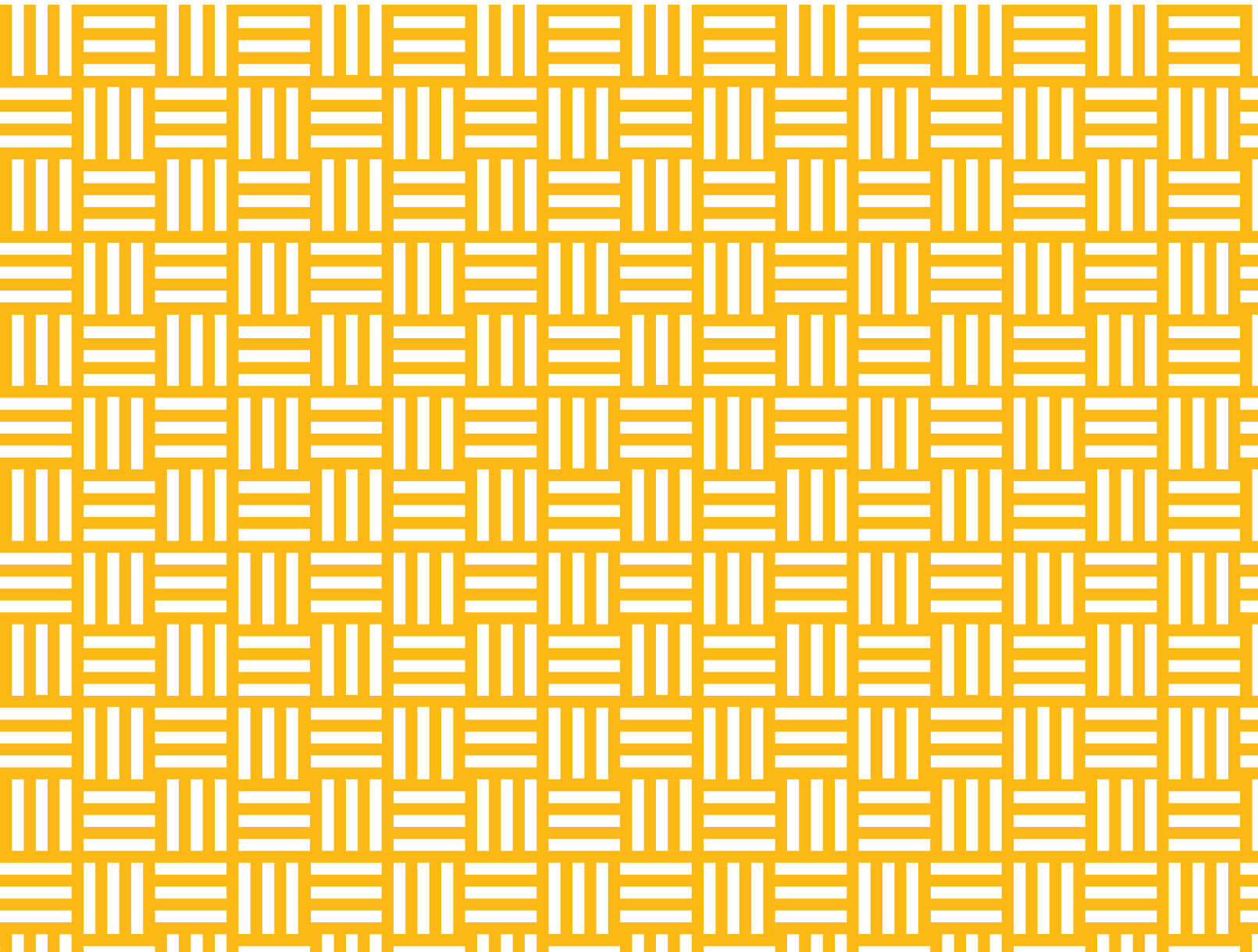




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Lirisë së Medieve dhe Sigurisë së Gazetarëve
Western Balkan's Regional Platform for Advocating
Media Freedom and Journalists' Safety

KOSOVO **Indicators on** **level of media** **freedom and** **journalists'** **safety** **2018**



KOSOVO
Indicators on
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Executive Summary

This report presents the findings of the third round of research conducted within the regional Western Balkan's Regional Platform for Advocating Media Freedom and Journalists' Safety Project¹, 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 assessment², 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 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:

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- 1 *The project is financed by European Commission, under the Civil Society Facility and Media Programme 2014-2015, Support to regional networks of Civil Society Organisations.*
 - 2 *Association of Kosovo Journalists, Indicators on the level of media freedom and journalists' safety 2016 Kosovo, (Pristina: AJK, 2016). <http://safejournalists.net/wp-content/uploads/2017/03/Resume-KS-ENG-Digital-2.pdf>*

- 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 7 journalists
- 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 provide the main safeguards for protection of media and freedom of expression, but their implementation remains weak. In relation to media legislation, in June 2018, the parliamentary commission for media approved the draft law on the Radio-Television of Kosovo, which is now being discussed by the Assembly of Kosovo.

The same commission proposed to initiate the drafting of the Media Law without providing any further explanations. The initiative was criticised by the Association of Journalists of Kosovo, media representatives and other non-governmental organisations related to media, stressing that the initiative aims at interfering and establishing control over media, especially to 'discipline news portals'. (Section A.1).

