

**Organization for Security and Co-operation in Europe
MISSION IN KOSOVO**

Freedom of Media and Safety of Journalists in Kosovo

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TABLE OF CONTENTS

LIST OF ABBREVIATIONS.....	3
EXECUTIVE SUMMARY	4
INTRODUCTION	5
1. THE MEDIA ENVIRONMENT, LEGAL FRAMEWORK AND MEDIA RELATED BODIES	7
1.1. Media environment	7
1.2. Legal framework and media related bodies	8
2. CHALLENGES RELATED TO VIOLATIONS OF FREEDOM OF MEDIA AND SAFETY OF JOURNALISTS	11
2.1. Intimidation, threats and violence against journalists	12
2.2. Financial pressure on media and journalists	13
2.3. The private business influence on journalists	15
CONCLUSIONS.....	17
RECOMMENDATIONS	18

LIST OF ABBREVIATIONS

AITU	Association of Independent Trade Unions
AMPEK	Association of Kosovo Independent Electronic Media
APJK	Association of Professional Journalists of Kosovo
BIRN	Balkans Investigative Reporting Network
EC	European Commission
EU	European Union
IMC	Independent Media Commission
INDEP	Institute for Development Policy
KJI	Kosovo Judicial Institute
KMI	Kosovo Media Institute
KPC	Kosovo Prosecutorial Council
KTV	Kohavision
OIK	Ombudsperson Institution in Kosovo
OSCE	Organization for Security and Co-operation in Europe
PCK	Press Council of Kosovo
RSF	Reporters without Borders
RTK	Radio and Television of Kosovo
RTV21	Radio and Television 21
UGK	Union of Kosovo Journalists
UN	United Nations
UNDP	United Nations Development Programme
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

The overall situation concerning the freedom of expression, freedom of the media and the safety of journalists in Kosovo is subject of debate, and is analysed in numerous reports compiled by international and local organizations. The findings in the research here presented support the widely-accepted opinion that the situation remains sensitive despite some improvements.

There is a certain degree of consistency in the challenges listed in these reports. The main challenges to media freedom that have persisted in Kosovo through the last five years are related primarily to the rule of law. Key legislation has been adopted or amended in the last few years, but implementation remains a problem. There are reports that journalists have been threatened, intimidated, pressured and in some cases physically attacked. The judiciary has so far been slow in handling such cases. The labour law is also insufficiently implemented, especially in the private sector, which represents most of the media scene, with job insecurity among journalists as an additional challenge.

Some media outlets were originally developed through donor assistance, but not all of them are aligned with the needs of the market. The ratio of government spending in advertising *versus* incomes from the private sector is skewed in favour of the former, prompting recurring claims of undue political influence exerted on the media through the avenue of advertising funds. The wages in the sector are not competitive and the frequent turnover of employees represents a challenge for employers.

With regards to internal organization of journalists and other media professionals, most of them are loosely organized, with two relatively active associations. Claims of insufficient credibility are also relatively prominent. There is no trade union representing the media sector in general or journalists in particular, with the exception of two syndicates that aim to represent the interests of the public broadcaster's staff. It is therefore not uncommon for journalists and the media to be threatened with litigation, with many cases making it to court.

For the situation to improve, the focus of all key players must shift from the legislation to the instruments responsible for its implementation. The procedures in which the government and the publicly owned companies use the budget for advertising must become fully transparent and correspond to the viewership and circulation number of any given outlet that is receiving advertising funds from the public sector. The donor community should also review its policies, both by increasing the support for the media sector, and by ensuring a transparent and competitive process in distribution of their funds. Civil society and media themselves should strive to raise the credibility of the media sector by increasing scrutiny to journalistic work and by pushing forward projects that increase the level of professionalism.

INTRODUCTION

This report assesses freedom of the media, implementation of applicable legal framework which provides for freedom of expression and of the media, access to information, the protection of sources of journalists, professional reporting standards and level of self-censorship/censorship in the media, as well as intimidation and threats against journalists. The report also assesses the work of media institutions in protecting freedom of the media.

The report bases its definition of freedom of the media on Article 19 of the Universal Declaration of Human Rights of the United Nations (UN), which stipulates that freedom of opinion and expression include “freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”.¹ This definition is also extrapolated to freedom of the media, used interchangeably in this report with freedom of the press. In this report, we have added the definition of protection by overreaching institutions or other non-media actors to the definition of freedom of the press. As such, media independence also includes the absence of direct or indirect pressure by the authorities or other actors through financial control, intimidation, violence or other coercive methods on the media.

In assessing the aforementioned, two overarching research questions were posed. Primarily, the research asked what challenges and violations of freedom of the media and safety of journalists were present in Kosovo. Secondly, the research explores the responses to violations and challenges to freedom of expression and of media and safety of journalists.

