmit-per-lidhjet-pdk-ne/>

¹² Die Morina, "Self-Determination Members Arrested for Bomb in Kosovo Assembly", August 30, 2016, accessed August 11, 2017: <http://www.balkaninsight.com/en/article/vetevendosje-members-arrested-for-bomb-in-kosovo-assembly-08-30-2016>

¹³ Law No. 04 / L-046 on Radio Television of Kosovo, Article 18

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

Government efforts to decriminalize defamation and insult were successful in 2012. With this, this law now does not cause any ‘chilling’ effect among journalists, because according to this law journalists who slander or offend are not punished under the Criminal Code. Finally, the government presented a failed initiative to amend the Criminal Code, which would consider criminally responsible anyone, including the media, who would slander or offend a constitutional body, including the President, the Assembly, the Government and the Constitutional Court, foreseeing sentences ranging from three months to five years in prison.

AJK in cooperation with the Basic Court in Prishtina managed to obtain the most accurate number of defamation and offense cases. According to the court registry, there are 59 complaints against defamation and insult dating back from 2009. Also, according to the court, only two cases have been handled by the court in Pristina, of which both lawsuits haven’t proceeded further due to the lack of interest of plaintiffs.

The Basic Court in Pristina recognized the recommendations issued last year by AGK in the report “Media Freedom of Expression and Journalists Security”. The Basic Court, respectively the media office, now has a database of cases of attacks and threats against journalists and other media professionals. Also, the Pristina court has started prosecuting criminal cases involving threats to journalists. During October and November, three court hearings, two cases of defamation and one criminal were held.

Out of these 59 cases, 10 were filed by state officials, and most of them are senior figures. 5 cases were filed by lawyers and judges against journalists and media. 6 cases were filed by the media / journalist against another media / journalist.

On the other hand, interviewed journalists point out that the flooding of the media scene by new media portals, which often disseminate news without verification of resources, has violated professional standards and the code of ethics. This mostly happens because of the ‘click power’, as portals are more interested in speed, rather than verification. According to journalist Pérparim Isufi’s assessment,

“there is slander in portals, there is also in large media outlets. But I don’t know of anyone who has been prosecuted to this day. I don’t know of any judicial proceedings for defamation”¹⁴

It has also been noted that opinions published in some online media focus on attacking an individual or more individuals, while the facts to argue and highlight the expressed opinion, are largely lacking. The parties involved in these opinions have complained to the Press Council of Kosovo (PCK), but the complaints have not been approved on the grounds that the council does not treat opinions in its code. Whereas, since February 2017, the Council has taken measures to supplement its code by clarifying that published opinions should also respect ethical rules.

“The old code obliged us not to treat opinions. Now, the code has changed and opinion is treated like other articles,”¹⁵

said the Chairman of the PCK, Imer Mushkolaj.

However, according to the civil law against defamation and insult, respectively Article 8 that speaks of opinions, the court will not consider someone responsible for slander or insult as long as the opinion expresses a good purpose and is based on a fact. Last year, the AJK reported on a number of libel charges, but they were not processed by the court in Prishtina. Last year’s report recorded 20 libel charges filed against journalists. Of this number, two lawsuits were filed in court against a portal by two MPs of the same party. Whereas, five cases include journalists’ charges against other journalists, accusing each other of defamation and insult.

¹⁴ Pérparim Isufi, journalist, interview held on 19 May 2017

¹⁵ Imer Mushkolaj, Chairman of PCK, interview held on 19 June 2017

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

There is no legal provision that forces the media in Kosovo in relation to political pluralism in non-electoral periods, but this issue is regulated by a code of conduct for all the media. There is generally pluralism in the Kosovo media, including broadcast, print and online media. The Kosovo Constitution provides guarantees for media pluralism.¹⁶ The Law on the Independent Media Commission also supports the freedoms and pluralism of audio-visual media in Kosovo.¹⁷

The Independent Media Commission (IMC) monitored the media during the general election campaign for the elections of 11 June 2017. Political parties had only ten days of campaigning to present their programs to the electorate. The Commission monitored the media from 16:00 to 24:00 pm, with special emphasis on central news bulletins, electoral chronicles, political spots as well as interviews and debates on television broadcasts.

According to the IMC report,¹⁸ the coverage of the electoral campaign by the media was largely objective and impartial. However, monitors found some violations made during the election campaign, and especially the broadcasting of spots featuring children, which is prohibited by law.

The TV spots were produced by two pre-election coalitions, PAN (Democratic Party of Kosovo, Alliance for the Future of Kosovo and the Initiative) and LAA (Democratic League of Kosovo, New Kosovo Alliance and Alternative) and two political parties, GiSL (Citizen Initiative Serbian List) and SLS (Serbian Liberal Party). In the case of the LAA Coalition, the Public Broadcaster removed this spot after the first broadcasts. Meanwhile, other spots featuring children were still broadcast, despite the IMC letter to the media asking for the removal of such spots.

The IMC has also found violations in relation to several political spots that had no indication by TV

broadcasters whether they were paid or not. After a memo by the Commission, TV broadcasters provided indications whether the spots were paid or not.

Another violation was found during the electoral silence period, when TV stations broadcasted media conferences of some political parties, where their logos and symbols were observed. Also, monitors found violations of the code of ethics on Serbian-language televisions broadcasting the spot of the Serbian List political party, using expressions against “the establishment of the Kosovo army”, making calls “to prevent the extinction of the institutions of the Republic of Serbia”, and using the term “Kosovo and Metohija”.

In the meantime, the Association of Journalists of Kosovo (AJK) issued a press release, drawing the attention of the reader and other stakeholders and asking them to take care when consuming information from suspicious websites that had appeared before and during the election campaign.