Regulatory authority is perceived to function effectively. However, the election process of the steering board of the Independent Media Commission by the Kosovo's Assembly is seen as infringement of its independence. (Section A.1)

The practice of state advertising in the media is selective and non-transparent. Public institutions allocate funds by advertising in online media. Banners in portals do not show any particular activity of ministries. (Section A.1)

National minority's media are financed by the state budget through public broadcaster, Radiotelevision of Kosovo. RTK includes Serbian, Bosnian, Turkish and Roma languages. Since 2013, the Serbian minority has its own channel in RTK2. (Section A.1)

Autonomy and independence of the PSB is guaranteed by law but poorly implemented. Direct funding from Kosovo's budget does not provide independence and autonomy of the public broadcaster. The new law is expected to be approved by the Parliament this year

which foresees mixed financing framework: a 2, 5 euro fee per household, to be collected through electricity bills, and 0.4 percent of the State Budget for specific RTK projects. The Independent Union of the RTK has reacted several times, criticising the management of the public broadcaster for financial mismanagement and employments without criteria. (Section A.1)

Two trials have taken place concerning defamation and insult claims, including one lawsuit against a media organisation and another lawsuit filed by a medium against an NGO. There are more than 50 lawsuits filed in the Basic Court of Pristina related to defamation and insult, and they are dated back since 2010. In some cases, judges seem to take side when issuing verdicts and make them politically motivated. For example the case of journalist Vehbi Kajtazi who was physically attacked and the judge ruled a four month conditional sentence to perpetrator. (Section A.2)

Kosovo's Constitution and the Law on the Independent Media Commission offer guarantees for media pluralism. In general, there is pluralism in Kosovo's media, including broadcast, print and online media. During elections, the IMC, as an independent regulatory body has the mandate to monitor media. During non-election period, media comply with IMC's Code of Conduct that stated that the media will not promote the interests of a political party or a certain political point of view. (Section A.3)

State institutions continued to be relatively closed to communications with journalists. Public authorities that do not like critical reporting, misuse their position to publicly denigrate journalists. The director of Kosovo's Air Navigation Services Agency ceased communication with a journalist and launched a campaign against her in public. (Section A.4)

The confidentiality of journalist's sources is guaranteed by the Law on Protection of Journalists' Sources which came to power in 2013. Journalists claim to feel free to maintain contacts with their sources. There is no case registered of any order from the court to journalists to disclose the source. (Section A.5)

Journalists claim that there are cases when they are refused the right of access to public documents and information by the public institutions. The draft-law for Access to Public Documents is under way and it foresees a commissioner as an independent body that will have supervisory powers. (Section A.6)

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

Journalists stressed that the community continues to work under poor working conditions and low salaries. The absence of working contracts remains a problem for this community, forcing them to work under unsecure employment conditions. This year, a number of journalists and camera operators have publicly named their employer for not paying their salaries and other taxes for several months. (Section B.1)

Online media continue to mushroom in the media landscape, but their total number remains unknown. Many of them do not display information about who are their owners and who works in their newsrooms, while many articles are published without a reporter's name. (Section B.2)

The public broadcaster, RTK has its own code of conduct and it is considered to be advanced, but its implementation in practice is poor. There is public negative criticism on the editorial independence of the broadcaster, including biased reporting due to direct political interference. (Section B.3)

The non-profit media organisations continue to maintain a higher level of editorial independence even though their number is small. Since they have financial sustainability, these media organisations have more freedom to report without fear of any political or economic revenge. (Section B.4)

Journalists claim that editors and owners tend to influence their work if the story reveals sensitive issues involving political or business interests. The censorship is mentioned in informal meetings out of fear of losing one's job. Journalists also stated that fellow colleagues know in advance what they are allowed to report. (Section B.5)

Indicators C:
Journalists' safety

With regard to journalist's safety, the trend remains the same as in the previous year. In the period between January and September 2018, the AJK registered 13 cases, including threats and attacks. It should be noted that investigative journalists are most at risk due to their investigative reporting. Threats against them range from those of high state officials to those of ordinary citizens. (Section C.1)

Justice and security institutions continued to strengthen their mechanisms on journalists' protection. The Basic Court in Pristina held several trials related to threat, defamation and insult cases. The AJK demands from those institutions to be more efficient in disposing of journalists' cases within the legal deadlines. (Section C.2)

The criminal and justice system have improved their mechanisms related to protection of journalists and other media professionals. Although, a more effective treatment of cases of threats and attacks by the police is still necessary and the prosecution and the courts need to do more to close cases in a timely manner. The journalists' perception remains that the real instigators of crimes against them are never discovered. (Section C.3)

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 basic norms for protection of media and journalists' freedoms. Kosovo's Constitution guarantees freedom of expression and pluralist media protecting "the right to express oneself, to disseminate and receive information, opinions and other messages without impediment."³ While the legal framework is appropriate for media freedom, based on the overall assessment of interviewed journalists, its implementation is poor. The reasons behind this are slow reaction times of the justice system in cases of threats and physical attacks on journalists.

The 2018 Freedom House Report⁴ ranked Kosovo between the only "partly free" countries. The report warned that government and business interests exert undue influence on editorial lines, and journalists report frequent harassment and intimidation that lead to journalists practicing self-censorship.

During the reporting period, Kosovo's Assembly received several draft-laws from the government that directly or indirectly affect the media, such as: draft-law on Access to Public Documents, draft-law on the Radio-Television of Kosovo, draft-law on Personal Data,

³ "Kushtetuta e Kosovës" [Constitution of the Republic of Kosovo], Article 40 (f)

⁴ Freedom House, *Media freedom 2018*, Accessed on May 10 2018: <https://freedomhouse.org/report/freedom-world/2018/kosovo>

draft-law on Protection of Whistleblowers and draft-law on Freedom of Association of Non-governmental Organisations.