In assessing these questions, a two-staged methodological approach was used. The first stage consisted of a systematic review of existing literature on the media in Kosovo for a five year period running up to May 2013. The first stage included primary and secondary source analysis. For primary sources, there were two criteria for the selection of literature: a consistency of publication of studies that enables a year to year comparative assessment and credibility of methodology. Due to the scarcity of studies on the media scene in Kosovo, all materials that applied to the two criteria were evaluated. The final list of selected reports is: Freedom House Nations in Transit, Reporters without Borders (RSF) Media Freedom Index, European Commission (EC) Country Progress Reports, IREX Media Sustainability Index, and the Institute for Development Policy (INDEP).

Primary research data was synthesized according to systematic realist review methods in order to assess existing problems according to these reports, proposed solutions according to availability, efficiency and adoption of these solutions on a yearly basis, what has worked and what has not worked in solving challenges and under what context. Secondary research sources were selected based on availability due to the lack of sources of data, primarily as a means to answering the second research question of this study. These sources were: official intimidation and threats statistics toward media and journalists by the Association of Professional Journalists of Kosovo (APJK), prosecution statistics by the Kosovo Judicial Institute (KJI), and official reactions of

¹ Article 19 of the Universal Declaration of Human Rights of the United Nations, <http://www.un.org/en/documents/udhr/index.shtml#a19> (accessed on 12 March 2014)

Kosovo institutions and international organizations that work in Kosovo toward media freedom violations. Similarly, systematic realist review methods were used to assess these data.

First stage research identified a gap in the approach toward addressing the purpose of this study and its research questions. The gap consisted of a lack of perception, attitude and information on the position of media professionals in Kosovo on the issues this study aimed to address. As a result, the second stage of this research aimed to assess perceptions and reflections of media professionals in Kosovo through two primary means: focus groups and semi-structured direct interviews. The focus group was organized in order to analyse individual perceptions, opinion-strengths, general group agreements and collective shared understandings. Focus group interview questions were prepared, however, general expansions at the discretion of their moderators were allowed. In-person semi-structured interviews were conducted with media professionals in order to assess the aforementioned gap as well as the findings of the first stage of the report.

1. THE MEDIA ENVIRONMENT, LEGAL FRAMEWORK AND MEDIA RELATED BODIES

1.1. Media environment

Currently there are seven daily newspapers in Kosovo: Koha Ditore, Zëri, Kosova Sot, Bota Sot, Tribuna, Lajm, Epoka e Re. Another one, Gazeta Express, switched from print to online in 2013. There is no independent information on the exact number of copies sold, while the newspapers figures are usually inflated to show bigger share on the advertising market.

The number of daily newspapers is considerably smaller than the total number of broadcasters. Currently, the number of licensed broadcasters in Kosovo is 167, with 21 TV stations, 83 radio stations, 14 cable operators and 49 program service providers that operate through cable service operators.² Currently, there is no official registry or statistics regarding the total number of print media in Kosovo, besides the seven daily newspapers.

Out of 21 TV stations, three have Kosovo-wide coverage: the public broadcaster Radio and Television of Kosovo (RTK), and the privately-owned broadcasters – Radio and Television 21 (RTV21) and Kohavision (KTV). With a limited audience - less than 1.8 million people in total³ - the advertising market is fairly small, making such a populated media scene financially unsustainable. Media is largely financed through advertising, with small contributions from sales of newspapers in the case of print media. There are no official statistics on the actual size of the advertising market in Kosovo. Newspaper circulation numbers are self-reported by the newspapers, and there is no independent third party source of verification.

Transparency over media ownership in Kosovo still remains a challenge, although media owners are largely known. Private media are registered by the Kosovo Business Registration Agency,⁴ and the owners are named as well. The owners are largely known due to the small size of the market in general and as a result of social interaction.

The aforementioned does not apply to online media. Currently, largely unregulated and lacking proper registration, the online media market ownership, finances, and human resources is almost entirely unknown.

Financial difficulties affect the salaries of journalists, which is quite uncompetitive compared to the overall private sector in Kosovo. As a result, media are struggling with competition not only from the private but also from the public sector. This has a significant impact on the level of

² Kosovo, Independent Media Commission, Annual work report for the year 2012, Prishtinë/Priština, 2013, p.15 <http://kpm-ks.org/materiale/dokument/1369054659.2327.pdf> (accessed 27 November 2013)

³ Kosovo, Kosovo Statistics Agency, Estimation of Kosovo Population 2012, Prishtinë/Priština, 2013, p.8, <http://esk.rks-gov.net/rekos2011/repository/docs/Estimation%20of%20Kosovo%20Population%202012.pdf> (accessed 27 November 2013)

⁴ Kosovo Business Registration Agency, <http://www.arbk.org/en/Home> (accessed 30 November 2013)

professionalism, with journalists' turnover remaining high, and opportunities for development remaining low. There are no sector-specific statistics on the trends in the labour market in Kosovo, but as some of the interviewed have pointed out, there are very few journalists who have remained in this profession uninterruptedly through the last ten years. Low wages and job security are seen as main reasons for most people shifting to different sectors, often unrelated to the work of journalists.