The AJK has noticed the dissemination of misinformation from dubious portals that also use social media, especially Facebook. The AJK has monitored and found at least five pages on Facebook, which appeared as portals and distributed false news by attacking individuals or political parties. These fake Facebook portals were camouflaged using familiar logos and motifs of renowned media and thus distorted information. In June 2017, two portals reported to the police the misuse of their logos from a fake portal and a person is suspected of spreading false news. The case is still under police investigation.

The general early election in Kosovo were also observed by European Union observers.¹⁹ Their report states that the media generally provided voters with access to information about various political options. The report also states that television and online media were the main sources of information for voters, and that they avoided encouraging messages.

¹⁶ Constitution of Kosovo, Article 42

¹⁷ Law No. 04/L-044 on the Independent Media Commission, Article 5

¹⁸ IMC, Media Monitoring Report during the 2017 General Election Campaign, accessed August 11, 2017: <http://kpm-ks.org/materiale/dokument/1499342536.8299.pdf>

¹⁹ European Union Election Observation Mission, Preliminary Statement, June 13, 2017, p.7, accessed August 20, 2017: https://eeas.europa.eu/sites/eeas/files/eu_eom_kosovo_2017_ps_en.pdf

The Public Broadcaster and private TV stations reported intrusions by political parties, which attempted to influence the conditions of political debates in their favor, making claims that were in violation of the law. According to international observers, the Public Broadcaster RTK, the first channel, and two private TV stations RTV 21 and KTV, in their news coverage provided an equal coverage for the three largest parties, while private TV station Klan Kosova offered more room for the PAN coalition.

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

In Kosovo, journalists have no legal obligation to be licensed by any state institution. The freedom of association is guaranteed by the Constitution of the country through Article 44 and also by Law No. 04/L-57 on the Freedom of Association of NGOs.

The law is generally in line with international standards, but the secondary legislation, in force since 2014, has rendered more difficult the procedures for registration of non-governmental organizations. All of this resulted from the suspension of 16 NGOs, which according to security authorities in the country were engaged in dubious activities and are related to the groups that distribute radical Islam in Kosovo.²¹

In Kosovo there are two journalists' associations, the Association of Journalists of Kosovo (AJK) and the Association of Journalists of Serbia, with members primarily from the Serbian community. In Kosovo there is no trade union representing the interests of all journalists and other media professionals. In recent years there has been no debate about this issue. When journalists alleged that their labor rights were violated, they turned to the AJK, which advised them of the next steps.

However, there are other trade unions for employees within the Public Broadcaster, specifically two of them, the RTK's Independent Trade Union (SPRTK) and the RTK Workers' Union.

In July last year, SPRTK reacted against the management, due to uncontrolled employment taking place in the Public Broadcaster.²² The unionists stressed that management is failing to comply with the Auditor General's recommendations to stop recruitment due to the difficult financial condition of the Public Broadcaster, including millions of debts. The union invited the Labor Inspectorate to investigate these employments. The SPRTK has criticized the management and the RTK board in the past due to mismanagement of finances.

On February 8, 2017, the AJK reacted against RTK General Director Mentor Shala, who in a post on his Facebook account offended and threatened public media employees. Public media employees announced that this reaction of Mr. Shala came after separate meetings that leaders of the RTK Independent Trade Union had held with the Speaker Kadri Veseli and with all parliamentary groups regarding the drafting of the law on the RTK and the situation in the Public Broadcaster. Shala compared the unionist with "political bacteria at the RTK" adding that "for each bacterium there is an antibiotic".

On 14 February 2017, the AJK reacted against the municipality of Fushë Kosovë, which had decided to interrupt communication with the journalists of Kohavision TV station. For the AJK, this was a violation of the principles of respect for transparency and requested from the municipality to withdraw that decision.

Likewise, the AJK reacted against the State Prosecutor's Office, because the latter has had a harsh correspondence with a journalist of the "Koha Ditorë" daily newspaper. The prosecutor's information office called the journalist "uneducated and incapable" when the journalist asked for an answer about an article. The journalist has shown that the prosecutor's information office threatened the newspaper that it would receive no answers in the future.

The AJK requested from the State Prosecution Information Office to cooperate with all journalists without exception.

²⁰ Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

²¹ Mentor Gjergjaj, "State suspends again the work of 16 organizations suspected of links to radical groups (Document), Gazeta Express, Jan. 9, 2017. [State suspends again the work of 16 organizations suspected of links to radical groups] Accessed on

August 1, 2017: <http://www.gazetaexpress.com/lajme/shteti-ua-pezulloi-serish-punen-16-organizatave-qe-dyshohen-per-lidhje-me-grupe-radi-kale-dokument-304696/?archive=1>

²² Available at: <https://www.facebook.com/SPRTK/>

On another occasion, the AJK reacted against Kosovo's President Hashim Thaçi, who on 30 October 2016 invited the media at a press conference, but at the end did not accept any questions from journalists. The AJK reacted against this action by President Thaçi, stating that he did not respect the journalists and ignored their work. The AJK asked from the President to accept questions from journalists and reply to them in his upcoming appearances, since the presidency as an institution should be a reference point of transparency.

The Association of Journalists of Kosovo with the Press Council of Kosovo and supported by civil society organizations organized a protest action on

World Press Freedom Day on May 3, 2017, in front of the main government building in Prishtina.

#Folmosutut (#Speak_up_have_no_fear) was the motto of the action aimed at opposing the tendencies of limiting media freedom and expression in general.

The rally was an opportunity to protest against the failed initiative of the Ministry of Justice to amend the Criminal Code of the Republic of Kosovo, attempting to re-criminalize libel and insult. The protest was also vocal against impunity from the justice system of cases of physical assaults and life threats to journalists and other media professionals.