The draft-law on the Radio-Television of Kosovo aims to regulate its financing and is expected to enter in force in 2019. The draft-law foresees EUR 2,5 fee per household to be collected through electricity bills. This practice was stopped in 2009 after the Constitutional Court imposed injunctions, and since then RTK was directly financed from Kosovo's budget, while lately the budget was allocated in three-month cycles. Also, the draft-law foresees that Kosovo's Assembly shall, as the establisher of the RTK, allocate up to 0,4% of its budget to the RTK to finance important projects and events, which sums up to EUR 8 million from the country's estimated EUR 2 billion budget. The draft-law will replace the 2012 law that was projected for only three years until the management would be able to find a long-term way to finance the public broadcaster.

The draft-law on Access to Public Documents is wider in scope and closer to EU's legislation.⁵ The draft-law foresees an authority that will deal with public institutions that hinder the access to public documents. The Commissioner will be an independent body within the Agency for Information and Privacy.

The draft-law on Personal Data Protection foresees the change of the name of the State Agency for Protection of Personal Data into the Agency for Information and Privacy. The latter will have additional powers related to the supervision and implementation of the law on access to public documents. The draft-law will replace the 2010 law adopted by Kosovo's Assembly.

In the beginning of 2018, Kosovo's Government compiled the new draft-law on Freedom of Association in Non-governmental Organisations, which has passed the first reading in the Parliament. The draft-law introduces a number of amendments to the current laws that was adopted in 2011. The new draft law clearly sets out the rules for the establishment, registration, operation, suspension, termination, prohibition of action of non-governmental organisations in Republic of Kosovo.

On June 14, 2018, the draft-law on Protection of Whistleblowers received the green light from the Kosovo Government and was filed for a vote in the Assembly. The draft-law provides protection for whistleblowers who disclose information about any breach of law, or suspicion thereof that threatens and violates public interest in their workplace, in both the public and/or private sector, without fear of punishment by employers. The Ministry of Justice, during the drafting this draft law and in public consultations with other relevant civil society actors, has

foreseen three types of whistleblowers: internal, external and public whistleblowers.

According to the provisions of this law, reporting the information to the employer is considered to be internal whistle blowing, reporting to competent authorities such as the prosecution and police is considered to be external whistle blowing, and the publication or disclosure of any information to the media is considered as public whistle blowing. This draft-law provides protection for whistle blowers and the confidentiality of the responsible persons who receive and handle information from them for any breach committed by their employer. Special attention is also given to judicial protection for whistleblowers who, if harmed in the future within the institution, organization or company where they work, have the right to judicial protection by filing a lawsuit for the damages caused to them in connection with their whistle blowing.

The Association of Journalists of Kosovo reacted many times in regards to the lack of transparency of the parliamentary commission on media. On June 20, the AJK reacted against conduct behind closed doors of a meeting in which the RTK draft law was discussed⁶ without giving any explanations. The AJK reminded the commission about the importance of the RTK's draft law for the public and that such practices do not serve the Parliament's transparency and at the same time constitute a violation of the civil right for information.

In another case, on May 8, the AJK reacted against the same commission for not including any consultations with any relevant parties regarding the initiative of drafting the media law. Some members of this commission told the media that they intend to "discipline" the portals and regulate working conditions for journalists. Since then, this commission has not launched any public debate to clarify in detail what is supposed to be regulated by this law. Kosovo has a broad legal framework that regulates many areas that directly relate to freedom of expression, but there is a lack of political and institutional will to implement the laws in practice.

The two regulatory authorities in Kosovo, the Independent Media Commission (IMC) and the Press Council of Kosovo (PCK) are generally perceived as functioning effectively. However, the independence of the IMC is infringed due to continuous politicization of the election process when electing the steering board which is elected by the Kosovo's Assembly. The IREX's media sustainability index 2018 stated that "the election of board members is mostly based on party affiliations rather than on professional merit."⁷

⁵ Available at: <http://ligjet.kuvendikosoves.org/LTS/DraftLawPhase?draftLawId=104&languageId=1>

⁶ Available at: <http://agk-ks.org/agk-kundershton-mbylljene-komisionit-parlamentar-ku-po-shqyrtohej-prajektligji-per-rtk-ne/>

⁷ IREX, Media Sustainability Index 2018, Accessed on October 10, 2018: <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2018-kosovo.pdf>

The transition from analogue to digital broadcasting, which is the IMC's responsibility, did not happen this year during this period of reporting. The IMC issues licences to the public and private broadcasters as well as to all audiovisual media services. The Commission has the right to renew the licences, granting the licensed subjects the right to use the frequencies in Broadcasting Frequency Spectrum. IMC imposes sanctions on licensed subjects that breach the Commission's regulations or terms and conditions of the licence.

The Office for Community Affairs within Prime Minister's office has allocated EUR 500.000 with a call to non-governmental organisations related to protection and promotion of community's rights. Compare to last year where several media in Serbian and other languages were offered grants, this year the call is aimed at NGO's.

RTK's autonomy and independence are protected by law, which was adopted in 2012, but legislators created it for only three years, until 2015, until the management would find a new and independent funding mechanism. The insecure financial state of the RTK has caused the public broadcaster to be criticized for editorial bias, uncontrolled employment and nepotism. However, the Kosovo Assembly is expected to adopt a new law expected to provide financial sustainability for the public broadcaster. On February 5, 2018, the parliamentary media commission organized a public debate inviting all interested parties to discuss the draft law of the RTK and one of the main requirements of the Independent Public Broadcasting Union (SPRTK) was also the manner of election of board members of the public broadcaster. Union representatives demanded that the Kosovo Assembly should not be the body that will directly elect the board members, and that instead an independent body representing the broader society should select a short list of the best candidates and then propose them to the MPs for approval. This union's request was not finally approved by the parliamentary commission on media.