1.2. Legal framework and media related bodies

The legal framework and media related bodies aim to protect the integrity of journalists and media from political interference and ownership interests, thereby contributing to free, ethical and professional reporting.⁵ However, successful implementation of legislation is reliant on institutions tasked with implementing laws. In Kosovo, institutions such as the judiciary and the police have little experience in dealing with modern media regulations. On the other hand, media regulatory and self-regulatory bodies, the Press Council of Kosovo (PCK) and the Independent Media Commission (IMC), have little capacities to implement their regulations concerning the media.⁶ As a result, despite the presence of mechanisms and legislation to protect freedom of expression in general and journalists in particular, effective implementation is often lacking.

The Law on RTK adopted in 2012 enables in principle the public service broadcaster to protect its editorial independence and public accountability.⁷ However, RTK continues to be financed directly from the Kosovo budget until 2015. Therefore, concerns regarding political influence still remain.

Broadcast media are regulated by IMC – an independent institution established by the Assembly of Kosovo⁸, which is responsible for managing and overseeing broadcast frequencies. The IMC is also tasked with licensing broadcasters, drafting, adopting and implementing regulations for these broadcasters and overseeing their implementation. For this purpose, IMC monitors broadcast media for violations of the regulations and accepts third party complaints for such violations. The evaluation of these complaints is done by the Commission of the IMC which is appointed by the Assembly of Kosovo. Print media and their online portals regulate themselves through PCK, a self-regulatory body which implements the Press Code for Kosovo⁹ and ethical standards, and which operates according to its own statute.¹⁰ The PCK is composed of editors-in-chief of the Kosovo print media or their representatives, and three independent members.

⁵ European Commission, European Policy Brief, Policy implications of MEDIADDEM, an EU-funded research project on media policies in 14 countries for media freedom and independence, June 2011, p.5. http://ec.europa.eu/research/social-sciences/pdf/policy-briefs-mediadem_en.pdf (accessed 27 November 2013)

⁶ Qavdarbasha, Sh. "The State of the Media in Kosovo 2012", Prishtinë/Priština, 2012

⁷ Law No. 04/L-046 on Radio Television of Kosovo, 27 April, 2012

⁸ Law No. 04/L-044 on Independent Media Commission, 5 April, 2012

⁹ Press Code for Kosovo, http://presscouncil-ks.org/repository/docs/Press_Code_for_Kosovo-eng.pdf (accessed on 25 March 2014)

¹⁰ PCK, "Statute of the Press Council of Kosovo" (Prishtinë/Priština, 31 Jan 2009) http://www.presscouncil-ks.org/repository/docs/Statute_PCK_English_FINAL.pdf (accessed on 27 November 2013)

Though successful in treating and responding to all complaints, PCK is understaffed and faces constant issues with financing.¹¹ This affects the PCK's ability to reach out to the public.

The new Law on IMC¹² was praised by institutions such as the European Union (EU) Office in Kosovo for being in accordance with international standards.¹³ However, the act of regulating broadcasters is done mainly through sub-legal acts issued by the IMC and there has been little work done to upgrade and update them.

The Organization for Security and Co-operation in Europe (OSCE) Mission in Kosovo¹⁴ and the EU Office in Kosovo has welcomed the adoption of the Law on RTK. This law, according to the Office, offers a good legal basis to ensure the functioning of this institution, which would serve the public interest of Kosovo without being affected by political influences and in accordance with EU best practices.

There are two associations of journalists that are active, the Union of Journalists of Kosovo (UGK) and the APJK. The two organizations have a similar role in representing the rights of journalists, contributing to the advancement of ethics and professionalism and reacting to various threats against freedom of the media or integrity of journalists, among other duties. The assembly of APJK is membership based and elects its own governing bodies, comprised of some 240 member journalists, while there are no definitive data on the UGK membership.

The Kosovo Media Institute (KMI) is an organization that aims to enhance the level of professionalism in the media. According to their website, the KMI is a not-for-profit and non-governmental organization, envisioned as a training and media advocacy centre for the media sector in Kosovo, and established at the request of Kosovo media outlets to serve their needs.

The Association of Kosovo Independent Electronic Media (AMPEK) represents most of the electronic media in Kosovo, and they work closely with the IMC. Their activity is similar to that of other associations, although they are currently overwhelmed with issues related to the digital switchover of the terrestrial network in Kosovo.

There is no major trade union that represents the overall interests of journalists in Kosovo. There are two unions of employees within the RTK, the Syndicate of employees of the RTK and the Independent Syndicate of the RTK, and some representation is done through the Association of Independent Trade Unions (AITU). However, there is no institution that works specifically and in an organized manner to defend the labour rights of journalists and/or media professionals in Kosovo.

¹¹ Nehat Islami, Chairman, PCK, In-person interview, Prishtinë/Priština, July 2013

¹² Law No. 04/L-044 on Independent Media Commission, 5 April, 2012.