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

Journalists' sources are protected by the law adopted by the Kosovo Assembly in August 2013, which is considered an important step for the work of journalists.²³ There has been no case in recent years when any journalist was asked by any court to disclose the source of information.

The law on the protection of journalistic sources contains only ten articles and applies to journalists and other media professionals engaged in the collection, processing and dissemination of information through the media. By law, journalists and media professionals have the right to remain silent about their sources of information. Journalists are forced to disclose information sources only by court order when it is necessary to prevent serious threats that would lead to the death of one or more persons.

Further, the law prohibits searches in media company buildings and other media properties, such as cars or houses of journalists, if any measure of investigation is intended to identify the source of information. This is an important development, because initially the issue of sources was addressed through the Criminal Code. However, after a number of protests, the unjustified and harmful restrictions on journalists with regard to sources in media content were abolished.

In the 2016 report, most journalists interviewed responded that they feel free to keep in touch with sources of information when reporting on issues of public interest. Surveyed reporters (44.4%) said that their interaction with sources, whose professional identity should be respected, has increased to a certain degree. (23 respondents from 50 did not have the right to answer to this question, because they have less than five years of journalistic experience).²⁴

Likewise, in the same report, interviewed journalists stressed that police, judiciary and prosecution officials should be trained to understand this and other media-related laws. Training can be a useful tool to discuss these changes and bring this obligation to

the attention of those responsible. In addition, it may be necessary to establish processes within the various institutions, so that each request is made officially and is based in law, limiting the impact of pressure from particular institutions if they had access to source management. Courts will have an important role by demonstrating access, availability and ability to immediately deal with such cases.

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, repealing the 2007 Law.²⁵ Recent changes to the law have shortened from 15 days to 7 some deadlines for state institutions to respond to requests for information.

As noted above, the previous government, in its meeting on May 15, 2017, approved the concept document for access to public documents as the beginning of the procedures for approving the new law. One objective of the concept paper is the determination of the second and third instances for the realization of the right to access to public documents.

For this objective, the AJK responded in its comments, as it was foreseen to strengthen the role of the State Agency for the Protection of Personal Data, which will act as a second instance in all cases when parties are refused access to public documents. The AJK, along with several NGOs, considers that such a role is unsuitable for this agency, as the latter has a legal obligation not to allow the disclosure of information when it believes it is inconsistent with the protection of personal data. The civil society group has recommended to strengthen the role of the People's Advocate in accessing public documents, making his decisions binding on the institutions.

At present, the assessments of the People's Advocate are in the form of recommendations and as such have no executive power.

The People's Advocate has evaluated the recommendations of the civil society group, adding that

23 Law No. 04/L-137 on the Protection of Journalistic Sources

24 Western Balkan Regional Platform for Advocating Media Freedom and Journalists' Safety, Media Freedom and Journalist's Safety Indicators 2016, p.27. Accessed August 15, 2017: <http://safejournalists.net/wp-content/uploads/2016/12/Raporti-i-plot%C3%AB.pdf>

25 Law No. 03/L-215 on Access to Public Documents

amendments to the Constitution and the Law on the People's Advocate need to be made.

"The final decisions of public institutions that deal with the requests for APDs (access to public documents) are first instance decisions of an administrative nature, hence the appeals procedures should be conducted by a body/mechanism, which will be the body of the second instance, with executive power in the appeal against the decisions, for full or partial refusal of the APD."²⁶

In the People's Advocate report for 2016 it is stated that this institution has investigated 26 complaints regarding the restriction of the right of access to public documents, of which only two were made by journalists. In the interviews, journalists claim that they don't file anymore complaints with the People's Advocate when they are denied access to public documents, because they do not see it as reasonable way and it is a waste of time for them.

"Maybe journalists should be encouraged to use this, but in practical terms, in my personal case it does not serve me much [...] until you make a complaint, write the paperwork, on the other hand you have to finish the topic because you have a deadline".²⁷

The same journalist pointed out that a request for access to public documents sent to the Ministry of Health was refused when she asked to know which of the state officials received financial aid for health care purposes.

Meanwhile, the 2016 report of the Office of the Prime Minister on access to public documents from all

state institutions states that 2,050 out of 2,169 requests, or 94.5% of all requests, have been awarded access to public documents. The report states that 22 requests were rejected and 12 requests were granted limited access.²⁸

The Office of the Prime Minister, ministries and other line agencies received a total of 671 requests and 599 of them received access to documents. During 2016, more than half, respectively 62 percent of requests for access to documents submitted to the Government of the Republic of Kosovo were made by journalists, where 53 percent of requests were for documents containing statistics.

In general, the hearings of the Kosovo Assembly Presidency and parliamentary commissions have been open to the public and journalists. Likewise, court hearings were generally open to the media, while in two cases the judges barred the media from attending the hearings, which prompted AJK's reaction. One trial included the former president of the Court of Appeals, who is accused of corruption, and the memo was also addressed the case prosecutor, who had agreed with the judge's decision to close all hearings to the media and public.²⁹

The second case also concerns corruption, with 58 persons under indictment, of them 44 doctors and the former minister of health. The AJK reacted against these two decisions, stating that these judges' decisions will encourage the other defendants to demand closed court hearings. The AJK has requested from the Basic Court in Prishtina not to allow such decisions of judges, because they create a precedent for concealing from the public the alleged criminal acts of high state officials.

26 Kosovo Ombudsperson, email addressed to the author on August 9, 2017

27 Saranda Ramaj, journalist, interviewed on May 18, 2017

28 <http://www.kryeministri-ks.net/repository/docs/SHQIP.pdf>

29 Available at: <http://safejournalists.net/ks/keep-courts-open/>



B

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

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

In Kosovo, journalists continue to work in poor economic and social conditions. The biggest problem for the media continues to be their financial instability. The difficult economic situation in the country has also affected the media, whose sole source of income is marketing. Interviewed journalists have said that this community continues to work under unfavorable conditions due to the absence of work contracts or the low and unpaid wages. In recent years, a greater interest of journalists to be employed in the Radio Television of Kosovo has been observed, due to the secure wages. Journalists have abandoned private media due to low or unpaid wages.