Public institutions have advertised in media in a selective and non-transparent manner. Ministries and other state agencies continued also this year to allocate money in online media. Banners in portals do not show any particular activity of the public institutions but rather it directs you to the web-site of the institutions.

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

The Civil Law against Defamation and Insult has no special provisions that would create disturbing effects on journalists accused of libel or insult. With the adoption of this law in 2012, defamation and insult were decriminalized in Kosovo, removing from the Criminal Code of Kosovo the articles that provided for prison sentences for slander.

Last year, the government failed to initiate an amendment to the Criminal Code aimed at sanctioning with three months to five years in prison any journalist, media or member of the public that would slander or offend a constitutional body, including the President, the Assembly, the Government and the Constitutional Court.

At the start of the year, Kosovo courts began hearing lawsuits of defamation or insult, thus marking the first cases of use of the law on defamation. So far, 59 cases have been registered, 10 are filed by state officials, and most of them have high profiles, 5 cases have been filed by lawyers and judges against journalists and media, 6 cases have been filed by media/journalists against other media/journalists.

On January 3, 2018, the Basic Court in Peja ruled in favour of a journalist who had sued a local company for an offensive campaign against him. According to the ruling, the local company is obliged to pay EUR 15.000 to the journalist as a compensation for the offensive campaign of billboards against him in 2015. The journalist had written about a product of this company that was not compliant with the standards and raised public concerns. The company, in retaliation, had set up posters with the name of the journalist presenting him along with a picture of an animal.

On June 4, 2018, the Basic Court of Pristina dismissed the lawsuit of the Anti-Corruption Agency (ACA) and its former director, Hasan Preteni, for libel and insult against the non-governmental organization "Çohu"⁸. The ruling stated that the ACA's lawsuit is unfounded, as the civil law against defamation and insult does not permit the filing of claims by public persons for compensation for the damages caused by libel or offense, which can be done privately in their personal capacity. Preteni claimed that the organization "Çohu" had slandered against him as an official person at a media conference, saying he had defended seven MP's for not declaring their assets. Preteni, in the capacity of Director of the Anti-Corruption Agency, claimed that the views of the organization "Çohu" have

⁸ Available at: <http://agk-ks.org/hasan-preteni-humb-beten-ligjore-organizaten-cohu/>

produced consequences for his personality, requesting compensation of EUR 100.000, as well as payment of all procedural court expenses. However, the court ruled that Preteni had to cover all costs for the NGO occurred during the proceedings, in the amount of EUR 1,393.60.

This year, the Basic Court in Pristina has dealt with another case involving defamation. This court has dismissed the allegations of defamation and insult by the private TV station Klan Kosova against the organization “Youth Initiative for Human Rights” (YIHR), pointing out that none of the allegations have elements of defamation and insult.

In May 2010, YIHR published a report named “State of Constriction” with findings on media restriction and reporting, specifically on Kosovo’s media scene for the period 2008-2009. Klan Kosova was presented in this report as a media “favouring the Democratic Party of Kosovo” during the 2009 election campaign. A month later, in June 2010, Klan Kosova and its director, Baton Haxhiu, filed a lawsuit for defamation and insult against YIHR.

The claimant alleged that the publication of the report had caused damages to the television’s reputation and material losses in marketing, claiming compensation of EUR 285.000. The court ruled that there had been no damage to the reputation, since it was only an opinion of the author of this report and that according to the civil law against defamation and insult, there can be no restrictions by any authority for such opinions.

The allegations of causing material damages were considered ungrounded by the Basic Court in Pristina, stating that the plaintiff could support the argument with any evidence that such damages had occurred. The court in Pristina obliged the plaintiff to cover the costs of the contested procedure for YIHR, in the amount of EUR 1.019.20.

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

Kosovo’s Constitution provides guarantees for media pluralism.⁹ The Law on the Independent Media Commission also supports freedoms and pluralism of audio-visual media in Kosovo.¹⁰ Media in Kosovo are not bound

by law in regards to political pluralism during non-electoral period, but the issue is regulated by a code of conduct for all the media.

In general, there is pluralism in Kosovo’s media, including broadcast, print and online media. The Independent Media Commission is a self-regulated body with the mandate to monitor the media during electoral periods. The IMC’s Code of Conduct for audio-visual media states that the media will not promote the interests of a political party or a certain political point of view. The IMC issues licences to public and private broadcasters as well as regulates the rights, obligations and responsibilities of physical and legal persons that offer audio-visual media services.

The Election Law¹¹ regulates media coverage during electoral periods and demands from all media to respect the Code of Conduct for broadcast, print and online media, including all aspects of campaign coverage and advertisement.

According to the IMC, for 2018, in Kosovo there are 20 television stations, 83 radio stations, 61 program service providers and 38 distribution operators.¹² Additionally, there are five daily newspapers, while the exact numbers of online media remains unknown as they keep growing.

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

Journalists are guaranteed by law the freedom of work and association. In Kosovo there are two journalists’ associations, the Association of Journalists of Kosovo (AJK) and the Association of Serb Journalists in Kosovo. The AJK has a bigger number of members, and members from other communities as well. 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 claimed that their rights were violated, they addressed the AJK, which advised them of the following steps. The AJK has, in some cases, served as a mediator between the journalists and the authorities of the country, namely the labour inspectorate. However, the public broadcaster has two unions: the RTK Independent Trade Union (SPRTK) and the RTK Workers’ Union.