¹³ EU Office in Kosovo, "EU Office in Kosovo welcomes the adoption of the laws on RTK and the IMC." (EU Office in Kosovo, 29 March 2012) http://eeas.europa.eu/delegations/kosovo/press_corner/all_news/news/2012/29032012_en.htm (accessed on 27 November 2013)

¹⁴ OSCE Mission in Kosovo welcomes new legislation on public broadcaster (Prishtinë/Priština, 13 April 2012), <http://www.osce.org/kosovo/89689> (accessed on 25 March 2014)

The legal framework in Kosovo guarantees the freedom of expression and the freedom of media, providing a sound basis to defend these rights and freedoms. This does not mean, however, that the implementation of the specific laws and protections foreseen in this framework is guaranteed.

In terms of the passing of legislation, however, there is progress. The most important development was the decriminalisation of defamation and insult, and its treatment as solely a civil case. There is a Civil Law against Defamation and Insult¹⁵ which regulates civil liability for defamation and insult. Unlike the Provisional Criminal Code of Kosovo,¹⁶ that included prison sentence for the offences of Defamation and Insult, the new Criminal Code adopted in 2012¹⁷ did not provide such criminal offences. The new Code contained also two controversial articles: article 37 on the criminal liability of media (chief editors, publishers, printers or manufacturers), and article 38 on the protection of sources of information. Following fierce reaction and campaigning by the media, civil society and some members of the Assembly of Kosovo, as well as joint advocacy by international stakeholders, including the OSCE Mission in Kosovo, the two articles have been removed¹⁸ completely from the Criminal Code and a new Law on Protection of Journalism Sources¹⁹ has been adopted on 1 August 2013.

The Law on Access to Official Documents was adopted in 2010.²⁰ A study conducted by the Balkans Investigative Reporting Network (BIRN) on the implementation of the Law throughout 2012²¹ shows that all ministries have appointed officials to deal precisely with the request for access to official documents. The response of the affected institutions is seen as improved when compared to previous years, despite complaints from the media and civil society about the follow-up procedures not being sufficiently clear or regulated through sub-legal acts. The persistent problem of legal backlog has a significant impact on courts treating the cases related to the denial of the right of access to public documents. In July 2013, the Information Office within the Prime Minister's Office in cooperation with the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) has introduced a publication summarizing all legal and sub-legal acts

¹⁵ Civil Law No. 02/L-65 against Defamation and Insult, promulgated by UNMIK Regulation 2007/13;

¹⁶ Articles 187 (Insult) and 188 (Defamation), Provisional Criminal Code of Kosovo, promulgated by UNMIK Regulation No. 2003/25, 6 July 2003, with subsequent amendments;

¹⁷ Code No. 04/L-082 Criminal Code of Kosovo, 13 July 2012, as amended and supplemented on 9 November 2012 by the Law No. 04/L-129;

¹⁸ Law No. 04/L-129 on Amending and Supplementing the Criminal Code of Kosovo No. 04/L-082, 9 November 2012. This Law removed Articles 37, 38 and 39 of the Criminal Code of Kosovo;

¹⁹ Law on the Protection of Journalism Sources, <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20the%20protection%20of%20the%20journalism%20sources.pdf> (accessed on 25-03-2014)

²⁰ Law on Access to Public Documents, <http://www.kuvendikosoves.org/common/docs/ligjet/2010-215-alb.pdf> (accessed on 25-03-2014)

²¹ Balkan Investigative Reporting Network, "Shteti 30% i qasshëm për qytetarët," (Prishtinë/Priština, 31 October 2013). http://gazetajnk.com/repository/docs/Raporti_per_qasje_ne_dokumente_publike_final_40191_779858.pdf (accessed on 27 November 2013)

related to the implementation of the Law on Access to Public Documents and it is viewed as a significant step in clarifying the procedures.²²

However, despite new legislation being in place, its implementation and enforcement continues to be problematic. Judges and prosecutors in Kosovo often lack the ability to interpret new legislation. Additionally, the Kosovo Judicial Institute (KJI), in charge of the education of judiciary personnel, is facing serious challenges in keeping up with the ever-changing and expanding legislation. Cases involving media rights and freedom of expression require a significant knowledge of the subject matter, as when processing them one must always balance with other rights such as privacy or personal integrity. The KJI has currently no programme that would enhance the capability of judges and prosecutors to treat such cases.