“There are journalists who do this job and use it as a springboard to move to state institutions. And it is not their fault, because it is difficult to survive with a wage of 300 Euros. Or there is the other problem, that everyone wants to work for the RTK, because it's public and the wages are higher.”³⁰

Currently, the Public Broadcaster is in financial trouble, mainly because the new law, which will replace the old law expired since December 2015, hasn't been adopted yet by the Assembly of Kosovo.

Despite the few existing cases, journalists in Kosovo do not enjoy adequate social protection, essential health care or any paid medical leave. There is a small number of private media that

include these benefits for media employees. "Social protection is seen as luxury in the media in Kosovo," a journalist said during the interview.³¹ There are no official statistics on wages in the media in Kosovo. However, according to a survey conducted with journalists and editors in 2016, almost half of journalists stated that their monthly salaries range from 200 to 500 Euros. While editors' salaries range from 600 to 900 Euros (including salaries in the Public Broadcaster).³²

The AJK has sent three letters to the Labor Inspectorate on behalf of journalists who have complained of violations of their rights by three different employers. The Labor Inspectorate has dealt with all three cases.³³ In December 2016, the AJK forwarded to the Labor Inspectorate the case of a journalist who had stated that her employment was terminated after senior management had realized that she was pregnant. The inspectorate decided that the employer should compensate the journalist with a monthly salary, because he did not notify her in time and also recommended to the employer to issue a new decision on the termination of the contract, as the old decision was incomprehensible.

The second case relates to the complaints of several camera operators about several unpaid wages by an employer in Prishtina. The private TV station in Prishtina stopped paying regular salaries for workers, as it would pay one month, but not the following. Thus, the employer was in debt to his employees, accumulating up to four monthly salaries.

The highest debt per employee amounted to close to 1,000 Euros. The Labor Inspectorate established the situation after checking the necessary documentation, asking the employer to pay the debts. The employer appealed the decision, while the Inspectorate rejected the appeal as unfounded and upheld the first instance decision, and with the authority of the inspector the decision is final. The AJK has learned from one complainant that the former employer did not execute the payments and a complaint has been filed with the Prishtina court, and the trial is expected to begin.

Likewise, a group of anonymous journalists have

complained against their employer for failing to comply with the labor law. Journalists stressed in their letter that they are deprived of weekly and annual holidays. The complaint filed by the association's lawyer, numbered P/14, of 20 June 2017, is filed for verification with the Office of the Labor Inspectorate.

According to the complainants, none of the workers enjoy the right to annual leave. The inspectorate visited the employer on 25 July 2017 and found that it was impossible to ascertain the alleged violations.

"All claims mentioned in AJK's information, based on the documentation presented by the Employer, have been impossible to ascertain, therefore the final Official Report has not been compiled."³⁴

Informal meetings with journalists and other media professionals point to the difficult state of working conditions. Salaries are basically low and as mentioned above there are delays in payments. Let's recall last year's survey, in which journalists were asked whether their economic position had improved or worsened.³⁵ Almost half of them (13 or 48%) said there was no change, which means that the situation is just as bad as before. 9 (33%) responded "somewhat worsened", while 3 journalists (11%) responded "somewhat improved". One journalist chose the option "greatly improved", and another journalist said "largely worsened". Journalists continue to reveal that they work in poor working conditions, and even lack basic things at work.

"I'm missing a computer at work, I miss a chair, I have no room to work, so I miss the basic things, if I compare it with other places I've worked with."³⁶

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

In Kosovo, the level of editorial independence is low. Larger media have separate organizational structures that keep editorial departments separate from management and marketing department.

³⁰ Anonymous journalist, interview held on 25 April 2017

³¹ Përparim Isufi, journalist, interview held on 19 May 2017

³² Ibid, p. 32

³³ Email of Labor Inspectorate to author on August 31, 2017

³⁴ Lulzim Arri, email to the author on August 31, 2017

³⁵ In last year's survey participated 50 journalists, 27 of whom were entitled to answer to this question (23 of them did not have the right to answer to this question because they have less than five years of journalistic experience).

³⁶ Anonymous journalist, interview held on 24 May 2017

However, given that advertising is the only source of revenue in the media, managers or media owners occasionally influence the editorial staff to remove reports that criticize companies that are big advertisers.

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

It has been widely noted in articles on online media that they do not publish the names of journalists, featuring only the name of the medium. These portals are distinguished by a small number of journalists in the newsroom and a number of them support a political party. During the recent election campaign in the country, a number of them have been observed conducting major propaganda efforts for parties or individuals. On the other hand, journalists interviewed this year emphasize that owners are those who through editors dictate their editorial policy on journalists, who are asked to write news in favor of a particular political party.

“Some colleagues working for a TV station have told me that the editor asked from journalists covering politics, for example at a time when demarcation was a topic in the Kosovo Assembly, to consider the ratification of the demarcation a normal issue.”³⁷

The IREX's media sustainability index 2017 stressed that The online media have created an expectation that news should be short and quick. The race to speed leaves

a lot of room for error, sometimes even about basic facts. Due to the blanketing of smart phones, many Kosovars prefer to get their news online and often end up more misinformed than informed, the panellists fear.

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

In practice, the RTK exercises low editorial independence. The Kosovo Radio Television has its own code of conduct called “Professional Standards and Ethical Principles in RTK Programs”, which are considered as advanced standards. However, the Public Broadcaster continues to be criticized for bias due to direct political interference in editorial independence, and there is also an open conviction among interviewed journalists that these standards are ignored.

