

2012/01

The State of the Media in Kosovo



Author: **Shkamb Qavdarbasha**

Editor: **Krenar Gashi**

A publication of the Institute for Development Policy (INDEP). All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted, in any form or by any means, without prior consent by the publisher. The publication may be disseminated in electronic form, only in its entirety and for non-commercial purposes.

Cataloging in publication (CIP)

The National and University Library of Kosovo

659.3(496.51) Qavdarbasha, Shkamb

State of the Media in Kosovo / Shkamb Qavderbasha.

Prishtina : Instituti për Politika Zhvillimore, 2012. - 23 f. ; 30 cm.

ISBN 978-9951-627-01-6



Bashkëpunimi Rajonal
Regional Cooperation



Zhvillimi i Qëndrueshëm
Sustainable Development



Qeverisja Demokratike
Democratic Governance

TABLE OF CONTENTS

1. INTRODUCTION	3
2. METHODOLOGY	4
3. LEGISLATION AND REGULATORS	5
4. MEDIA PLURALISM.....	8
5. INTERNATIONAL INDICATORS ON MEDIA IN KOSOVO	9
6. PERSISTENT CHALLENGES	14
6.1 Pressure against journalists.....	14
6.2 Access to information.....	16
6.3 Professional journalism and management	17
6.4 The Radio Television of Kosovo	19
7. CONCLUSIONS.....	21
8. RECOMMENDATIONS	22

1. INTRODUCTION

Kosovo's media sphere has been the subject of a number of tumultuous changes in the past twelve years since the end of the war. Having been subject to regulation by a number of different institutions, the challenges facing journalists have been considerable. Some challenges, such as establishing a plurality of outlets, ensuring some sustainability and addressing legal concerns have been overcome to a large extent. On the other hand, more work is required to fully establish legal provisions for free speech, limit pressure toward journalists and ensure a professional journalism sphere.

The Constitution of Kosovo provides for free speech, access to information and the plurality of media. These stipulations have stemmed legal reforms such as the establishment of the law on access to public documents, the decriminalization of libel, protection of journalist's sources, etc. Nonetheless, work still remains to be done on ensuring that policies deriving from laws do not leave room for misinterpretation and that current laws are implemented properly.

The legal problems are only one aspect of the issues facing media. International reports on journalism in Kosovo have often been vocal about a number of persistent challenges that affect the country's media scene.

One such challenge is pressure against journalists. Direct violence and threats, despite being alarmingly widespread, are no longer the major form of pressure that journalists are subjected to. With a lagging global economy, financial pressure is becoming more and more evident both on outlets and subsequently journalists.

This isn't alleviated by the fact that academic programs on journalism are still trying to establish a strong foothold in the young country. These programs have not been met without their share of criticism, still leaving on the job training as the primary source of advancement. Many training programs have vanished leaving non continuous advancement options few, far in between and of questionable quality.

Outlets are still to still face financial burdens as advertising and other forms of revenue have to start evolving. This is less problematic for national broadcast media, who enjoy better advertising mainly due to higher viewership. Despite the highest viewership, the public broadcaster has been a topic of much debate considering the legal hurdles regarding its financing through the Budget of Kosovo and questions over its independence. This is expected to have been resolved in part with the adoption of the new law on the public broadcaster but it is still too early to come to conclusions.

Overall, many challenges remain to be solved in the media sphere in Kosovo in order to ensure full freedom of speech, media sustainability and higher quality of journalism. Solving these issues will require consensus by all parties involved, but also an increased awareness from the public. To this end, this study aims to provide an analysis of the

reasons behind the most pressing issues in the media sector and invite well informed suggestions on ways these issues can be solved.

2. METHODOLOGY

Through this report, INDEP aimed to identify the policy processes driving the most common and persistent issues affecting the media sector as identified by international reports. In order to do so, INDEP applied multiple methods of research at the desk research phase of the report.

Four different sets of yearly, in-depth, international publications that analyze the state of the media in Kosovo were chosen. The reports were selected according to – not in order of importance – prominence, developed and proven method of evaluation, consistence, independence, diversity of donors and professionalism. These reports were subsequently analyzed for the following information: any and all scoring factors pertaining to the media sphere and all conclusions, positive or negative, pertaining to the media sphere for all years that reports were published on Kosovo.

INDEP used all scoring data to quantify an overall curve of performance over time of the media sector in Kosovo. All graphs in this paper are generated by INDEP, unless otherwise specified, using data publically available from Freedom House *Nations in Transit*, Reporters Without Borders *Media Freedom Index*, European Commission *Country Progress Reports*, IREX *Media Sustainability Index*.

Regarding common and persistent issues – a persistent issue was considered any issue identified for three or more years. Common issues were regarded those that were identified in at least three of the aforementioned international reports for three or more consecutive years. Negative issues that fit both categories but were identified as solved and not repeated again were discarded from in-depth consideration. As a result, INDEP concluded that there were four major issues that were both recurring and common among the reports, and are analyzed in detail in the end of this paper. The subsequent analysis is qualitative, with an evaluation of the legal framework, policies and practices for all the issues. INDEP also held interviews with key media actors including editors in chief of the major outlets, prominent media analysts, and international actors in the country. These interviews were held for three primary reasons – namely countering any possibly bias driven interpretation, ensuring a wider pool of analytic opinion and fact checking.

The analysis contained herein has been based on facts and policies that were correct to the best knowledge of the authors at the time of publication.

3. LEGISLATION AND REGULATORS

The legal provisions referring to media or different aspects related to the work of media in Kosovo have been subject to some changes after the end of the war in Kosovo in 1999.

Under the administration of the United Nations Mission in Kosovo (UNMIK), the media was subject to both Yugoslav and UNMIK regulations and was under the supervision of an internationally appointed Temporary Media Commissioner. These regulations, however, were not based on social norms but on UNMIK's authority, with some of them not being up to western standards.¹ Additionally, analysts considered that UNMIK viewed media in Kosovo through a peacekeeping perspective and not as a fundamental right.² This perspective enforced rigidity of reporting and hindered overall development of the media.

Since the UNMIK administration, Kosovo has adopted a number of laws targeted at regulating certain aspects of the media sphere in Kosovo. The most prominent of the legal frameworks ensuring freedom of speech and expression in the country is the Constitution of Kosovo, adopted after the Declaration of Independence in 2008. Article 42 of the Constitution of Kosovo ensures media pluralism, forbids censure and provides the right for the rectification of incorrect, incomplete or untrue information for citizens in case their rights are breached. The constitutional stipulations are thought to be appropriate, particularly considering that no other, potentially limiting, articles or legal provisions are included.