2. CHALLENGES RELATED TO VIOLATIONS OF FREEDOM OF MEDIA AND SAFETY OF JOURNALISTS

The review of the selected reports²³ shows that the situation with freedom of the media and the safety of journalists has generally remained on the same level in the last five years. In reports that provide ranking, such as those published by the Freedom House, IREX Media and RSF, Kosovo has mostly fared the same in terms of ranking.²⁴ Freedom House continues to categorize Kosovo as “partly free”, and the RSF ranking has remained similar, with an improvement of five places since 2012, over the past years after recovering from a significant drop in 2010.²⁵ Both of these organizations have reacted on several occasions in 2012 to protect the freedom of expression and integrity of journalists in Kosovo, calling on the institutions to investigate threats against journalists, and appealing to the Assembly of Kosovo to protect freedom of expression by reviewing debatable provisions in the legislation.²⁶

The EC Progress Reports have been critical of the state of the freedom of the media and the safety of journalists in the years starting in 2009 up to 2012, stating that the freedom of expression is not fully guaranteed, the relevant institutional framework is not operational and the cases of political intimidation call for more robust measures by the Kosovo institutions.²⁷ The

²² Kajtazi, B. “Përmbledhje legjislacioni për të drejtën e qasjes në dokumente publike,” Prishtinë/Priština, 2012. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), http://www.kryeministri-ks.net/repository/docs/I_PERMBLEDHJE_LEGJISLACIONI_PER_TE_DREJTEN_E_QASJES_NE_DOKU.pdf

²³ IREX, Media Sustainability Index Europe & Eurasia (2002 – 2013). Freedom House, Freedom of the Press (2002 -2013). Freedom House, Nations in Transit (2003-2013). Reporters without Borders, World Press Freedom Index (2005-2014).

²⁴ Qavdarbasha, Sh. “The State of the Media in Kosovo 2012”, Prishtinë/Priština, 2012

²⁵ Reporters Without Borders, “Attacks on Media Offices,” 20 July 2012. <https://en.rsf.org/kosovo-attacks-on-media-offices-20-07-2012.43076.html> (accessed on 24 March 2014).

²⁶ Freedom House, “Kosovo’s Parliament Must Protect Freedom of Expression in Revising Criminal Code,” Washington, 14 June 2012. http://www.freedomhouse.org/article/kosovo%E2%80%99s-parliament-must-protect-freedom-expression-revising-criminal-code#.UzA5N_nxrVA (accessed on 24 March 2014).

²⁷ The European Commission, Kosovo Progress Reports. Brussels (2009-2013).

EC Progress Reports of the last few years see only limited progress, noting unresolved issues regarding a sustainable financing of RTK and subsequently its editorial independence. The reports are even more critical on issues related to pressure on journalists, citing indictments and threats against journalists, especially investigative reporters. The EC Progress Reports remind that the freedom of the media is guaranteed by law, and call for more work on the ground, such as investigation and prosecution of physical attacks against journalists, and for changes to the Criminal Code related to the criminal liability of media and protection of journalist sources.

The Ombudsperson Institution of Kosovo (OIK) has also made calls to institutions to grant better access to official documents, to provide adequate funding to RTK and IMC to allow for their effective functioning, or to address issues related to controversial provisions on civil defamation and freedom of media in the legal framework. It is worth mentioning that in February 2013, the OSCE supported a public hearing of the Assembly of Kosovo Committee on Human Rights, Gender Equality, Missing Persons and Petitions to discuss the recommendations from the Ombudsperson report. This report identified the lack of communication between the representatives of media and the Ombudsperson as one of the main challenges, along with complaints of different journalists about attacks, threats and intimidations.

The OSCE also remains actively involved in improving the state of freedom of expression and freedom of media in Kosovo. The OSCE continues to focus on the development of local print and broadcast media through its work with media regulatory and self-regulatory bodies and to increase regional co-operation between journalists and the media themselves. Additionally, the OSCE has been active in advocating for the protection of the rights of journalists by calling for action on threats as well contributing to the development of effective legal protection mechanisms with regard to the freedom of the media and the safety of journalists.

2.1. Intimidation, threats and violence against journalists

Intimidation, threats, and violence against journalists, as well as the weak judicial prosecution of perpetrators remain serious challenges to the freedom of media in Kosovo. APJK reported 27 cases of attacks, with 7 threats and 9 violent attacks, against journalists in 2011, none of which were prosecuted, whereas in 2012 it reported 24 cases, with 10 threats and five violent attacks.²⁸

In 2010, APJK reacted through public denouncement on instances of general interference on the work of the media on 32 cases, in 2011 on 27 cases and in 2012 on 25 cases.²⁹ The police and the judiciary in Kosovo only dispose the overall number of intimidation cases, without the option of differentiating based on the nature of the case, such as attack on journalist, private individuals or a threat on either, to list a few.³⁰ However, APJK notes that despite a decrease in the number of overall cases reported, the cases recorded in 2011 show an increase in the number of physical

²⁸ Association of Professional Journalists of Kosovo, Statistics of Interference in the Work of Journalists (2011 and 2012).

²⁹ The APJK report covering the period between January and December 2012 also presents an overview of the cases to which the organization reacts and the threats faced by journalists according to their information.