The Kosovo’s Assembly is reviewing the amendments to the draft law on Freedom of Association in Non-go-

⁹ *Kushtetuta e Kosovës [Constitution of Kosovo], article 42*

¹⁰ *Ligji Nr. 04/L-044 për Komisionin e Pavarur të Medieve [Law No. 04/L-044 on Independent Media Commission], article 5*

¹¹ *Ligji Nr. 03/L-073 për Zgjedhjet e Përgjithshme në Republikën e Kosovës [Law No. 03/L-073 on general elections in Republic of Kosovo], Chapter VIII, available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2722>*

¹² Available at: <http://www.kpm-ks.org/?faqe=418&gjuha=1>

vernmental Organizations¹³ and the changes are expected to be made to the very first chapter, respectively in the articles related to the goals, scope and definitions. The articles in this chapter are more extensive and guarantee a greater empowerment of the freedom of association in Kosovo. The new draft law foresees amendments to the second chapter, where each person is guaranteed the right to establish an organization, equal treatment in the right of association, and no person is obliged to associate against their will.

The new draft law foresees changes also in other articles of freedom of association, which will be more extensive and in harmony with the Constitution and laws of the country and international agreements. For the establishment of an NGO, several additional criteria have been added, and from the 7 articles for establishing an NGO, the new draft is foreseen to have a total of 8 articles. A special chapter is also devoted to the statute of NGOs, which is a detailed regulation of the issues of organization, functioning and activity of the organization. Changes are also foreseen in the forms of organization and internal functioning of NGOs, with expected regulation of the functioning of associations, foundations or institutes.

In Kosovo there is no legal obligation on journalists to be issued a license by any authority before starting a career in journalism. Upon completion of studies, young journalists start seeking internships in some media, although this issue is not well regulated. Interns start their work, some of them are paid while some not, for an indefinite period, and few of them may find a job as a result of the internship.

On 3 May 2018, on the World Press Freedom Day, the Association of Journalists of Kosovo organized a protesting action in the city centre with the motto “Impunity kills freedom of expression”, demanding greater efficiency from security and justice institutions to address cases of attacks and threats to journalists.

Even during 2018, state officials tended towards stopping communications with journalists because of critical reporting about their work. On 19 March 2018, the AJK reacted to the decision of the director of the Air Navigation Services Agency (ASHNA) to interrupt communications with the journalist Ardiana Thaçi Mehmeti. The decision was taken because of some investigative articles on some alleged wrongdoings made in this institution. The AJK has also reacted to the agency director who had labelled the journalist as a “source of disinformation” and a journalist working for “interest groups”, publishing this allegation on the screen located in the main lobby of this institution and the agency’s website too. Following the AJK’s reaction and letters of concerns, the allegations

were removed from the screen and the website.

Kosovo’s Press Council (KMSHK) was established in 2005 as a self-regulated mechanism from the representatives of print media, and its mission is to support compliance with the Code of Print Media. During 2017, the Press Council worked on 67 complaints from third parties in relation to print and online media. Out of these, in 50 complaints are found to have violated the Code of Ethics, of which 29 were against the daily “Kosova Sot” and 13 against the “Gazeta Express” portal.¹⁴

Now, the Council has 27 regular members from newspapers, portals and news agencies, and three independent members: the chairman and two vice-presidents. The board consists of representatives of newspapers, portals and news agencies. One of the criteria for membership in the PCK is that the media should present ownership data. To date, the council has established a reputation in dealing with complaints from individuals or organizations, although it can do more to raise awareness among the injured parties to seek remedies for violations made as a result of unprofessional reporting.

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.¹⁵ During the reporting period, there was no reported case of a journalist asked by any court to disclose the source of information. The Law on the Protection of Journalists 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

¹³ Available at: <http://ligjet.kuvendikosoves.org/LTS/DraftLawPhase?draftLawId=65&languageId=1>

¹⁴ Available at: <http://presscouncil-ks.org/vendimet/>

¹⁵ Ligji Nr. 04/L-137 për Mbrojtjen e Burimeve të Gazetarëve [Law No. 04/L-137 on Protection of Journalists Sources]

harmful restrictions on journalists with regard to sources in media content were abolished.

In the 2016 report, most journalists interviewed said that they feel free to keep in touch with sources of information when reporting on issues of public interest. Surveyed reporter (44,4%) said that their interaction with sources, whose professional identity should be respected, has increased to a certain degree. (23 respondents from 50 were entitled to answer to this question, because they have less than five years of journalistic experience).¹⁶

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

The interviewed journalists for this report stated that they faced refusal on their requests for access to public documents by public institutions. They stress when there is an investigation on a serious matter, the institutions are closed to journalists.

The ongoing draft law on Access to Public Documents was approved by Kosovo's Assembly in the first reading.¹⁷ This draft law foresees the establishment of a Commissioner as an independent body with supervisory powers on the implementation of the law. The Commissioner will be appointed by Kosovo's Assembly and will act under the Agency for Information and Privacy, which for the time being is functioning with a different name, State Agency for Protection of Personal Data. The Commissioner is responsible to undertake and issue the measures provided by this law. In case a request for access to public documents is refused as a whole or partially by a public institution, the applicant can address complain to the commissioner within 15 days from the receipt of the decision on refusal or decision for partial approval of the request for access. The Commissioner's decision is final in administrative procedure and can only be challenged through an application before the competent court of administrative matters. The draft law foresees fines too, from EUR 3.000 to EUR 10.000 for public institutions that disable, hinder or restrict the realisation of the right to access to public documents. Fines are foreseen for responsible officials at public institutions that may be given a fine from EUR 500 to EUR 1.000, as well as to the institution from EUR 1.000 to EUR 3.000 if they allow the damaging, destruction, concealing, or in any way or form make the public document unclear, with the purpose of

disallowing the realization of the right of access to the public documents.