The Constitution, in Article 41, foresees the right to access to public information unless they are otherwise classified by law. Until 2010, the lack of the law on Classification of Information and Security Clearance provided for a legal loophole potentially allowing public officials to label anything as confidential in order to not disclose it. However, this practice, at least as a justification, was removed with the adoption of the new law.

Article 41 of the Constitution of Kosovo also set the way for the Law on Access to Public Documents No. 2010/03-L215, which specifies procedures and requirements for requesting access to public documents. The same law also existed during UNMIK's administration and was adopted as a result of pressure from the media, international and local nongovernmental organizations (NGO) and other actors. Despite the provisions set forth in aforementioned law, serious issues persist regarding the ability of journalists to gain access to public information. This is a consequence of lack of preparation by the staff at state institutions and lack of political willingness to implement the law and will be treated in detail further in this analysis.

¹ IREX, Media Sustainability Index Europe & Eurasia (2002), p.45

² IREX, Media Sustainability Index Europe & Eurasia (2004), p.56

One of the most important laws pertaining to the work of journalists in the country is the Law on Defamation and Insult. The issues around the law have been numerous, particularly when considering that libel was until recently treated under the criminal code as a criminal offence. This put undue pressure on journalists, raising questions about the level of self-censorship that this law causes. The criminal prosecution of libel cases, however, was largely not pursued.

In 2007, UNMIK Special Representative of the Secretary General (SRSG) promulgated the Law on Defamation and Insult, which made libel a civil issue. However, the provisions of the criminal code were not amended, therefore there is an overlap of the criminal and civil codes, until a legal opinion on the uniform implementation of the law of the Supreme Court of Kosovo (SCK) in 2012³ stipulated that libel, defamation and insult should be considered civil issues. Arguably, this has alleviated some pressure in the work of journalists, aiding free speech in the country at least from the legal perspective.

There is a fear that with the civil law, journalists may become subjects of abnormally high fines through lawsuits from politically motivated and other imposing parties. This potential issue is furthered by what is perceived to be a political judicial, whose influence may be used to control freedom of speech.⁴ This is especially worrying when considering that the judicial system in Kosovo is regarded as the weakest link of governance. Although it is too early to evaluate such a possible outcome, the opinion of media editors is that such a practice is highly unlikely, and no pressure through these channels is being felt yet.⁵ A few high-profile lawsuits, however, are still pending in courts.

Libel as a criminal offense has been permanently resolved with the adoption of a new Criminal Code in April 2012. However, the new code has its own problems. Currently, journalists are still subject to legal requirements to disclose their information and sources under a number of circumstances elaborated in the criminal code.⁶ This legal requirement poses severe threats to the work of journalists and the relationship they can build with sources therefore overall hampering the watchdog role of the media.

Kosovo also boasts two institutions with oversight roles in the sphere of broadcast and written media. The Independent Media Commission (IMC) was established as a Kosovo institution to replace the UNMIK era Temporary Media Commissioner. The role of the IMC is to manage the broadcasting frequency spectrum by establishing guidelines for licensing broadcasters, issuing said licenses, monitoring adherence to regulations for licenses and imposing penalties in case of breaches. The IMC is also vested with the duty of advancing broadcasting in Kosovo both from the technical and ethical perspective.

³ Supreme Court of Kosovo, Legal Opinion on the uniform Implementation of the Criminal Code No. K.94/2012 (2012)

⁴ INDEP interview with Faik Ispahiu, Executive Director, Internews Kosova. Prishtina, Kosovo, April 2012

⁵ INDEP interview with Astrit Gashi, Editor in Chief, Zëri. Prishtina, Kosovo, April 2012

⁶ Assembly of Kosovo, Draft Criminal Code (23 April 2012), Article 38, Paragraph 2.

Nonetheless, the IMC has been unable to fulfill its duties mainly due to the lack of appointment of its Council, the highest decision making body. Until 2012, the IMC accepted nominations by civil society organizations, selected the most adequate candidates who were reviewed by an ad hoc committee in the Assembly and then the proposals were voted in the Assembly. This process was delayed by the Assembly of Kosovo due to the revision of the Law on the Independent Media Commission but also due to other potentially political reasons.⁷ After the adoption of the new law for the IMC in 2012, the whole selection procedure, besides accepting the bids, falls within the Assembly of Kosovo and an ad hoc committee. This law also foresees a sixty day legal timeframe for the decision on selecting the Council, a fact which further postpones the selection of the board. As a result, the IMC has been unable to act in a number of serious spheres, particularly when considering the control of internet information portals, cable provider adherence to the policies set for them, etc.

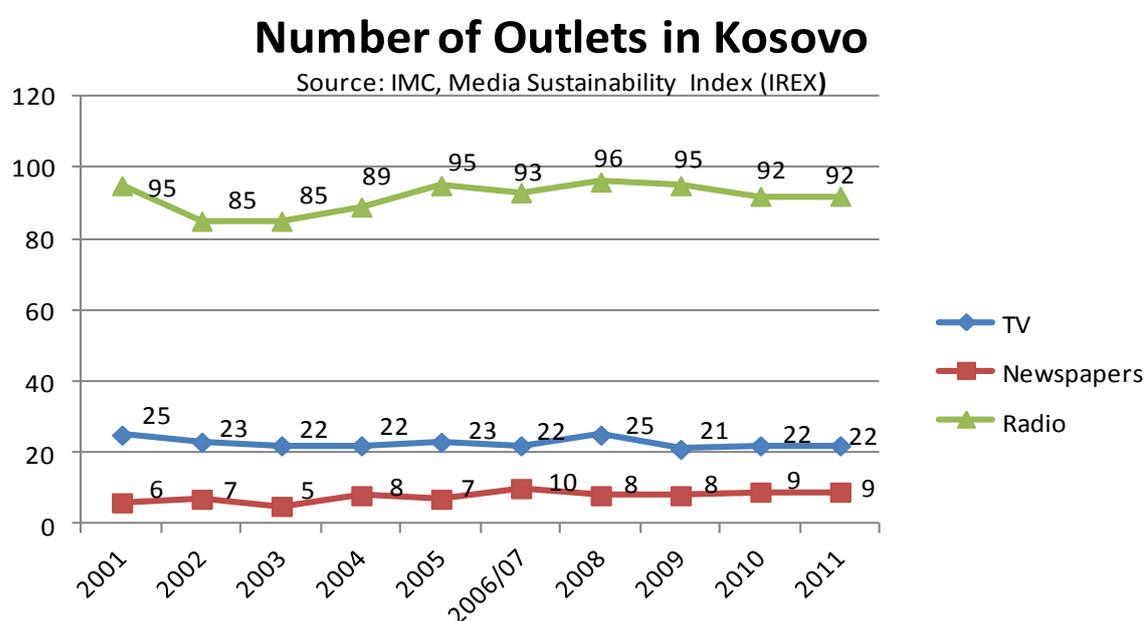
Simultaneously, in 2005 the Press Council of Kosovo was established with the purpose of developing an ethics code and monitoring the adherence to this code by the written press. The Press Council is a self regulative body composed by a Board in which are represented all members of the council, namely the print media. The board is responsible for the consideration of appeals and complaints submitted to the council. Initially, the council levied fines on newspapers and journalists that were deemed to have breached the code; however, this practice was later altered. The council both monitors written media itself and accepts complaints by third parties, also serving as an independent adjudicator between affected parties and the media. Unlike the IMC, the Press Council is independent from state funds, designed to be financed by the members. Nonetheless, currently, only two members of the council contribute to the budget, the rest of the activities being covered by donors.⁸ The council also publishes opinions on complaints received for print media that are not its members.