“The RTK is seen as an employment agency, rather than information provider.”³⁸

The RTK's Independent Trade Union (SPRTK) has raised its concerns several times, criticizing management over finances and nepotism. Finally, this trade union has reacted against what they consider uncontrolled employments in the Public Broadcaster, in some cases even without a competition. The union stressed that the management did not comply with the Auditor General's recommendations to stop recruitment due to the difficult financial situation.³⁹

In recent years, the union has repeatedly asked the prosecution to launch investigations into the financial manipulations taking place in the Public Broadcaster. On March 13, 2017, the trade union requested clarification from the RTK's management and board regarding the 37,500 Euros spent on behalf of employees' insurance for the period January to March 2017. Unionists recalled that RTK employees were without health insurance since 1 January this year.⁴⁰

The harsh approach between the RTK's management and trade union has continued throughout this year too. In early March, the management initiated disciplinary action against union chairman Fadil Hoxha because the latter, through his public attitudes, damaged the image of the RTK, management stated. Unionists reacted against this action, saying that the public attitudes of the chairman are in ac-

37 Durim Abdullahu, journalist, interview held on 23 May 2017

38 Ibid. 28

39 Koha Ditore, “SPRTK reacts to uncontrolled employment in RTK”, July 20, 2017. Accessed August 15, 2017: <http://www.koha.net/arberi/32862/>

sprtk-se-reagon-per-punesime-te-pakontrolluara-ne-rtk/

40 Koha Ditore, “SPRTK accuses RTK executives of financial manipulation”, March 13, 2017. Accessed on August 15, 2017: <http://www.koha.net/arberi/5393/sprtk-akuzon-drejtuesit-e-rtk-se-per-manipulim-financiar/>

cordance with the domestic law on trade unions. In addition, the RTK General Director, Mentor Shala, accused trade unionists earlier in a Facebook status by calling them "political bacteria" that can be treated with "antibiotics", and "would-be street rats without the RTK." Shala made these comments after the meeting of trade unionists with the speaker of parliament and parliamentary groups regarding the draft law on the RTK.

The AJK reacted against the expressions used by director Shala, stating that the language used by him is an offense and a threat to Public Broadcaster employees.

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

The level of editorial independence in the non-profit sector is much higher compared to other sectors. Media in this sector, such as the Balkan Investigative Reporting Network (BIRN), Çohu and the Kosovo Justice Institute, which are focused on investigative reporting, continue to be financially more viable because they function mainly from donations. They are funded by international media organizations, foreign governments, embassies, the European Commission and other EU institutions.

These media cover issues related to the justice system, public spending and corruption. Since these media have more financial sustainability, it is easier for them to report without fear of any political or economic revenge. Non-profit media are in line with the general code of ethics for print and visual media, while some have internal codes of conduct.

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

Generally, journalists have sufficient freedom to choose the news of the day, unless otherwise specified by the editor. The latter selects what angle of the news should be emphasized. Interviewed journalists point to the trend of direct coverage of conferences, especially from online media, through journalists who use their smart phones to record and broadcast on their Facebook and portal accounts.

According to a survey conducted last year, journalists were asked about many factors that could affect their daily work. They stated that the editors have greater impact (very or somewhat influential - 84%) in their work, while managers (44%) and owners (42%) have less impact. On the other hand, politicians in general (14%) and government officials (14%) have far less impact on journalists' daily work, and finally individuals working in their daily environment.

On censorship, journalists (30%) consider that it has some impact on their work, while 28 percent of journalists said that censorship has no impact.

"Sometimes there is media censorship initiated by the bosses, sometimes there's self-censorship, which I think is the most dangerous and I think it's pretty common and this is hurting journalism. Self-censorship can be noticed when you have meetings with parties, because of common interests. Then there is the media connection with advertisers, and this damages journalism, especially online media."⁴¹

⁴¹ Saranda Ramaj, journalist, interview held on 18 May 2017



C.1 Safety and Impunity Statistics

From January 1 to September 30, 2017, the AJK has registered 11 cases involving life threats, physical assault, verbal threats and property damage.

Below we present the table with cases against journalists and other media professionals.

Threats to life and bodily injury to journalists	Other threats to journalists	Current attacks on journalists	Journalists murdered	Threats against media and media organizations	Attacks on media and media organizations	Total
5	5	1	0	0	0	11

Meanwhile, according to the police report, from January to July 2017, they have registered 15 cases, mainly cases of threats against journalists and a case that is not related to the work of a journalist. Following, we present cases of threats and physical attacks on journalists that have occurred since the beginning of this year.

**1. Mentor Shala, Ridvan Berisha,
Prishtina, case occurred on 20.01.2017:**

The Association of Journalists of Kosovo has opposed the mudslinging campaign of the political entity Self-Determination (VV) against the General Director of the Radio Television of Kosovo Mentor Shala and the editor-in-chief Ridvan Berisha. This reaction came after some public appearances of VV members who publicly and for a long time smeared the leaders of the Public Broadcaster. The AJK has requested from this political party to reflect after some of the mistakes it has made in recent months by accusing, smearing and threatening journalists.

**2. Independent Trade Union
of the Radio Television of Kosovo,
Prishtina, 08.02.2017:**

The Association of Journalists of Kosovo received with great concern a posting on the social network Facebook by the General Director of the RTK Mentor Shala. The AJK considers that the language used by Mr. Shala is an offense and a threat to the Public Broadcaster's employees, including our members working in this medium. The AJK has been informed by public media employees that this reaction of Mr. Shala came after the separate meetings that leaders of the RTK's Independent Trade Union held with the Speaker of Parliament Kadri Veseli and with all parliamentary groups regarding the drafting of the law on the RTK and the general situation in the Public Broadcaster.