Moreover, the draft law did not change the period of response by public institutions that shall issue a decision within 7 days to grant or refuse access. The public institution may extend the deadline to additional 15 days if the information or the document has to be searched in other institutions.

In general, the meetings of the Presidency of Kosovo's Assembly and meetings of Assembly commissions were open for the media. However, the AJK has reacted in two occasions when the members of security of the Assembly forced two journalists out of the building on the grounds that they were not accredited, while the Assembly itself had failed to accredit them. The AJK has sent letters of concern to the Parliament Speaker and General Director of Kosovo police, demanding responsible behaviour of security officers who are members of Kosovo police.

¹⁶ Regional Platform of Western Balkans on Advocacy of Media Freedom and Journalists Safety, *Indicators of media freedom and journalists safety 2016*, p.27. Accessed on June 7 2018: <http://safejournalists.net/wp-content/uploads/2016/12/Raport-i-plot%C3%AB.pdf>

¹⁷ Available at: <http://ligjet.kuvendikosoves.org/LTS/DraftLawPhase?draftLawId=104&languageId=1>

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?

The difficult economic situation in Kosovo has affected the media industry too, thus creating financial instability. Consequently, journalists continue to work in difficult economic and social conditions. The recent months have seen many journalists and photojournalists leaving the media and getting employment in public institutions. Another great interest of journalists continues to be the employment by the Radio-Television of Kosovo, because of a secured salary. Journalists are abandoning private media due to non-payment or low salaries. Interviewed journalists have said that this community continues to work in unfavourable conditions due to a lack of employment contracts, low wages, or late payments.

“There are few media that enter into contracts with journalists, which is one of the main conditions that would guarantee the work of a journalist. On the other side, there is no transparency on payments of salaries, and I want to stress that journalists are still paid in cash or in envelopes.”¹⁸

On July 23rd, 2018, the Association of Journalists of Kosovo called on the country's institutions, respectively to Labour Inspectorate and State Prosecution, to investigate public allegations of journalists, camera operators and producers that their employer, “Tribuna

¹⁸ Shkumbin Kajtazi, journalist, interview held on May 22nd, 2018

Media Group”, hasn’t paid their salaries, taxes and pension contributions for several months. A group of journalists gave statements to an online medium¹⁹ claiming that they were also ill-treated and their labour rights were violated by the abovementioned medium.

Last year, the AJK reacted in regard to the same charges of the employees of this medium and addressed the complaints to the Labour Inspectorate, and the case was processed for review in the Basic Court of Pristina. Currently, the case is with private enforcement agents and the AJK is monitoring the process.

Journalists continue not to have proper social protection. They do not have health insurance and are not paid for medical leave. Journalists claim that the labour law is generally not respected by employers, especially when it comes to annual and weekly leaves. In Kosovo there is a small number of media that meet these legal obligations.

“Salaries and contracts do not differ from other business. The level of unemployment in Kosovo is also used by the media, because the moment you have so many demands for employment, you have the luxury not to increase the salaries or not to adjust for inflation growth.”²⁰

Results from the 2016 survey with journalists and editors show that half of the surveyed subjects stated that their salaries vary from EUR 200 up to EUR 500. While salaries for editors are from EUR 600 to EUR 900, including here salaries at the public broadcaster.²¹

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

There is a broad perception from journalists that the level of editorial independence is low, as advertising is the only source of revenue for private media and from time to time managers or media owners influence the editorial team not to publish the articles that criticize companies that are big advertisers. Larger media have separate organisational structures that keep the editorial room separate from management and the marketing department, but the problem lies with online media that do

not have a lot of employees and their offices are mostly rented in residential spaces, which do not have enough room for work.

Printed media and online media use the general code of ethics adopted by the Press Council of Kosovo. Whereas, private broadcasters act in accordance with the general Code of Ethics of the Independent Media Commission.

Online media continue not to publish the names of journalists; many of them do not present information on themselves. This is a problem for third parties, since they are not able to identify the journalist, editor, or owner of the portal when they want to complain about the content of any media stories. Also, copyright continues to be abused, as many online media re-publish news without requiring prior permission to do so.

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

The Radio-Television of Kosovo is the only public broadcaster in the country and has four channels, one portal and two radio stations. The RTK continues to be funded by the state. The Assembly of Kosovo is amending the bill, whereby a sustainable financing solution is foreseen. All journalists interviewed stressed that the RTK exercises low editorial independence as a result of direct funding from the state. “Problems in the RTK have accumulated for a long time. Its funding from the state budget has made it completely dependent. Politicization is extreme.”²²

The RTK has its own code of conduct named “Professional standards and ethical principles in programs of the RTK” and it is considered to be advanced, but its implementation in practice is poor. There is public negative criticism on the editorial independence of the broadca-

¹⁹ *Insajderi*, “Tribuna e mashtrimit – televizioni që u ka mbetur mijëra euro borxh dhjetëra punëtorëve”, 22 korrik 2018, accessed on August, 2018, <http://www.insajderi.com/hulumtime/tribuna-e-mashtrimit-televizioni-qe-u-ka-mbetur-mijera-euro-borxh-dhjetera-punetoreve/>

²⁰ Visar Prebreza, *journalist*, interview held on May 24th, 2018

²¹ *Regional Platform of Western Balkans for advocacy on media freedom and journalists' safety*, *Indicators of the level of media freedom and journalists' safety*, p.32, accessed on August 15 2018: <http://safejournalists.net/wp-content/uploads/2016/12/Raport-i-plot%C3%AB.pdf>

²² Albert Ahmeti, *journalist*, interview held on May 23rd, 2018.

ster, including biased reporting due to direct political interference.