⁷ INDEP interview with Argjentina Grazhdani, Media Expert, Email Correspondence, April 2012.

⁸ INDEP interview with Nehat Islami, Office Director, Press Council. Prishtina, Kosovo, April 2012

4. MEDIA PLURALISM

Kosovo boasts, even by more liberal standards, a highly populated media scene. As of 2011, the country hosts 22 TV stations, three of which national, nine newspapers and 92 radio stations. These numbers have been fairly consistent throughout the years since the end of the war in 1999. Since 2008, media pluralism in Kosovo is ensured by the Constitution of Kosovo. The proliferation of such a high number of media outlets is partially due to considerable donor funding dedicated to the establishment of media in the aftermath of war.⁹ This donor funding ensured that the media receiving funding was responsible for higher levels of transparency and a plural and not vertically integrated media market. Nonetheless, transparency is an issue when considering the ownership of internet information portals in the country, where owners are often unknown.



With donor support for media having practically ceased, a contraction of the number of media outlets is expected, mainly due to questions about their sustainability in harsh economic times and a small advertising market. These doubts were particularly acute when analyzing local newspapers, radio and TV stations, due to the prominence of national outlets such as the Radio Television of Kosovo, Koha Group, Zëri, TV 21 and affiliated stations and their ability to capture the largest share of advertising revenue. Such a phenomenon, however, has not yet been witnessed as can be seen by the incredibly small variation in the number of outlets throughout the years.

One partial explanation behind the resilience of the outlets is the issue of subsidization – a number of outlets are owned by persons with multiple businesses in different sectors. This is not an issue of cross ownership per-se, in that outlets aren't owned by other businesses but rather share the same owners with other business. In this sense, outlets

⁹ INDEP interview with Argjentina Grazhdani, Media Expert, Email Correspondence, April 2012

owned by a business owner are kept afloat with what could be called subsidies, some of whom with potential political agendas.¹⁰ On the other hand, smaller regional and local outlets employ more conservative expenditure standards at the cost of quality of journalism, in order to stay in businesses.

Nonetheless, media ownership in Kosovo is considered to be transparent. This occurrence is largely due to the small size of the country and not a conscious effort by media to ensure transparency. On a positive note, this arguably diminishes the impact that political media can have on public opinion, with political affiliations of outlets being generally known. In fact, it is the opinion of some analysts that with the advent of clearly distinguishable political outlets, their affiliations should be made public by the owners in order to enable readers and viewers to gather multiple political perspectives.¹¹ However, a publicly politicized media spectrum would potentially cause a further fractionalization of the media sphere.

With media pluralism and transparency being largely satisfactory in Kosovo, a plentitude of opinions from a number of spectrums should offer citizens a well rounded informative program. Nonetheless, viewership and readership still remain concentrated on the top broadcasters and newspapers, diminishing the sources of opinion. Arguably, with the sophistication of niche media, this trend should change. Nonetheless, to achieve that level of development, certain basic rights and freedoms have to be properly established first.

5. INTERNATIONAL INDICATORS ON MEDIA IN KOSOVO

In the years subsequent to the fall of the eastern communist blocks and their transition into democracies a number of international organizations developed media freedom monitoring reports for the emerging countries. These reports or indices are modeled to reflect media freedom, sustainability, professionalism and other issues according to international accepted standards of free and sustainable media, developed according to best western practices. These reports have also been applied to Kosovo, as a country transitioning both from war and a previous authoritarian regime.

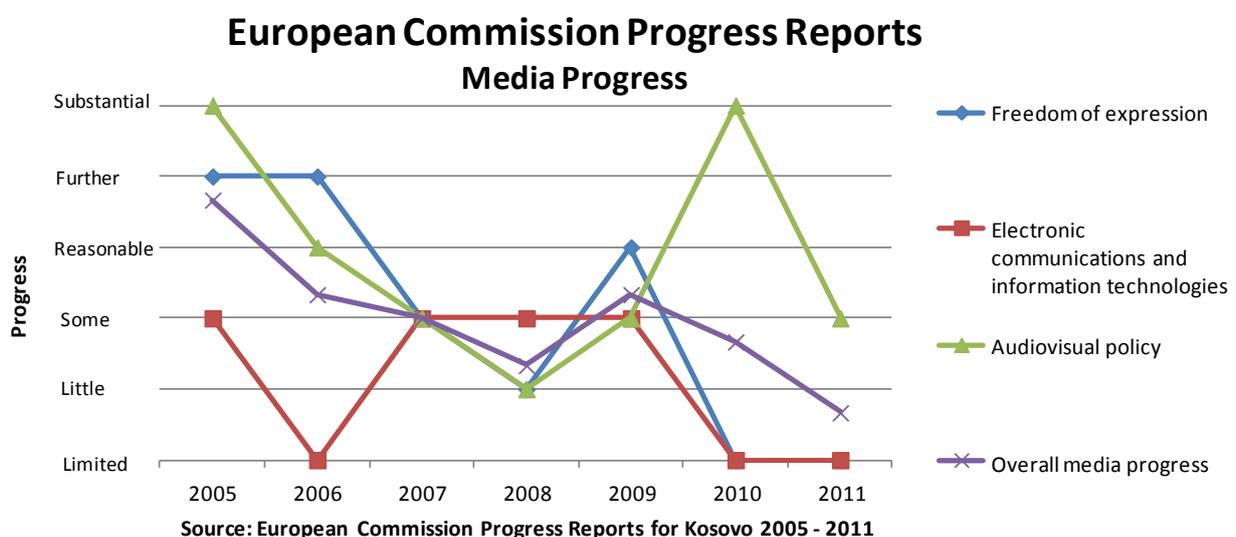
To assess the situation in these countries, the reports require both quantitative and qualitative answers to a number of questions regarding the media sector. These questions include considerations of the legal provisions for freedom of speech and protection of journalists, lack of political and institutional pressure toward journalists and outlets, the provision of fair market regulations for media outlets as well as considerations for

¹⁰ Gashi, K., "Circulation and politicization of the print media in Kosovo", OSCE – KIPRED, Kosovo 2009

¹¹ INDEP interview with Faik Ispahiu, Executive Director, Internews Kosova. Prishtina, Kosovo, April 2012

professional development of journalists among a swarm of other requirements.¹² Drawing from the expertise and opinion of prominent local and international professionals in the media sphere, these organizations assess the overall state of the media in each given country. When it comes to Kosovo the reports indicate that Kosovo’s media sphere still remains fragile.