**3. Arbana Xharra,
Prishtina, 23.02.2017:**

The editor-in-chief of the Zëri daily Arbana Xharra has been threatened via Facebook by an individual named Ebu Duxhane, who sent a photo of a beheaded man, which is linked to the war in Syria. Duxhane also wrote "Know that we will find you" and "We know how much you love your children." Kosovo police are investigating the case.

**4. Fatmir Lama,
Prishtina, 28.02.2017:**

KTV Producer Fatmir Lama received threats against his life through a phone call from a suspect, because of a documentary that has displeased the issuer of

the threat. The suspect introduced himself by name and surname and threatened Lama with his life if he did not cancel the rebroadcast.

**5. Vehbi Kajtazi,
Prishtina, 17.03.2017:**

The suspect intentionally damaged the journalist's car. Police and prosecution intervened immediately. The suspect was detained for 48 hours.

**6. Arbana Xharra,
Prishtina, 10.04.2017:**

The editor-in-chief of the Zëri daily Arbana Xharra reported to the police a threat that was made through a graffiti - a red cross sign - on the wall by her apartment door and another on her garage by unknown persons. This threat is related to her work reporting on the field of Islamic radicalism and extremism in the country .

**7. Berat Buzhala,
Prishtina, 21.04.2014:**

Berat Buzhala, director of the portal gazetaexpress.com, received a threat on his Facebook account. He reported the case to the police. The suspect was arrested.

**8. Salie Gajtani-Osmankaq,
Prishtina, 02.07.2017:**

Koha Ditore daily newspaper journalist Salie Gajtani-Osmankaq was verbally threatened by a group of men when she was trying to report. The journalist intended to report on how some residents in a Prishtina neighborhood were preparing to leave the apartments they had been ordered to leave by the state, after being considered as squatters. Residents immediately attacked the journalist, threatening her to suppress the release of any news. The journalist, who was in the company of the driver Ilir Hamiti, stepped away and they both entered their car. The residents blocked the vehicle and continued with threatening tones. Journalist Gajtani and the driver managed to leave. On September 26, 2017, Kosovo Police informed the AJK that this case is still under investigation.

**9. Parim Olluri,
Prishtina, 16.08.2017:**

Journalist Parim Olluri was attacked late in the night of August 16 by three strangers as he was returning to his apartment with his wife. She lost consciousness from the shock experienced by the attack. Both were given medical help at the Prishtina University Clinical Center. On September 26, 2017, Kosovo Police informed the AJK that this case is still under investigation.

**10. Parim Olluri
and Vehbi Kajtazi,
Prishtina, 11.09.2017:**

Kosovo Assembly MP Milaim Zeka publicly threatened two journalists, Parim Olluri and Vehbi Kajtazi, calling them Serbian spies charged with denigrating and humiliating national figures. Former journalist Zeka said the journalists received instructions from the Serbian intelligence agency to disseminate untrue information about Kosovo's politicians.

**11. Vehbi Kajtazi,
Prishtina, 14.09.2017:**

The editor-in-chief of Insajderi newspaper Vehbi Kajtazi, informed the Association of Journalists of Kosovo that he had received life threats. Kajtazi said that he was threatened by MP Bekë Berisha, who according to the journalist went to a friend's restaurant to leave this message: "Tell your friend, if you mention my name in the newspaper once again, you'll get a bullet in your forehead." On September 26, 2017, Kosovo Police informed the AJK that this case is still under investigation.

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

In general, state institutions and political actors are not sufficiently responsible for the protection of journalists. The AJK's report for the past year issued a number of recommendations for security and justice institutions, which were asked to be more effective in dealing with cases of journalists endangered by threats or attacks.

During March 2017, representatives of the Association of Journalists of Kosovo had high level meetings with state institutions, where problems of journalists in relation to the justice system were discussed and increased efficiency for creating a safer environment for journalists in Kosovo was requested.

A week later, AJK representatives met also with Kosovo Police Director General Shpend Maxhuni, with whom they discussed about deepening cooperation on journalists' safety in the country. The police director was briefed on the 2016 report on media freedom and journalists' safety, and in particular the recommendations for the police were discussed. The AJK requested from Director Maxhuni that Kosovo Police should prioritize cases of attacks or threats against journalists and cooperate with the judiciary in such cases. Director Maxhuni pledged mutual co-operation, which would positively affect the work of the police and the media in the country.

At the meeting was also discussed the transparency of police in relation to the media, while another topic of discussion was the treatment by the Kosovo Police of threats coming through social networks. In 2016 there was a long public debate after Insajderi portal published the audio leaks of telephone conversations involving high-level politicians.

The main protagonist in these wiretapping was Adem Grabovci, chairman of the Democratic Party of Kosovo (PDK) parliamentary group, who featured in dozens of phone calls with his party associates, fixing appointments of people close to the party in public institutions. Public reaction was severe, as local and international media republished interviews and reports revealing power abuses by politicians for the party's narrow interests.

Grabovci sued the Insajderi.com portal for violation of privacy and requested a temporary injunction from the court to stop other publications. The Basic Court in Prishtina rejected his application. In another case, the editor-in-chief of the Express newspaper Leonard Kërquki received a large number of death threats, mainly on social networks, following the broadcast of two documentaries depicting the wealth of some Kosovar politicians and war crimes committed by Albanians during the 1998-1999 war in Kosovo.

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

In general, the justice system does not effectively address threats and acts of violence against journalists. Still, not a single one of the nine cases of threats and attacks on journalists registered this year by the Association of Journalists of Kosovo has been tried in court. One case from last year was adjudicated this year, and the defendant was fined for harassing the editor-in-chief Mimoza Koprani Muçaj and journalist Ridvan Hamza.