RTK's management was also criticised many times by members of the parliamentary commission on media, when the management was reporting in front of them with regards to continues employment without criteria and over staffing, despite the financial problems, in particular over the last years.²³ From 725 regular employees that were registered by December 2016,²⁴ this number has been increased to 769 regular employees by the end of 2017.²⁵ Such employments were followed with much criticism, emphasising the nepotism.

The Independent Union of the RTK (SPRTK) has raised its concerns several times, criticizing management for mismanagement and nepotism. Finally, this trade union has reacted to uncontrolled employment, as they say, in the public broadcaster, even in some cases without a competition. Union representatives have stressed that management is failing to comply with the Auditor General's recommendations about further employment at public broadcaster, due to the difficult financial situation.

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

There is a small number of media in the non-profit sector that operate in Kosovo. The level of editorial independence is higher compare to private sector. Media in non-profit sector continue to be financially more stable due to, mainly, foreign donations. Such media organisations have to apply constantly for donations based on projects that aim to develop media reporting. Since they have financial sustainability, these media organisations have more freedom to report without fear of any political or economic revenge. They comply with the general code of ethics for print and visual media, whilst some of them have their internal codes of conduct. There are few media organisations in the non-profit sector that operate in Kosovo, such as the Balkan Investigative Reporting Network (BIRN), Kosovo Justice Institute, Çohu and Kosovo 2.0, which engage in investigative journalism, including television program, online and print media. These

media cover the justice system, public spending and tackle corruption in central and local level.

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

In general, journalists have sufficient freedom to choose topics for the news, but not the angle of the news that is to be emphasised. They claim that usually this right belongs to the editors. When covering press conferences, journalists from online media simply record the event on their smart phones and upload it online. However, some online media have also started to develop news apps for their sites. This way they hire camera operators and video editors to become competitive mobile platforms.

According to the 2016 survey, 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.

23 *Ekonomia Online*, "RTK that complains about lack of budget, increases the number of employees", *Ekonomia Online*, 19 July 2018. Accessed on 15 august 2018: <http://www.ekonomiaonline.com/nacionale/rtk-ja-qe-ankohet-per-mungese-te-buxhetit-rit-numrin-e-punetoreve/>

24 *Radiotelevision of Kosovo, Report of Independent Auditor 2016*, Pristina, p.11, accessed on 16 august 2018: http://www.rtklive.com/pages/files/Raporti_Auditorit_2016_al.pdf

25 *Radiotelevision of Kosovo, Report of Independent Auditor 2017*, Pristina, p.10, accessed on 16 august 2018: http://www.rtklive.com/sq/pages/files/pf_dhe_rap_2017_1.pdf



C.1 Safety and Impunity Statistics

From January 1st until September 20th 2018, AJK registered 13 cases of death and verbal threats, physical attacks 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	Actual attacks on journalists	Journalists murdered	Threats against media and media organizations	Attacks on media and media organizations	Total
4	5	2	0	1	1	13

The Association of Journalists of Kosovo has reacted in two separate cases when journalists, Taulant Osmani and Lumturije Blakaj were forced out of the Kosovo's Assembly building by members of the security. AJK noticed that at the time of political tensions in the country, journalists become targets and their work is hindered. AJK has sent letters of concern to Kosovo's Parliament Speaker, Kadri Veseli and to the then General Director of Kosovo Poli-

ce, Shpend Maxhuni demanding the freedom for journalists work in the Assembly.²⁶

Two journalists are physically attacked while covering stories in the field. Photo-reporter, Blerim Uka was attacked by a group of youngsters in the northern part of Mitrovica. Uka was hit with sticks while his equipment was also destroyed. Valon Rashiti was reporting about a case in which two persons were injured. Rashiti went to Pristina's hospital and he was attacked there by a family member of one of the victims, who hit him in the head.

Journalist Shkumbin Kajtazi received threats and offences by Mitrovica Mayor, Agim Bahtiri. The latter called the journalist on the phone in relation to an article. Kosovo police reported that they issued a criminal report against Mayor Bahtiri.

The website of television program "Slobodno Srpski" was hacked four times within a short period of time. The author, Budimir Nicic suspects that the attack happened due to a presence of a guest who talked about the political situation in the northern part of Kosovo.

The team of online "Gazeta Insajderi" received death threats via telephone call by an owner of a local company after an investigation was published in relation to the company's involvement in the so-called 'meat scandal'.

On June 7th, 2018, the European Federation of Journalists approved a resolution for the investigation of murder and missing of 14 journalists in the period 1998-2005. The Resolution was proposed by the Associations of Journalist in Kosovo and Serbia. One of the points in the resolution states that the authorities in Pristina and Belgrade are asked to cooperate to solve those cases. The resolution also demands the extension of the mandate of the Specialist Chambers of Kosovo and Special Prosecution, to include the cases of murdered and missing journalists.

The following is the list of murdered and missing journalists in Kosovo.

Enver Maloku, founder of Kosovo's Informative Centre, murdered on January 11th 1999, near his apartment in Pristina.

Shefki Popova, murdered on September 10th, 2000 in front of his apartment in Vushtrri. He worked for many years in daily newspaper "Rilindja".

Xhemajl Mustafa, murdered on November 23rd 2000 in front of his apartment in Pristina.

Bekim Kastrati, journalist at daily "Bota Sot". He was mur-

dered on October 19th 2001, in an ambush near Llaushe village, Skenderaj municipality.

Bardhyl Ajeti, journalist at daily "Bota Sot". He was murdered on June 3rd 20015, in an ambush near village Bre-salc, Gjilan municipality.