The European Commission (EC) publishes yearly reports to assess the advances that countries in the EU’s enlargement agenda have made toward accession to the union.¹³ These progress reports also address the improvement the countries have made in the field of media by considering freedom of expression, electronic communication and information technologies, and audiovisual policy.



Starting in 2005, progress report indicators for the media sphere in Kosovo have been showing overall lack of substantial achievements. The reasons for the lack of noticeable advances in the freedom of expression have been the continuing pressure against journalists, no proper access to public documents, and the problems surrounding the legal framework and financing of the Radio Television of Kosovo (RTK) as well as libel criminalization. Simultaneously, the audiovisual policy sector was marred by issues with the inappropriate funding of the IMC and the shortcomings in electing all of its board members. The positive remarks were mainly focused around the development of the legal framework concerning free media, although little attention was paid to the implementation of said legislation.

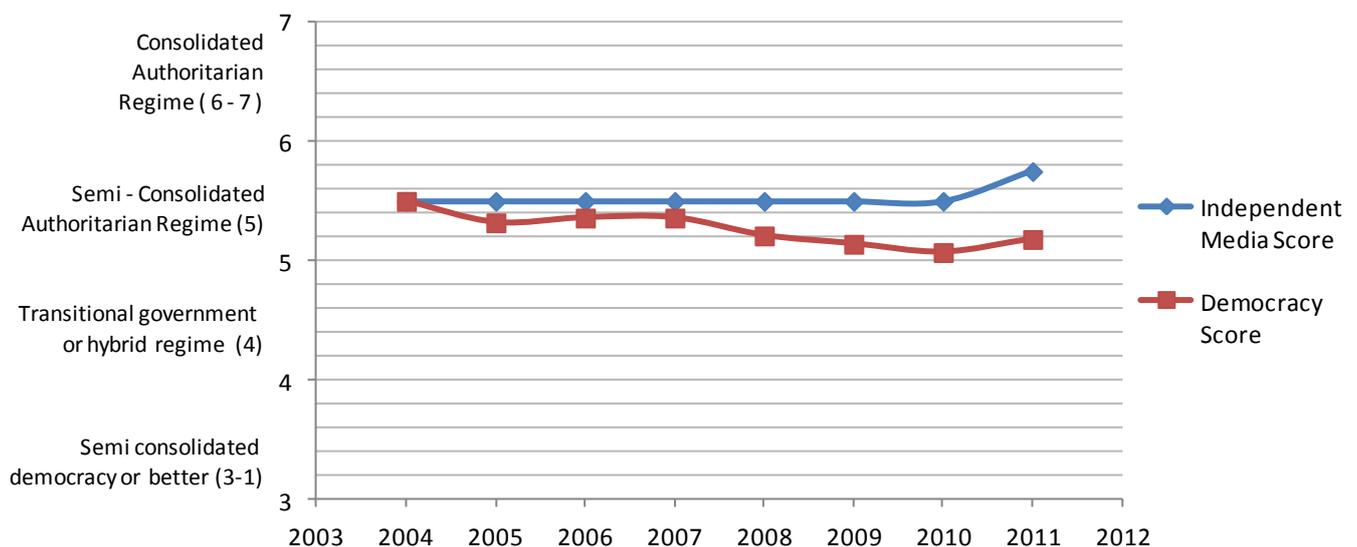
¹² For the full methodology of these most prominent media freedom reports please consult *Freedom House’s Freedom of the Press* methodology <http://bit.ly/HQq0U4> , *Freedom House’s Nations in Transit* methodology <http://bit.ly/Jw3p1> , *Reporters Without Borders Press Freedom Index* <http://bit.ly/xMMA7G> , *IREX Media Sustainability Index* <http://bit.ly/ab709T>

¹³ These countries are Albania, Bosnia and Hercegovina, Croatia, Former Yugoslav Republic of Macedonia, Iceland, Kosovo, Montenegro, Serbia, Turkey

These findings are consistent with those of a renowned international index of media, Freedom House’s *Nations in Transit*.¹⁴ The report, published for Kosovo since 2002, comprises an evaluation of indicators of the level of democratization in a country. Similar to the EU Progress Reports, independent media also play an important role in the considerations given to the democratic environment in Kosovo.

The independent media score is consistent throughout the years, approaching the worst mark that the Nations in Transit (NIT) report gives, one which is likened to semi-consolidated authoritarian regimes. Although this categorization may seem virtual and a little exaggerated compared to other countries, the issues that the Freedom House uses as indicators are very real.

Freedom House - Nations in Transit Scores



According to the NIT reports, journalists in Kosovo continuously face pressure either in physical, financial or editorial form, leading to self censorship. Furthermore, the reports demonstrate that the legislative framework, even though marking some progress, still poses significant obstacles to the work of journalist. The issues are further worsened by the lack of a sustainable media market and a politically influenced public broadcaster due to what they view as intentional financial dependence on the Budget of Kosovo.

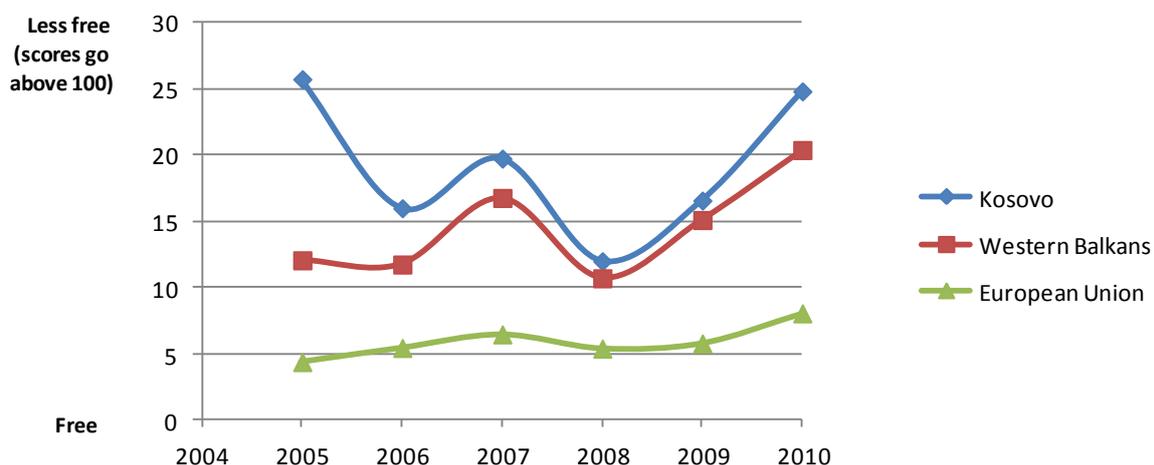
The NIT also marks achievements in the media spheres in Kosovo. The reports note that among the most important achievements are the establishment of the IMC with a board that is largely viewed as independent, the establishment of working Press Council, efforts to decriminalize libel and an improving legal framework. Nonetheless, the majority of NIT’s findings portray a grim picture regarding the current conditions of the media in