The harassment occurred on September 27, 2016, when the defendant wrote to Koha Vision TV station, through Facebook, because he was not happy with a piece of news that had to do with his brother. The defendant was sentenced to a fine of 300 Euros. In another case, the AJK has understood from Rifat Bllata, the supervising judge at the Basic Court of Mitrovica, Vushtrri branch, that the case of a journalist who was physically attacked is not being processed due to the large number of cases. The case relates to journalist Gazmend Morina, who was attacked on January 26, 2016 by a member of the Mitrovica Municipal Assembly because of his reporting.

“Penal Case P.nr. 349/16, of 26.07.2016, was received in this court and said case was assigned to Judge Hanefi Jashari and according to evidence from the filing office of criminal cases no action has been taken to adjudicate the issue because of the heavy workload.”⁴²

Regarding this case, the AJK met with the Chair of the Kosovo Judicial Council Nehat Idrizi, with whom the priority handling of court cases involving media and journalists was discussed. In addition, intensified cooperation between the courts and the representatives of the Association of Journalists of Kosovo was sought, in order to create a database of all cases that have been reviewed or are expected to be reviewed by the courts.

Chair Idrizi pledged to seek greater effectiveness from the courts in resolving these judicial cases. Finally, the AJK Board Chair and KJC Chair agreed that priority treatment and resolution of these cases would have an impact on creating a safer environment for journalists' daily work, while at the same

time it would also impact the enhancement of professionalism in the media.

Last year, Prishtina's Basic Prosecution was not able to provide data on general cases related to journalists, but this year this prosecution office has provided data. This is due to the agreement reached between the AJK and the Office of the Chief State Prosecutor. On June 21, 2017, at a joint meeting between the AJK and the Office of the Chief State Prosecutor were presented all cases involving threatened or attacked journalists since the end of the Kosovo war in 1999.

According to the Office of the Chief State Prosecutor, a total of 120 cases of attacks, threats and other cases against journalists has been recorded in the justice system in Kosovo. Statistics show that in Prishtina there are 90 cases, in Peja 4 cases, in Mitrovica 16 cases, in Gjilan 9 cases, in Ferizaj 1 case, while in Prizren there was no case of any charges. In terms of prosecution in Prishtina, out of 90 cases, the prosecution has filed 22 indictments and on the other hand they state that 7 verdicts have been issued by the courts. Also, the prosecution stated they collected information on 44 cases.

The Basic Court in Prishtina states that out of the 22 indictments filed by the prosecution, 12 cases are expected to proceed to court hearings, while four cases have been completed (two with punitive orders) while the court was not able to report on the status of six other cases. The above mentioned cases are from 2014 to 2017.

Interviewed journalists claim that courts continue to remain under political influence, which renders them ineffective in solving cases when journalists are threatened. On the other hand, some journalists point out that judges lack the courage to deal with journalists' cases due to the fear that some media may take revenge on them - referring to a judge who for a long time featured on the front page of a daily. Judge Makifete Salikua had decided in favor of a person who had been injured in the workplace and lost one hand working for a printing house, owned by the same newspaper referred to above. Since that decision, the newspaper published numerous articles against the judge, constantly breaking the code of ethics.⁴³

⁴² Rifat Bllata, email to the author on June 19, 2017

⁴³ Available at: <http://presscouncil-ks.org/vendim-i-keshillite-mediane-te-shkruara-te-kosoves-ndaj-ankesese-makifete-saliukagjykatese-e-gjykates-komunale-te-prishtines-kunder-gazetes-kosova-sot/>

One journalist commented:

"From the contacts I had with the judges, but also during the sessions that I have attended as reporter, they have expressed their fear in dealing with journalists' cases. Even we, as reporters, need to have higher morals."⁴⁴

Another journalist said the courts are a bit more open to media than in past years, but that is not enough. Criticism grew more vocal when at the end of 2016, two judges in two separate high-profile corruption cases, closed court hearings for the media and the public. The first case concerns the former chairman of the Court of Appeals, suspected of corruption, and the judge justified the closing of the hearings with the protection of the personal lives of the defendants, the injured parties and other participants in the proceedings.

The second case also involves corruption, with a large number of doctors suspected of abusing their official position and taking bribes. In this case is included the former Minister of Health and the Permanent Secretary of this ministry. The Association of Journalists of Kosovo has reacted to the closing of these sessions, stating that some sessions may be closed, but not the entire judicial proceedings. The AJK has written to the Kosovo Judicial Council on this issue, but this institution has not given any opinion regarding the closure of court proceedings. In August 2017, Enver Peci was re-elected President of the Supreme Court, after the first election in March was nullified by the Constitutional Court, which emphasized that the voting process did not provide sufficient guarantees for a transparent process.

Valdete Daka, one of the contestants for this post, had complained to the Constitutional Court because of the improper voting process. The Constitutional Court decided to repeat the contest. Prior to the announcement of the second contest, the European Union Office in Kosovo with its other partners and the Kosovo Judicial Council (KJC), worked to streamline the selection procedure and thus improve the relevant KJC regulation.

However, in the end, the EU office reacted to the process of selecting the chair, observing the two processes, and stressed that concessions were

made in the selection without having a substantial discussion on the suitability of the candidates for these positions.⁴⁵ In their letter, the EU office stressed that justice in Kosovo should be independent, transparent, responsive and free from political interference. In March this year, the President of the Court of Appeal Hasan Shala was also elected.

On March 8, 2017, AJK representatives met with Chief State Prosecutor Aleksander Lumezi, with whom they discussed the recommendations for the country's prosecution, as an important segment for addressing cases of threats and attacks on journalists. Chief Prosecutor Lumez issued a decision by which a prosecutor from his office would be assigned as coordinator for cases of threats or other criminal offenses committed against journalists in relation to their work.