Ranko Perenic and Djuro Slavuj, both journalists at Radio Pristina, kidnapped and missing since August 21st 1998, while going to village Zocishte in Orahovac to do a story about the return of a kidnapped monk.

Ljubomir Knezevic, journalist at "Jedinstvo" and correspondent of Belgrade's daily "Politika, kidnapped and missing since May 6th, 1999, near Vushtrri.

Milo Buljevic, journalist at RTV Pristina was kidnapped on June 25th, 1999, near the refuge centre, where he was living. He is still unaccounted for.

Krist Gegaj, worked at Radio television of Pristina, murdered on September 12th, 1999.

Momir Stokuca, photo reporter in daily "Politika", murdered on September 21st, 1999, in his house in Pristina.

Afrim Maliqi, journalist at daily newspaper "Rilindja" and "Bujku", murdered on December 2nd, 1998 in Pristina.

Marjan Melonasi, journalist at Radio Kosova, Serbian language channel, abducted on September 9th, 2000, still unaccounted for.

Aleksandar Simovic, went missing since August 21st, 1999. His mortal remains are found in village Obri, Glogovc municipality.

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

Justice and security institutions have continued this year to improve the mechanisms for protecting journalists. The President of the Basic Court of Pristina has appointed a coordinator for cases of journalists. The coordinator, who is the vice president of the court too, in the meeting with AJK representatives, pledged to create their own database including all criminal and civil cases related to journalists.

Kosovo police has decided that cases of attacks and threats against journalists are to be handled by the De-

²⁶ For other cases registered by AJK, please click on the following link: <http://safejournalists.net/ks/homepage/>

partment of Serious Crimes. Police are encouraged to expand their investigations into some cases of physical assaults on journalists and investigate who the other persons responsible for the attack are.

On the other hand, the Kosovo Prosecutorial Council has appointed prosecutors who will be responsible for media communications. This decision was taken to improve the communication with journalists and it is a part of the new State Prosecution strategy on media relations. The AJK was part of the working group that developed the strategy.

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

The appointment of a coordinator by the Pristina Basic Court to deal with cases of threats and acts of violence against journalists has been hailed by the community. Such mechanism plays an important role in the functioning chain of journalists from the side of security state institutions, including police and prosecution. The coordinator promised the creation of their own database with cases of threats against journalists. There have been trials during 2018 by Pristina's Court and in three instances the judges ruled in favour of journalist victims. The cases were pending from 2014.

Nonetheless, the justice system should deliver higher efficiency in the treatment of cases of threats against journalists by processing the cases within legal deadlines. The proceedings and disposal of those cases on time by the judiciary would directly create a safe and secure environment in the work of journalists and would increase media professionalism. Also, the justice and security institutions are criticised for the policy of soft sentences against the perpetrators of threats and attacks against journalist. This topic has been debated often in the meetings between journalists and justice authorities.

The Basic Court in Pristina has already identified many pending cases that wait for years to be processed by the judges. A civil case started recently, which involves a journalist that sued the employer claiming to have been degraded unjustly for several positions at work. The first hearing was held in September.

During the reporting period, five trials were held, including one case of a physical attack and four related to lawsuits on defamation.

On August 15th, 2018, the Basic Court in Vushtri issued a prison sentence against two individuals on charges of threat and light bodily injury against a journalist. The latter was attacked in 2016 and beaten with metal bars by a local member of the Mitrovica municipal assembly, who was sentenced to five months in prison. The second person was sentenced to four months in prison.

On January 3rd, 2018, the Basic Court in Peja issued a verdict against a local company due to its offensive campaign against a journalist. In March 2015, the company distributed around the town of Peja offensive billboards with photo of a donkey and the journalist's name on it. The company was found guilty and sentenced to EUR 15.000 as a compensation for the journalist.

On October 26th, 2017, the Basic Court in Pristina found a former official of the Ministry of Trade and Industry guilty and issued a sentence of EUR 500 fine for a threat against a journalist. The case was filed in 2014.

On September 27th, 2017, the Basic Court in Pristina sentenced an individual to an EUR 300 fine due to a death threat against two journalists, because of an article in which his convicted brother was involved.

On November 14th, 2017 the Basic Court in Pristina issued a four months conditional sentence against an individual who physically attacked a journalist in Pristina's centre, after he published an investigative article.

The journalists' community has criticized the policy of court sentences in journalists' cases, stressing that judges are imposing the minimum punitive measures foreseen by law. One of the interviewed journalists pointed out that light sentences stimulate and encourage attacks on journalists.

"You have a scandalous judgment in the case of a physical attack against Vehbi. The verdict was scandalous. It's very easy for someone to beat you in the middle of the day, to humiliate you in public, to intimidate you, and ultimately, they are not sentenced. He [perpetrator] was not really convicted," said journalist Besnik Krasniqi²⁷.

On the other hand, the State Prosecution issued four indictments for cases of threats that occurred in 2017. Of these cases, only three have been reported to the AJK by journalists and are expected to be processed by the Basic Court in Pristina.

²⁷ Besnik Krasniqi, journalist, interview held on May 29th, 2018.

Appendices

List of interviewed persons

Name	Position, Organisation	Date of interview
Shkumbin Kajtazi	Journalist at Metro	May 22nd 2018
Eraldin Fazliu	Journalist at Kosovo 2.0	May 22nd 2018
Albert Ahmeti	Jurnalist at daily Zeri	May 23rd 2018
Visar Prebreza	Journalist at BIRN	May 24th 2018
Ardiana Thaçi-Mehmeti	Journalist at KTV	May 24th 2018
Besnik Krasniqi	Journalist at Koha Ditore	May 29th 2018
Mentor Gjergjaj	Journalist at Gazeta Express	May 30th 2018

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