¹⁴ Freedom House also publishes a global Freedom of the Press report; however, data for Kosovo is only available for 2010 and 2011, providing little data for a consistent analysis.

Kosovo. The findings reflected in these reports also put Kosovo in a slightly lower position than the average in the Western Balkans and far behind European Union countries.

In fact, when analyzing the Press Freedom Index of Reporters Without Borders (RWB), such a trend becomes apparent. RWB’s findings, although compiled for the Western Balkans in general, reflect the same issues as in the Progress Reports of the EU and the Nations in Transit. These issues include self-censorship by journalists, governmental advertising revenue awarded to government friendly media, and non-implementation of legal frameworks for media.¹⁵ These two international reports fulfill each other when it comes to methodology and conclude with similar findings, which is a good indicator of their accuracy.

Reporters Without Borders - Press Freedom Index Comparison between EU, Western Balkans and Kosovo



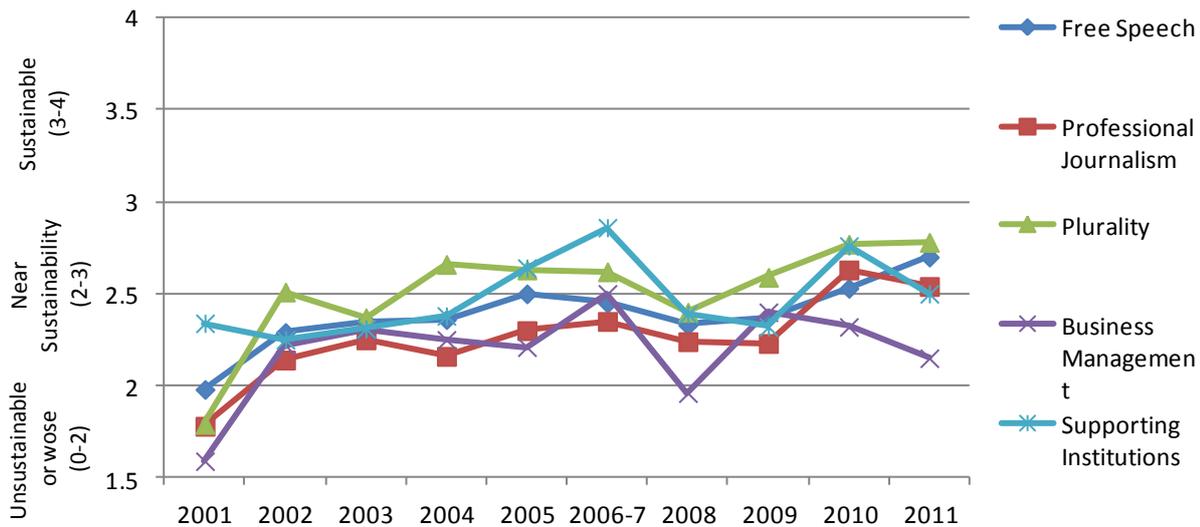
The final studies that were taken under consideration regarding media in Kosovo are those of IREX. This organization publishes a yearly analysis called Media Sustainability Index (MSI) and gathers their input from local experts. The MSI’s scores for Kosovo differ slightly from other publications in that they represent a more focused analysis into different functions of media. In that sense, as seen in the IREX – MSI table below, Kosovo scores have been showing signs of improvement through the years. Nonetheless, it is worth mentioning that the scores have dipped numerous times, with the most prominently low years being 2003, 2005, 2008 and 2009.

The MSI have considered that several issues are continuous throughout the years including pressure against journalists, the continuing criminalization of libel, inadequate

¹⁵ Reporters Without Borders Table explanation: Data comparison starts at 2005 due to unavailability of previous data for Kosovo. The comparison was stopped at 2010 due to the introduction of negative scores for better performing countries. This made it impossible to conduct significant averaging for the EU and Western Balkans. EU average scores do not include Luxembourg and Malta. Western Balkan averages do not include Kosovo.

provisions for independence of the public broadcaster, limited access to information and no prosecution of crimes against journalists or free speech. The most notable improvements noted by the MSI are related to legal provisions for the protection of free speech, increased advertising market, and the establishment of independent associations and the overly satisfactory scale of media pluralism.

IREX - Media Sustainability Index - Kosovo



International monitoring of the media environment in Kosovo has been ample over the past eleven years. During this time, numerous advances in the legal framework for media freedom and sustainability have been noted. These achievements, unfortunately, are overshadowed by the number and impact of the continuous concerns affecting the media in Kosovo. Journalists still continue to be pressured through inadequate legal provisions designed to protect them and enable them to carry out their duties.

Journalists are offered inadequate protection of the confidentiality of their sources, being asked to relinquish their sources and information upon request through controversial provisions in the penal code. On the other hand, financial pressure on editors and journalists is consistent with low incomes for both media outlets and journalists themselves. Employers, for their part, do not offer appropriate work contracts and benefits, adding to the overall insecurity of journalists. All of these considerations are added to the persistent trend of political influence and pressure, evidenced by all major international media indicators concerning Kosovo.

Simultaneously, professional advancement options for journalists are scarce enough to be considered non-existent. Most of the training is done on the job and employee turnover for media is high, rendering the professionalization of in-house training programs unprofitable. Media outlets themselves struggle with securing adequate revenue,

particularly considering that by far the largest contractor and advertiser in the country still remain Kosovo institutions. This and other economic and political factors contribute to the overall lack of improvement in the media sector. As a result, finding a solution to these persistent challenges is crucial to ensuring that outlets and journalists in Kosovo break through the final barriers of achieving sustainability, independence and quality.

6. PERSISTENT CHALLENGES

According to both international and local observers of freedom of speech and the media sector in general in Kosovo, there are several issues that need to be addressed on the policy level both by institutional and nongovernmental actors. They will be analyzed in details below.