³⁰ Kosovo Police, Yearly Report 2012, Prishtinë/Priština 2012, p.11.

attacks.³¹ The data available from the APJK concerning cases of interference in the work of media is sporadic and inconsistent throughout the years and in methodology of gathering and categorization, therefore no meaningful comparison from year to year is available.³² APJK, on the other hand, recorded cases of attacks on journalists by the police during public events.

Official records of the Kosovo Prosecutorial Council (KPC) show that the number of prosecuted cases of general intimidations against individuals in the last three years has not changed significantly, ranging around 1,300 annually. However, prosecutors claim that journalists can also count on preferential treatment when intimidated, despite the fact that the law does not differentiate between them and any other person.³³ According to the prosecutorial office, the cases involving journalists are given a priority similar to that of intimidation against officials on duty because of the specific nature of their work.³⁴ Journalists, despite stating that prosecution concerning cases of violence and intimidation does happen, perceive that police and prosecution officials require them to report the threats as individual threats and not professional ones.³⁵ Additionally, there are no official statistics indicating the efficiency of the prosecution of cases of violence or intimidation against journalists.

2.2. Financial pressure on media and journalists

While the threats and intimidation remain a serious problem, media professionals also experience both direct and indirect forms of financial pressure.³⁶ Advertising and government funding are two forms of indirect pressure that are used to exert control over the media.³⁷ Lack of consistent, independent and reliable viewership ratings and press circulation data cause problems for both advertisers and media producers. These three crucial decision-making tools for media across developed markets are unavailable in Kosovo. Without these data, there is no logical way for advertisers to target outlets with particular audiences, resulting in low value for their investment, and little incentive for consistent advertising. On the other hand, media cannot deliver to their audiences in the most efficient manner, therefore not maximizing their profit-making potential and also missing opportunities to reduce disinterest and dissatisfaction in consumers. This environment enables public institutions to use whatever little advertising funds they have at their disposal to favour friendly media. Additionally, advertisers are offered little to no incentive to select a media for professionalism and audience reach.

³¹ United Nations Development Programme (UNDP), U.S. Agency for International Development, Association of Professional Journalists of Kosovo, “Action Paper on Association of Professional Journalists in Kosovo”, (Prishtinë/Priština, 29 March 2013). http://www.apjk.org/repository/docs/Action_Papers%20Ang.pdf (accessed November 27, 2013).

³² Brahim Sadriu, Information Officer, Kosovo Police, In-person interview, Prishtinë/Priština, July 2013

³³ Imer Beka, Chief prosecutor, Prishtinë/Priština Basic Prosecutor’s office, In-person interview, Prishtinë/Priština, July 2013

³⁴ Ibid; Hamdi Ibrahim, Director, Prishtinë/Priština Basic Court, In-person interview. Prishtinë/Priština, July 2013

³⁵ Journalist perception on freedom of expression and media (20 August 2013), Prishtinë/Priština. Participants: Anonymous [Focus group]

³⁶ Anonymous journalist, In-person interview. Prishtinë/Priština, July 2013.

³⁷ IREX. “Media Sustainability Index 2013”. Washington DC. 2013. p.75, <http://www.irex.org/sites/default/files/u115/Europe%20%26%20Eurasia%20MSI%202013.pdf>; OSCE. “Circulation and Politicization of the Print Media in Kosovo”, Prishtinë/Priština, 2010, <http://www.osce.org/kosovo/67790>

When faced with threats and intimidation, journalists lack alternatives to giving in to pressure. This is primarily because of high job instability including long hours, low, precarious salaries, and lack of training and job contracts. All but two journalists interviewed in the focus group of eight journalists said they experienced threats and intimidation from public officials and/or public or private businesses. These pressures reportedly come in the form of phone calls, emails, and in-person communication, both before information has been published, to try to deter, or after information has been published, in an attempt to prevent further publications. The two journalists who had not experienced pressures in their current positions are employed by international media organizations, but both said they had experienced intimidation previously in their careers, while working in local media in Kosovo. They were also very aware of the pressure their colleagues faced.

Examples of these pressures include phone calls from Assembly of Kosovo members expressing their dissatisfaction about a published story³⁸; a university dean visiting the daily *Koha Ditore* to loudly deliver threats of violence to the staff in reaction to a story they published and receiving no consequence or suspension from his university leadership position as a result³⁹; direct threats by phone and email to journalists and their families, sometimes singled out by name; threats from businesses threatening to pull out advertising if certain reporting continues, and also situations in which businesses actually stop advertising in reaction to specific stories.⁴⁰

Kosovo institutions are taking little action to address these challenges to the freedom of media. As a result, an environment in which journalists have few alternatives other than giving in to political or economic pressure, provides incentives for those with wealth and power to continue this practice, furthering the cycle of power and control over media. Job instability and low salaries create an environment in which many journalists may feel, rightly or wrongly, that delivering a story, keeping their job, and receiving a pay cheque is more important than the integrity of their story or the strength of their ethical reporting.⁴¹ Almost every media professional interviewed cited poor labour law implementation standards within the media industry as one of the main underlying causes of the challenges journalists in Kosovo face. In addition, the aforementioned media professionals also unanimously agreed that very low standards of professionalism affect the media in Kosovo. The low standard of professionalism among journalists is the result of poor training, poor education, and poor incentives to grow and produce at a higher level. This impacts credibility, and therefore readership, finances, and the level of job competition in the industry. A publication lacking professional standards and all the benefits that accompany it, is in turn less likely to place importance on creating an environment where journalists can grow and thrive, or even an environment in which labour laws are properly implemented.

