

2013/01

The state of the media in Kosovo 2013



This report was published with the kind support of Free Press Unlimited.

Compiled by: **Shkamb Qavdarbasha**

Edited by: **Krenar Gashi**

The Institute for Development Policy (INDEP)

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.



Bashkëpunimi Rajonal
Regional Cooperation



Zhvillimi i Qëndrueshëm
Sustainable Development



Qeverisja Demokratike
Democratic Governance

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	3
II. METHODOLOGY.....	4
III. INTERNATIONAL REPORT ANALYSIS	4
IV MEDIA REGULATORS.....	9
V. PERSISTENT CHALLENGES	12
V.1 The pressure against journalists.....	12
V.2 Law on access to public documents.....	14
V.3 Media market	15
VI. CONCLUSIONS.....	19

I. EXECUTIVE SUMMARY

During 2013, the media scene in Kosovo has marked a slight improvement compared to previous years according to the evaluation of the majority of international reports concerning media in Kosovo.

The main reason behind the improvement of Kosovo's score are the adoption of the Criminal Code of Kosovo without the inclusion of certain controversial provisions. Furthermore, the adoption of the laws for the public broadcaster and the law for the Independent Media Commission (IMC) were necessary and positive developments for the country. On the other hand, the removal of the value added tax (VAT) for advertisements in print media has helped the latter after the government's stopped advertising in media. These and other minor developments have led to the improvement of Kosovo's scores. Nonetheless, journalists and media in the country continue to face a series of problems that are consistent and unimproving throughout the years.

Pressure against journalists remains a serious problem. Cases of violence and threats against journalist still show no trends of decreasing in number. Simultaneously, the methods for trying to influence journalists and editors alike are evolving, with the Law against Defamation and Insult having become a weapon for the intimidation of journalists. On the other hand, the judiciary is still unable to quickly and efficiently process cases of violence against journalists, thus creating a perception of impunity. The Law on Labor continues to not be fully implemented by the media, furthering the lack of job security by journalists.

The Law on Access to Public Documents is not being implemented, with serious concerns about the law being used as a tool to control media. In the meantime, the law is also facing structural problems since it only applies to documents and not information such as white papers.

Media regulation and self-regulation bodies such as the Independent Media Commission (IMC) and the Kosovo Press Council (KPC) face serious problems in the implementation of their statutory duties. In the IMC's case, this is mainly due to a lack of capacities and the lack of full appointment of its council by the Assembly of Kosovo. There are also allegations of political influence in this institution. The KPC on the other hand also faces a serious lack of capacities and a lack of awareness by the general public regarding its role. The KPC receives no support from Kosovo institutions.

The media market in Kosovo continues to be well populated, although a trend of decreasing media outlets has started to become apparent. This is happening primarily because of the financial problems facing media which derive mainly from the economic condition in the country. Nonetheless, media still don't pursue all possible revenue diversification methods. Additionally, the quick development of online news portals is mounting a serious challenge to traditional media since regulating these portals is proving to be challenging while their costs are smaller.

Media in Kosovo have marked improvement during 2013, however the key problem areas are still persisting and a solution to these problems is not in sight.

II. 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 assessed the findings according to The State of the Media in Kosovo 2012 report by INDEP, checking the improvement on the persistent issues isolated in that report and the state of implementation of the recommendations. All persistent issues analyzed last year have also been followed up in this edition if no resolution has been achieved in them.

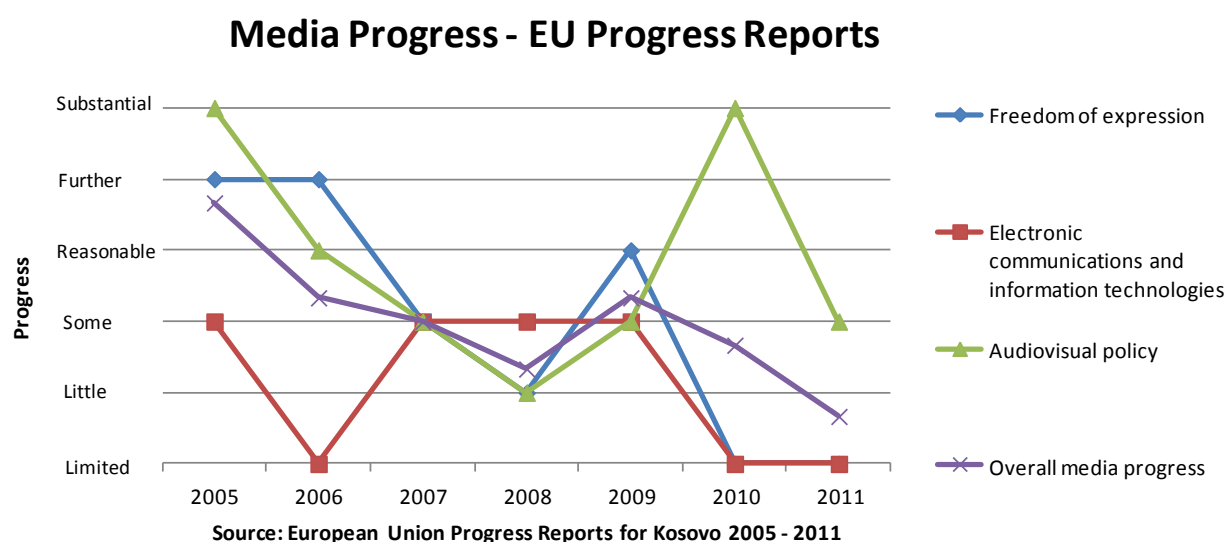
The analysis contained herein has been based on facts and policies that were correct to the best knowledge of the authors at the time of publication.