6.1 Pressure against journalists

Journalists in Kosovo face continuous pressure, with occurrences of direct confrontation being alarmingly high, particularly for a country of less than 2 million people. In 2011, the Association of Professional Journalists of Kosovo (APJK) made 27 public appeals regarding infringements of journalists' rights and security.¹⁶ Nine of these cases were physical assaults, seven of them threats, with the rest being public offences, damage of property and other forms of violence. APJK claims that this isn't the complete number of assaults against journalists, having had to maintain confidentiality of some cases due to the victim's request. This staggering number of infringements, especially considering that it is twelve years after Kosovo started building democratic institutions, is extremely worrisome.

One of the oft quoted reasons for the high number of direct pressure against journalists, at least when concerning public officials, is the lack of training and preparation of said officials in communicating with journalists. There is no training module within public institutions regarding proper conduct with reporters by officials. However, one particular case of violence serves to disprove part of this notion, as the media officer of the Assembly of Kosovo physically assaulted a reporter while she was taking pictures of the newly appointed President of Kosovo.¹⁷ Other direct threats and violence from state and municipal officials have also been noted.

This continuing trend of violence and other forms of pressure against journalists is mainly due to the inadequate prosecution of crimes against reporters, effectively creating the perception that journalists are easy targets. Kosovo's legal system is currently overloaded, with a sizable backlog from previous years and scarce capacities to efficiently

¹⁶ Association of Professional Journalists of Kosovo, *Statistics of Interference in the Work of Journalists* (2011)

¹⁷ AGPK dënon sulmin ndaj fotoreporteres së Zërit (7 April 2011), Telegrafi. Retrieved from: <http://bit.ly/l3hErh>

manage all incoming cases.¹⁸ This phenomenon is further worsened by the issue of corruption of judges and political pressure on the judicial.¹⁹ Furthermore, few cases of threats and violence against journalists make it through prosecutors and police, who share the same problems with the judicial. Finally, the lack of transparency of the judicial and prosecutorial makes it impossible for independent observers such as APJK to monitor and adequately advocate for the swift resolution of cases. As a result, both the judicial and prosecutorial are fairly liable to pressure to not pursue cases of violence against journalists as well as sideline said cases by simply downplaying their importance. The fact that courts are overloaded with very thick backlogs plays a role in this deficiency as well.

The aforementioned problems are not aided by the lack of proper legal protection for journalists in their day to day duties. On April 20, 2012, the Assembly of Kosovo, with 86 votes, approved the new Criminal Code. This code includes a partial provision that foresees no penal indictment for journalists protecting their sources. However, several limitations are placed upon this provision, leaving ample room for interpretation regarding cases in which journalists would be forced to disclose their sources.²⁰ This practice places undue pressure on reporters during the pursuit of sources in highly controversial stories, severely hampering the journalists' ability to perform their watchdog role properly.

This environmental pressure also comes from within the media due to administrative issues with the employers. Most media outlets lack proper contractual relations with their journalists and editors, a fact which provides almost no job security. Additionally, the pay for journalists, although slightly above national level, is still considered to be inadequate for ensuring proper financial stability.²¹ In the meantime, no other benefits are awarded to journalists, such as health coverage or in-house legal counsel in case charges are pressed against them.

On top of all the Kosovo specific issues, global challenges facing media also apply to journalists in Kosovo. The permeability of editorial independence in the face of advertisers, political pressure through the close links between media owners and politicians and the global dwindling media revenues, particularly in the written press are only some of the concerns. As a result, journalists in Kosovo often resort to a level of self-censorship in order to preserve their safety or financial security. This self censorship contributes to a visible amount of protocol journalism in Kosovo's media sphere, whereby coverage of protocol events and meetings requires no controversial and investigative work. Nonetheless, most major outlets and reporters continue to conduct high quality and in depth investigative and analytical work, pointing to an overall

¹⁸ European Commission, Kosovo Progress Report (2010), p.11

¹⁹ Ibid

²⁰ Assembly of Kosovo, Draft Criminal Code (23 April 2012), Article 38, Paragraph 2.

²¹ IREX, Media Sustainability Index Europe & Eurasia (2011), p.66

resilience by the media industry and a level of professional sustainability by editors and journalists.

6.2 Access to information

One of the main challenges identified in the early editions of international reports regarding media freedom in Kosovo, in congruence with local opinion, is the issue of access to public documents. Until 2006, Kosovo boasted no such legal framework, making it impossible for journalists to legally obtain public documents without leaks. After much local advocacy efforts, Kosovo institutions prepared and adopted a law on Access to Public Documents which was promulgated by the SRSG and was, in essence, a freedom of information act. Despite having been well received, the adoption of the law brought questionable improvement to the overall issue of access to information. The reason for the lack of improvement was, and still is, primarily centered on public officials and political interference.²² Nonetheless, of the two, political interference is thought to be the most prominent.

Initially, due to the lack of a legal framework providing for the classification of the confidentiality of documents, public officials refused access to information on the basis of institutional secrecy in one form or the other. This justification was fairly limited with the adoption of the Law on Classification of Information and Security Clearance in July 2010. However, implementation of the law remained limited, with both international and local reports continuously identifying this area as problematic. Additionally, implementation also comes short in appointing the staff responsible for processing requests.

The major reason for the inappropriate implementation of the law is lack of political will to do so.²³ Editors and analysts point out that access to information is being used as a political tool to disrupt media critical of the government and reward the outlets that reflect positively.²⁴ As a practice, this is severely detrimental to journalism in Kosovo by directly limiting the amount of stories that journalists can pursue. However, it also has a more sinister effect in that it forces journalists to depend on unverified leaks, sources with questionable intentions and personal connections to obtain information.

Such dependence leads to a series of major challenges and risks for outlets, editors and journalists. The use of unverified leaks of public documents exposes outlets to the unnecessary risk of publishing inaccurate information, in which case it severely damages its reputation. This also gives parties with intention to discredit an outlet or reporter the opportunity to stage fake documents – a powerful subversive tool with chilling ramifications. Simultaneously, because of dependence on the provision of public

²² INDEP interview with Astrit Gashi, Editor in Chief, Zëri. Prishtina, Kosovo, April 2012

²³ Ibid

²⁴ Ibid. INDEP interview with Faik Ispahiu, Executive Director, Internews Kosova. Prishtina, Kosovo, April 2012

documents, outlets become susceptible to parties who are able to disclose documents but have potentially detrimental agendas. This makes the outlets unwilling carriers of such agendas, further endangering their public images and independence. Journalists covering public institutions are put in a precarious position, having to carefully calculate the stories they pursue in order not to lose sources that would have otherwise been unnecessary.²⁵ Additionally, government institutions such as ministries, practice selective policies toward the outlets they allow interviews and information to, a practice not entirely controversial.