³⁸ Ibid.

³⁹ Agron Bajrami, Editor-in-Chief, *Koha Ditore*, In-person interview, Prishtinë/Priština, July 2013

⁴⁰ Arbana Xharra, Editor, *Zëri*, In-person interview, Prishtinë/Priština, July 2013

⁴¹ Journalists' perception on freedom of expression and media (20 August 2013), Prishtinë/Priština. Participants: Anonymous [Focus group]

The small size and population of Kosovo, paired with the large percentage of public employees, creates a small community of working people tied to one employer - the government - for their livelihoods. In this environment, political intimidation can thrive.⁴² In tight-knit communities where government employment touches so many families, any given powerful politician, or businessman linked to a political party, has the power to threaten a journalist not only on the basis of that journalist's job, but also their family members' jobs. At least one of the interviewed journalists cited a concrete case where a family member was threatened by a municipal administration - the target of one of his investigative reports - with revocation of a construction permit for a house where this particular journalist was not even planning to reside.⁴³

2.3. The private business influence on journalists

The economy in Kosovo has developed disproportionately with several sectors growing much more than others. The banking and telecommunications sectors are at the forefront of the list. Because of the nature of these businesses and the aggressive competition created within each of the two sectors, it is only natural that they rely heavily on advertising to maintain and expand their customer base. As a result, they are by far the biggest advertisers in the private sector. Banks in particular and the telecommunications companies to a large extent are rarely a subject of criticism in the media. One of the top executives in a major bank that operates internationally described the simple strategy which proved successful after spending time and money on traditional public relations efforts: the bank simply increases the advertising space at a certain media outlet at a certain time, carefully rotating so that they are all kept satisfied.

Advertising is certainly a powerful tool to keep the media at bay but it is not proven to be powerful enough for at least one company. The case of IPKO cable provider versus KOHA media group has raised concerns over a range of issues with ethics, pressure and flawed legislation. The conflict between the two companies started outside public attention, while they were negotiating the terms of rebroadcasting fee for the KTV station owned by the KOHA group. In an apparent breakdown of negotiations, the two companies began a smearing campaign against each other, with IPKO accusing KOHA group of extortion. In response, KOHA published stories on the investigation of IPKO's parent company in Slovenia related to the purchase of IPKO back in 2007. The conflict escalated when IPKO decided to reassign the KTV from channel 3 to channel 83 on a platform that does not allow the user to alter the list and numbering of the television channels.⁴⁴ The media associations reacted to this dispute not taking any side but mostly insisting that the listing should be regulated by the IMC and not left on the discretion of cable operators.⁴⁵ However, positioning of the TV channels within the cable system is not regulated by the IMC. KTV is still listed on channel 83 and there was no more reporting in the case of IPKO's Slovenian parent company.

⁴² Agron Bajrami, Editor-in-Chief, *Koha Ditore*, In-person interview, Prishtinë/Priština, July 2013; Besa Luci, Editor in Chief, *Kosovo 2.0*, In-person interview, Prishtinë/Priština, July 2013

⁴³ Anonymous journalist, In-person interview. Prishtinë/Priština, July 2013

⁴⁴ Donjetë Hoxha, "KPM: Ipko Shkelje me KTV-në," (Eng. IPKO in violation with KTV), *Gazeta JNK*, 12 April 2013 - <http://gazetajnk.com/?cid=1,1018,5284>

⁴⁵ Ibid.

These events are partially caused by the underlying problem of a lack of a sizable advertising market. The small advertising market leaves media competing for few large advertisers, such as telecom providers, which in some cases have cable rebroadcasting rights for television broadcasters. As a result, the advertisers are in a position to exert pressure on the media, and in the case of large advertisers with rebroadcasting rights, this pressure is twofold, in that they can cut revenue and also affect the media's reach to its audience. To further this problem, the overburdened judiciary is unable to swiftly resolve business to business court cases. This is detrimental for media as their limited financial capabilities make it largely unaffordable for them to pursue court cases that could be drawn for years. Finally, the lack of an adequate legal framework that regulates the rights and responsibilities of broadcasters and cable providers, as well as resellers, further places the media in an unfavourable position compared to other businesses. As a result, the establishment of a proper legislative framework and efficient contractual obligation enforcement mechanisms is crucial.