III. INTERNATIONAL REPORT ANALYSIS

Following the fall of the communist blocks in Europe, a number of international bodies started conducting monitoring and reporting on the state of the freedom of speech and media in the new democracies. The reports aim to track the progress of these democracies in ensuring freedom of expression and identifying the main problems in a bid to help them further freedom of expression. The evaluation is conducted by basing on generally accepted practices for freedom of expression in developed democracies focusing on media and journalist freedom, financial sustainability, legal framework and professionalism. As a country transiting from both a largely authoritarian ruling system and war, Kosovo is a target of these reports.

The Institute for Development Policy (INDEP) ran an overall assessment of the main issues facing freedom of speech in Kosovo according to these reports in 2012.¹ This year's report builds on the previous findings in order to evaluate the progress made in ensuring freedom of speech in Kosovo. The findings for 2013 indicate that little progress has been made in solving the primary problems addressed in the previous years.

The European Commission publishes Progress Reports for the states aspiring to ascend to the European Union, with reports for Kosovo published since 2005. These studies detailed the progress each country made in regards to implementing European Legislature and practices, and one of the components focused on the legislation concerning the freedom of speech and media and its implementation. Since 2013, the European Commission no longer conducts a progress report in the previous format for Kosovo, and has in turn switched to conducting feasibility study for signing the Stabilization and Association Agreement.² As a result, a direct comparison between European Union Country Progress Reports and the new format is unwarranted. However, INDEP has isolated all references to issues pertaining to the media sector in the Feasibility Study for 2013 and ran a comparison with findings from previous years in order to provide a continuity of analysis for the EC's findings concerning media in Kosovo.



Until 2012, the European Commission deemed that progress had been generally slow regarding the legislation concerning freedom of speech and regulation securing journalists and the media. As can be seen in the graph above, most improvement since 2005 was considered by the EC to be little, audiovisual policy being the only relatively satisfactory improving benchmark. However, the audiovisual policy consideration dipped in 2011 due to the lack of a proper law that would govern the Independent Media Commission. Furthermore, the EC Progress Reports considered that legal protection for journalists was inadequate and pressure toward them was persistent, there was little access to public documents and public broadcaster, the Radio Television of Kosovo was still financed by the Assembly of Kosovo.

For 2012-2013, the Feasibility Study of the EC has again isolated the legislation in the Criminal Code as posing a problem for journalists as it does not provide clauses that ensure the protection

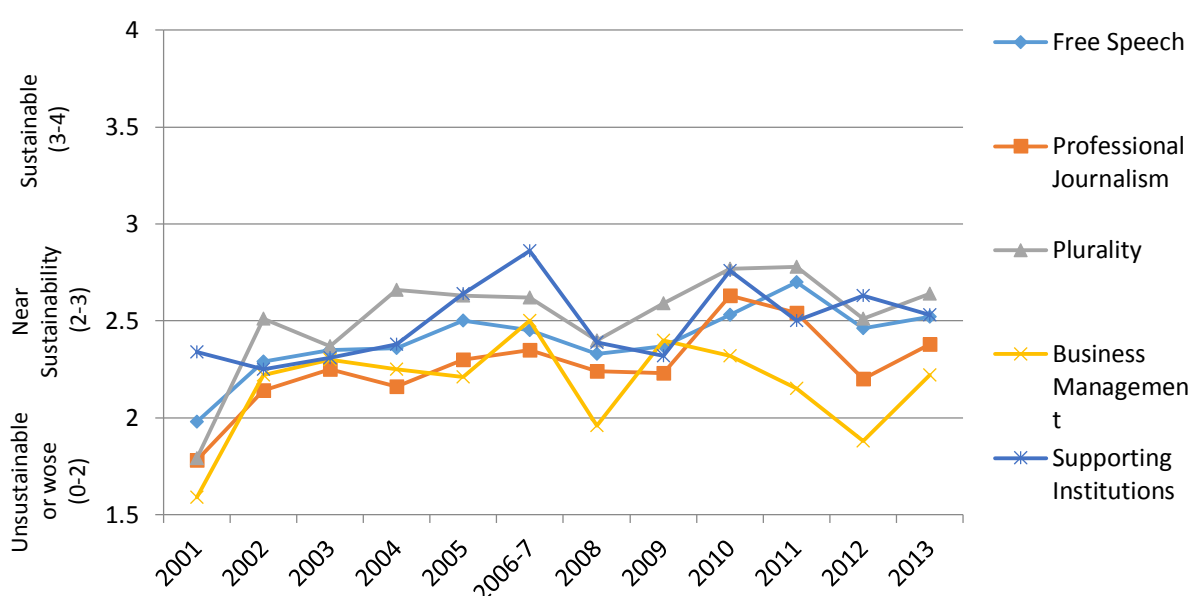
¹ Gashi. K., Qavdarbasha.S., The State of the Media in Kosovo (2012). The Institute for Development Policy: Kosovo.