Nonetheless, the problem lies in that the extension of influence over civil staff, means that entire ministries can be shut to media outlets, creating a transparency issue and further damaging access to information. Furthermore, the government of Kosovo has yet to appoint a spokesperson, making trivial tasks such as securing a quote on any given issue unnecessarily hard and burdening high profile public officials with said tasks.

The challenges that journalists and outlets face regarding even the minutest matters of access to information pose a sizable barrier to ensuring full freedom of the media in Kosovo. Unsurprisingly, this has a direct effect on both the amount of topics covered in the media, the quality of the coverage, and the independence and accuracy of the reporting. The practice also adds to the pressure that journalists already endure, making their jobs all the more harder. In this regard, a solution to the problem of access to public documents is paramount in order to ensure that the watchdog role of the media is performed accurately and social issues are addressed properly.

6.3 Professional journalism and management

Post war Kosovo has witnessed an explosion in the number of public and private options for higher education. These institutions cover the most required ranges of education such as Law, Business Administration, Economics, etc. However, in the past three years only a limited number of attempts to develop journalism programs have been made, many of them with limited success and questionable quality. This also applies to provisional training while currently there is no known lifelong or professional education program for working professionals besides a relatively young one at a private university.

The first private institution to try to address the niche of students intending to study journalism in Kosovo was made by the Faik Konica College. This academic institution offered strictly journalism education, however, facing several challenges with local accreditation. In 2006, the state sponsored University of Prishtina (UP) also started offering an undergraduate journalism program, under its philology department. The overall quality of this department is quite poor, while the serious risk of this faculty becoming a second option for students who are not successful in other fields yet insist to study is emerging.

²⁵ Ibid (20)

One widely anticipated but short lived institution was the Kosovo Institute of Journalism and Communication (KIJAC) that provided graduate level study and aimed to deliver world class education to regional media professionals. Fully funded by the Norwegian Foreign Ministry, this programme had academic support by four major world universities, including the University of Cardiff and the University of Nebraska Lincoln. Five generations of students that graduated from this programme with MA in journalism and communication are currently in key positions in media outlets in Kosovo. However, due to mismanagement of the programme and its funds, KIJAC was shut down in 2010 and none of its degrees were accredited.

Out of the few university level journalism programs, currently only the Mass Communication department at privately owned AAB and the one at the University of Prishtina have survived. Nonetheless, it is the opinion of editors and media analysts that the quality of these programs is questionable²⁶, with most journalists training being conducted on the job by the media.²⁷ These practices overburden outlets, particularly considering that globally, there is a saturation of well prepared media professionals.

The lack of qualitative academic programs also limits the willingness of outlets to sponsor professional preparation for their own journalists, as the return on this investment is perceived to be low. Additionally, due to better remuneration and higher job security in international organizations in Kosovo, the employee turnover in Kosovo outlets is high, making it hard to achieve long term return on investing in educating journalists. Both of these problems are worsened by lack of economic growth, which influences substantially the income of outlets and their ability to commit resources to the goal of professional advancement through outsourcing.

The precarious situation of academic journalism programs is not aided by the low provision of training modules for journalists. While during the immediate years after the war and the establishment of an international administration in Kosovo donor support for journalism training had been high, currently this support is fairly limited. As a result, despite demand being high, courses offered are scarce, most of which are informal and delivered by unprofessional trainers.²⁸ This issue impacts investigative journalism the most, considering the high level of research and preparation required to adequately perform this task.

Consequently, the state of investigative journalism in Kosovo, despite considerable improvements over the past few years, still remains worryingly undeveloped. Due to the lack of proper training, editors and journalists often misunderstand the concept of investigative journalism for the publication of leaked documents and / or exclusive

²⁶ IREX, Media Sustainability Index Europe & Eurasia (2010), p.64

²⁷ INDEP interviews with Faik Ispahiu, Executive Director, Internews Kosova, Astit Gashi, Editor in Chief, Zëri. Prishtina, Kosovo, April 2012

²⁸ IREX, Media Sustainability Index Europe & Eurasia (2011), p.70

interviews. As a result, several outlets drive the perception that investigative work is being conducted through single source, often anonymous but sensationalist stories.²⁹ The precarious state of investigative journalism is also affected by the aforementioned trends of lack of access to information and other barriers to the profession of journalism.

On the management side media in Kosovo are in a crossroads, with advertising revenues and options having notably increased since the early 2000s but market research based decision making being low. The issue with market research in Kosovo partially lies on the inadequacy of advertising agencies to provide niche based data to their clients. Admittedly, this also occurs because of the overall small market of less than two million people and a harsh economic environment. Simultaneously, the media themselves, whether broadcast or print, rarely engage in conducting market research on their reader or viewership in order to better position themselves to specialized advertisers.

The issue with market research is particularly acute with print media, whose distribution channels are largely opaque and non plural. Circulation statistics are hard to come by because of the prevalence in the distribution of print outlets. Furthermore, due to the weak economy, print outlets cannot rely on subscription based services as the perceived profits would outweigh the costs. Ultimately, this has led to stagnation in the development of specialized audience targeting by print media, increasing their reliance on potentially compromising sources of funding such as cross business subsidization.

Reliance on these methods of ensuring revenue was worsened by the decision of the government to completely remove its public advertising budget.³⁰ Despite widespread claims that government advertising was widely used as a method of political reward and punishment for the media³¹, the reality remains that the government is the largest contractor in the country. Nonetheless, some value added tax breaks are foreseen to be applied to the print media sector in order to alleviate some of the financial burden incurred after the government's decision.

6.4 The Radio Television of Kosovo

The Radio Television of Kosovo (RTK) was established in the immediate aftermath of the war, basing on the infrastructure of the old Radio Television of Prishtina. As a public broadcaster, RTK's primary goals are to ensure a balanced informative and educational program, culturally diverse and entertaining. These goals coalesce with those of the major public broadcasters worldwide, namely serving public interest.

The Radio Televisions of Kosovo was initially financed by a contract with Kosovo's Electricity Company (KEC) that charged a 3.5 euro subscription fee along with monthly

²⁹ INDEP interviews with media experts from Kosovo and the region, January – April 2012

³⁰ INDEP interviews with Astit Gashi, Editor in Chief, Zëri. Prishtina, Kosovo, April 2012

³¹ Gashi, K., "Circulation and politicization of the print media in Kosovo", OSCE – KIPRED, Kosovo 2009. p.11

electricity payments to all its consumers. The contract, signed in 2005, was foreseen to be extended for the duration of three years, until November 2009.³² In exchange for the provision of the service, KEC would be paid a 6% provisions as well as offered the opportunity for some free advertising. After the independence of Kosovo, KEC refused to continue providing the service, claiming that charging the fee was damaging its own income.