Likewise, the decision obliges Chief Prosecutors in other Basic Prosecution Offices to appoint a prosecutor, who will also deal with reported cases where journalists appear to be the injured party. Chief Prosecutor Lumezi stated that prosecutors will prioritize such cases and that the prosecutor in charge of coordination will keep him informed of all actions taken in such proceedings. Also, this decision foresees that the prosecutor appointed as coordinator shall maintain a special database on these cases and by decision is obliged to inform the Chief State Prosecutor on a regular monthly basis of all actions undertaken in this regard. This database is already functional and has been presented in other meetings with the prosecutor/coordinator. Likewise, the AJK asked from the Office of the State Prosecutor to include all cases of threats and attacks on journalists in their annual report.

The Basic Court in Prishtina deals with almost all cases of threats and attacks on journalists. The Chair of the Basic Court Aferdita Bytyçi welcomed the recommendations of the AJK report and said she will ask from judges to work more quickly in cases of journalists who are victims of violence, both in the civil and criminal fields. The court, in cooperation with the AJK, will identify all cases of journalists and other media professionals who are victims and waiting for the justice system to have the final say.

⁴⁴ Anonymous journalist, interview held on 24 May 2017

⁴⁵ Available at: https://eeas.europa.eu/delegations/kosovo/31361/statement-process-selection-supreme-court-and-court-appeals-presidents_en



Appendices

List of interviewed persons

Name	Position/Organisation	Date of the interview
Saranda Ramaj	Journalist at Koha Ditore	May 18th 2017
Përparim Isufi	Journalist in BIRN	May 19th 2017
Durim Abdullahu	Journalist in KTV	May 23rd 2017
(Anonim)	Journalist in a television	May 24th 2017
Arsim Rashiti	Journalist in Ekonomia Online	May 24th 2017
(Anonim)	Journalist	May 25th 2017
Flutura Kusari	Media law expert	June 26th 2017
Imer Mushkolaj	Head of Press Council	June 19th 2017



References and sources

BIBLIOGRAPHY

Books, chapters, articles:

Available at: <http://www.5rb.com/case/cumpana-and-mazare-v-romania/>
Safejournalists.net, Parliamentary Commission secretly discusses draft law on RTK, <http://safejournalists.net/ks/komisioni-parlamentar-p%D1%91r-media-takohet-fshehu-razi-p%D1%91r-t%D1%91-diskutuar-draft-ligin-p%D1%91r-rtk/>

Available at: https://eeas.europa.eu/delegations/kosovo/19399/eu-kosovo-concerned-over-lack-transparency-amending-rtk-law_en

Western Balkan Regional Platform for Advocating Media Freedom and Journalists' Safety, Media Freedom and Journalist's Safety Indicators, p.18, accessed August 9, 2017: <http://safejournalists.net/wp-content/uploads/2016/12/Raporti-i-plot%C3%AB.pdf>

IMC, Media Monitoring Report during the 2017 General Election Campaign, accessed August 11, 2017: <http://kpm-ks.org/materiale/dokument/1499342536.8299.pdf>

European Union Election Observation Mission, Preliminary Statement, June 13, 2017, p.7, accessed August 20, 2017: https://eeas.europa.eu/sites/eeas/files/eu_eom_kosovo_2017_ps_en.pdf

Western Balkan Regional Platform for Advocating Media Freedom and Journalists' Safety, Media Freedom and Journalist's Safety Indicators 2016, p.27. Accessed August 15, 2017: <http://safejournalists.net/wp-content/uploads/2016/12/Raporti-i-plot%C3%AB.pdf>

Legal documents, policies:

Law No. 02/L-65 Civil law against defamation and insult, promulgated by UNMIK Regulation 2007/13

Law No. 05/L-047 on Amending and Supplementing the Law No. 04/L-065 on Copyright and Related Rights. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=13022>

Regulation MF - No. - 04/2017 On Criteria, Standards and Procedures for Public Financing of NGOs, <https://gzk.rks-gov.net/ActsByCategoryInst.aspx?Index=3&InstID=30&CatID=23>

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

Constitution of Kosovo, Article 42

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

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

Law No. 03/L-215 on Access to Public Documents

Media articles:

Indeksonline, January 17, 2015, accessed August 11, 2017: <http://telegrafi.com/mustafa-akuzon-rtk-ne-po-sillet-si-medium-partiak/>

Insajderi, "VV reveals the link between the deputy director of counter terrorism and the PDK," August 30, 2016, accessed August 11, 2017: <http://www.insajderi.com/vv-akuzon-zevendesdrejtorin-e-an-tilterorizmit-per-lidhjet-pdk-ne/>

Die Morina, "Self-Determination Members Arrested for Bomb in Kosovo Assembly", August 30, 2016, accessed August 11, 2017: <http://www.balkaninsight.com/en/article/vetevendosje-members-arrested-for-bomb-in-kosovo-assembly-08-30-2016>

Mentor Gjergjaj, "State suspends again the work of 16 organizations suspected of links to radical groups (Document), Gazeta Express, Jan. 9, 2017. [State suspends again the work of 16 organizations suspected of links to radical groups] Accessed on August 1, 2017: <http://www.gazetaexpress.com/lajme/shteti-ua-pezulloi-serish-punen-16-organizatave-qe-dyshohen-per-lidhje-me-grupe-radicale-dokument-304696/?archive=1>

Koha Ditore, "SPRTK reacts to uncontrolled employment in RTK", July 20, 2017. Accessed August 15, 2017: <http://www.koha.net/arberi/32862/sprtk-se-reagon-per-punesime-te-pakontrolluarane-rtk/>

Koha Ditore, "SPRTK accuses RTK executives of financial manipulation", March 13, 2017. Accessed on August 15, 2017: <http://www.koha.net/arberi/5393/sprtk-akuzon-drejtuesit-e-rtk-se-per-manipulim-financiar/>