CONCLUSIONS

The topic of freedom of the media in Kosovo continues to be a source of public debate. Despite the seeming readiness by public institutions to tackle the challenges regarding the freedom of the media identified in this report, best demonstrated by the zeal to adopt new legislation, journalists continue to be threatened. While focus groups indicate that journalists feel similar security as do people in other professions, attacks resulting from the pursuit of their profession persist.

Nonetheless, representatives of the rule of law sector, such as police and the Prosecutor's Office, claim that they actively prosecute cases of violence against journalists. However, data to corroborate these statements is not available. On the other hand, the relatively young legal and regulatory framework indicates that prosecutors and judges are yet to develop the capacities and understanding of these new frameworks in order to properly implement them.

The problem with the ability of judges and prosecutors to implement media regulation is consistent across the spectrum of public institutions, considering that the implementation of the media-related legislation is insufficient. The biggest challenge remains with the Law on Access to Public Documents, with journalists, media and civil society organizations all claiming lack of implementation.⁴⁶ It is therefore clear that the mere existence of the laws does not contribute to any actual improvement on the ground.

Media and journalists, as a consequence, remain financially at a considerably disadvantaged position compared to what would be optimal to ensure a professional working environment and independent and professional journalism. With a small advertising market and no audience measurements by media, revenues remain limited. Additionally, advertising revenue from public institutions is consistently dubbed as a tool to favour the media friendly to the government. This lack of general revenue affects media owners, with journalist entry level wages staying well below average, and career advancement opportunities considerably lower. Coupled with the lack of career opportunities, better paying public and private sectors and no incentives for loyalty to employers, journalist turnover remains extremely high.⁴⁷ This turnover is applied both within the media sector and the shifting of journalists from the media sector to other areas.

Additionally, journalism in Kosovo still remains subject to threats and violence. Despite a decrease in the reported cases of threats and violence by journalists or journalist associations, these problems persist. On the other hand, the judiciary still lags behind in capacities to implement media regulations and journalist protection legislation. As a result, prosecution of cases of intimidation and threats against journalists remains low, leaving room for further pressure against journalists. The small advertising market and limited capacities of privately owned media also affect the work of such media. With large advertisers being few in Kosovo,

⁴⁶ Law on access to official documents is not respected (Ligji për qasje në dokumente zyrtare nuk respektohet), Koha.net 21-07-2011, <http://www.koha.net/arkiva/?page=1,13,63363>; Public documents not very accessible (Dokumentet publike pak të qasshme) <http://gazetajnk.com/?cid=1%2C3%2C4516>

⁴⁷ Journalists' perception on freedom of expression and media (20 August 2013), Prishtinë/Priština. Participants: Anonymous [Focus group]

business owners with the biggest advertising markets are placed in a position to exert pressure on media through restricting advertising budgets to that medium. This permeates the business-editorial barrier that is necessary in news outlets and consequently impacts the freedom of the media in Kosovo.

Consequently, professionalism in the media sphere in Kosovo suffers considerably, with limited incentives for professionals to pursue a lifetime career in journalism. This is not aided by the general lack of capacities of both the IMC and the PCK to continuously and meticulously regulate and self-regulate the media sphere in Kosovo, allowing for low quality and inaccurate journalism to persist. Despite this, certain media continue to deliver outstanding journalistic pieces, indicating that within the media sector there is a willingness to develop quality journalism. This willingness needs to be sustainably nurtured through professional education and training opportunities, as well as adequate support by the regulatory bodies.

Although generally media in Kosovo has thrived in the past decade despite the socio-economic conditions, freedom of the media is still at risk, with media and journalists facing systemic challenges. The convergence of political and business interests against non-partisan media severely affects the ability of journalists to pursue truly independent work, instilling self-censorship and forcing entire outlets to align with one interest or the other. Combating this phenomenon will require a strategic effort by media and supporters to develop their capacities and at the least push the judiciary and other rule of law institutions into more efficient action.

RECOMMENDATIONS

1. Media owners and managers should seek the development of adequate remuneration, offer benefits and continuous training of their journalists. Partnerships with educational institutions, exchanges with non-profit and/or public international media, are recommended.
2. Media owners and managers should improve their understanding of their target audiences and interests in order to diversify their coverage portfolio and better attract advertisers.
3. KJC should develop training programmes for judges and prosecutors concerning new media relevant legislation, best practices and implementation.
4. Legal professional education programmes should adopt modules focusing on the implementation of the laws concerning the media.
5. The government should initiate a review of the main issues pertaining to the implementation of the Law on Access to Public Documents and propose either an amendment to the law, or procedures for the improvement of the implementation chain.
6. Civil society organizations and international stakeholders should advocate and put pressure on institutions to increase prosecution of crimes against journalists and free speech. Additionally,

local institutions need to work closely with the media to ensure that timely and organized support is offered in cases of violence, intimidation, or threats.

7. Journalism associations need to start pursuing to the full extent the realization of their statutory duties. Members of these associations need to ask for accountability and transparency by the elected personnel and should exercise their right to steer their associations into the desired direction when necessary.