In November 2009, the contract between the RTK and KEC ceased, leaving RTK financing to the Budget of Kosovo – a budget that had to be drafted by the Ministry of Finance and approved by the Assembly of Kosovo. This cessation was in part due to a decision by the Constitutional Court of Kosovo, which temporarily suspended the application of Article 21 in the Law on the Radio Television of Kosovo³³ and advised the Assembly of Kosovo to review this law.³⁴ The Assembly of Kosovo, on January 2010, approved a temporary six month budget for the RTK, one that was to be drawn from the Budget of Kosovo for 2010.³⁵ With this decision, the Assembly also requested a professional review of the RTK as well as an independent audit.

There were several issues with these developments, not the least of which stemmed from the newly established susceptibility of the public broadcaster to possible financial pressure. Having been placed on a six month budget, the RTK was consistently under review both by the Assembly and the Ministry of Finance. This dependability raised many suspicions of both local and international monitors regarding the impact such practices had on the independence of the broadcaster.³⁶ Additionally, the law governing the RTK, with particular attention to the article regarding its financing, was now under review, which meant that there was no consolidated financing method for the broadcaster.

The resolution of the issue with the sponsoring of the RTK came only two years later, in March 2012, when the new law was voted in by the Assembly after a series of controversies. The initial draft law of the RTK foresaw that the broadcaster would be financed partially by the Budget of Kosovo, namely with 0.7% of the total budget for a period of three years. This provision would last for three years, in which time the broadcaster would have to decide on the amount of a fee and the designated carrier to levy such fee on citizens of Kosovo. This period corresponds with the mandate of the current government, which means a new solution must be found on the eve of the next elections, which represents a danger on its own.

All of the aforementioned developments regarding the public broadcaster bring to light two major issues. Primarily, the circumstances around the ending of the financing of the RTK and the lack of political will to find a quick, sustainable and independent financing

³² Institute for Advanced Studies (GAP), *Qëndrueshmëria Financiare e RTK-së* (2011), p.5

³³ Constitutional Court of Kosovo, *Tomë Krasniqi vs RTK et AL*, KI 11/09 (2009)

³⁴ *Ibid*

³⁵ Transcript of the Plenary Session of the Assembly of Kosovo, (28 – 29 January 2010), pp.45-46

³⁶ Transcript of the Plenary Session of the Assembly of Kosovo, (28 – 29 January 2010), pp.45-46

method for the broadcaster raise questions about potential interests to influence said broadcaster. These questions were further substantiated by the undue prolongation, and controversy around, the adoption of the new law on the broadcaster, although admittedly the new law is largely thought to be adequate. These concerns have been further substantiated by the delays in selecting the board of the IMC, which also delayed the selection of RTK leading bodies.

Whereas evidence that would implicate political influence in the public broadcaster through the legal perspective is circumstantial, the amount of coincidences and overall lack of efficiency in approving the law have been too numerous to ignore. Nonetheless, the new law on the RTK has been widely greeted by local and international organizations. Currently, the most crucial challenge facing the public broadcaster is to establish, as hastily as possible, a prepaid and self sustainable policy. It remains to be seen how well the new law will be implemented, as well as how well with the RTK perform now that it finally has a form of financial stability.

7. CONCLUSIONS

Kosovo has marked a number of improvements in the legal provisions pertaining to the media sector with the establishment of the law on access to information, decriminalization of libel and improvement of the criminal code and law on RTK. Considerable work, however, still remains to be done in the proper implementation of the existing legislation and a mechanism to monitor the implementation is necessary.

This is particularly important with the Law on Access to Public Documents, as non implementation is limiting journalist's ability to factually document stories, making them susceptible to mistrusted sources and other pressure. Besides professional pressure, journalists are still subject to physical attacks and threats and more inconspicuous forms of pressure such as financial instability, lack of proper contracts and an inefficient judicial that can't adequately protect their rights.

Due to the economic conditions in the country and its impact on outlets, out of the job professional development for journalists can be unaffordable and lack quality. While some university level academic programs are trying to establish a foothold in the niche, they are still too young. In the meantime, non-academic preparation programs are few and far in between, often delivered by unprofessional trainers.

The aforementioned issues are not aided by an overall fragile public broadcaster, who would in other instances be setting the benchmark of professional standards for all media. With financing problems making the RTK potentially susceptible to political and other forms of influence, the medium has lost its initial credibility. Nonetheless, as part of its financing problem has been resolved with a new law, it remains to be seen how well the public broadcaster will perform.

Kosovo's media is facing a duality of challenges, both specific to the country and those that are globally affecting outlets, particularly print outlets. With some improvements in the legal framework and a faint but improving trend of media coherence in the policy sector, these challenges might be overcome. Nonetheless, more work needs to be done in order to ensure that one of the basic tenets of democracy, a free media, is properly safeguarded and respected in Kosovo.

8. RECOMMENDATIONS

1. The Office of the Prime Minister of Kosovo should establish a mechanism or body tasked with ensuring that the Law on Access to Public Documents is being properly and consistently implemented across government institutions.
2. The aforementioned mechanism/body should also be responsible for monitoring the performance of offices or officials responsible for handling requests and implement penalties on non performance as needed.
3. The Ministry of Interior of the Republic of Kosovo should draft a manual detailing proper procedure for communicating with and handling cases of violence against journalists.
4. The Prosecutorial Council of Kosovo should draft, enact and ensure the implementation of a policy detailing methods of dealing with cases of violence against journalists. This policy also needs to ensure that prosecutors understand the pressing importance that ensuring the adequate protection of journalists.
5. The Kosovo Judicial Council should ensure that cases of violence against journalists are given necessary priority and are dealt with swiftly and transparently.
6. The Ministry of Labor and Social Welfare should actively pursue the implementation of the Law on Labor by media outlets across Kosovo in order to ensure that journalists are given proper working conditions and rights.
7. Media owners should consider developing and implementing in house or outsourced professional advancement programs for their highest performing reporters. These programs can be developed in cooperation with academic institutions, international media and organizations supporting the work of media.
8. The Radio Television of Kosovo should stimulate the independent oversight of its program as well as monitoring of its television and radio stations. This stimulus could either take the form of direct solicitation or increase of transparency and access to the institution.

9. The Board of the Radio Television of Kosovo should, urgently, start drafting a long term professional and financial strategy in order to ensure its full independence. The RTK is encouraged to request input from supporting organizations working in the field of media.

10. Media owners and editors should consider developing niche reporting within their publications as a means to ensuring specialized advertising streams and increase their competitiveness.

ISBN 978-9951-627-01-6



9 789951 627016

INDEP 2012