² The Stabilization and Association Agreement (SAA) is an agreement for aspiring members of the European Union which commits to be members to political, legislative and other changes while offering them preferential trade agreements, supporting instruments and other incentives.

of the sources of reporters. Additionally, the Feasibility Study maintains that Kosovo needs to investigate and prosecute crimes against journalists in order to ensure a safe and secure environment for their work, which is a fundamental indicator for the freedom of the media.

These findings are also reflected in the Media Sustainability Index (MSI) by IREX. This index evaluates the yearly developments and shortcomings of the media in transitional countries through five prisms: free speech, professional journalism, plurality of news sources, business management and supporting institutions. The evaluation is done by a team of Kosovo media experts or professionals who evaluate the situation in Kosovo according to a predetermined methodological grid. According to the IREX evaluation, the media in Kosovo marked a high period in 2006-7, only to dip again in the year of independence in 2008. With most indicators improving after 2008, another low phase was marked in the 2011-12 period, mainly because of considerable problems with the legal framework concerning the media that in turn affected the whole sector.

IREX - Media Sustainability Index - Kosovo



As can be seen from the chart, most indicators marked a slight increase toward sustainability since 2012, however still scoring below 2011 indicators. Previously, the most persistent problems were the pressure against journalists, the continuing criminalization of libel, inadequate provisions for independence of the public broadcaster, limited access to information and no prosecution of crimes against journalists or free speech.

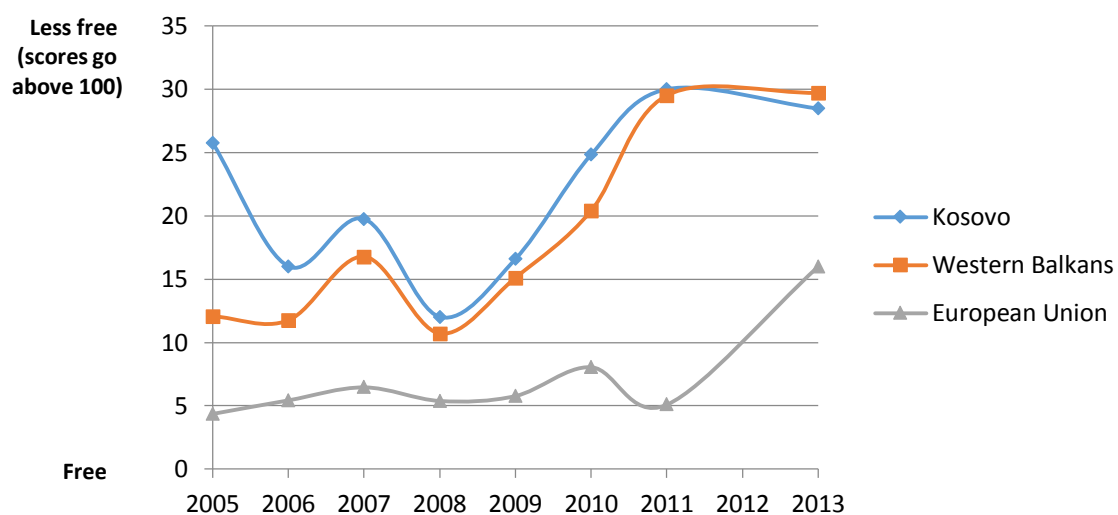
In their 2013 report, IREX deemed that advances had been made in the legal framework, with the removal of potentially incriminating clauses in the Criminal Code and the adoption of laws regulating the Public Broadcaster and the Independent Media Council. Additionally, advances have been made in ensuring a Value Added Tax (VAT) break for print media, which would enable them to attract more advertising. However, IREX still identifies the lack of a law protecting the sources of journalists as problematic. Additionally, as in the EU Feasibility Study, the investigation and prosecution of crimes against journalists is still thought to be inadequate. Furthermore, the MSI panelists have considered the lack of proper licensing and control for online news portals to be problematic for traditional media, as well as the issues of the licensing of cable channels. The panelists also said that the libel law is now being used as a method to

intimidate journalists, as reporters are taken to court after potentially controversial pieces. Nonetheless, an overall upward trend was identified for 2013 as compared to 2012 in the MSI.

This trend is also reflected in the Reporters Without Borders World Press Freedom Index for 2013. As can be seen from the chart, Kosovo marked a slightly better score in 2013 than in the two previous years. For a first since its first publication that included Kosovo in 2005, the country marked a better score than the average of the Western Balkans, perhaps an encouraging sign. Nonetheless, the World Press Freedom report did not contain any references to Kosovo in terms of events, which indicates that no major advances or recesses were made, according to Reporters Without Borders.

Reporters Without Borders - Press Freedom Index

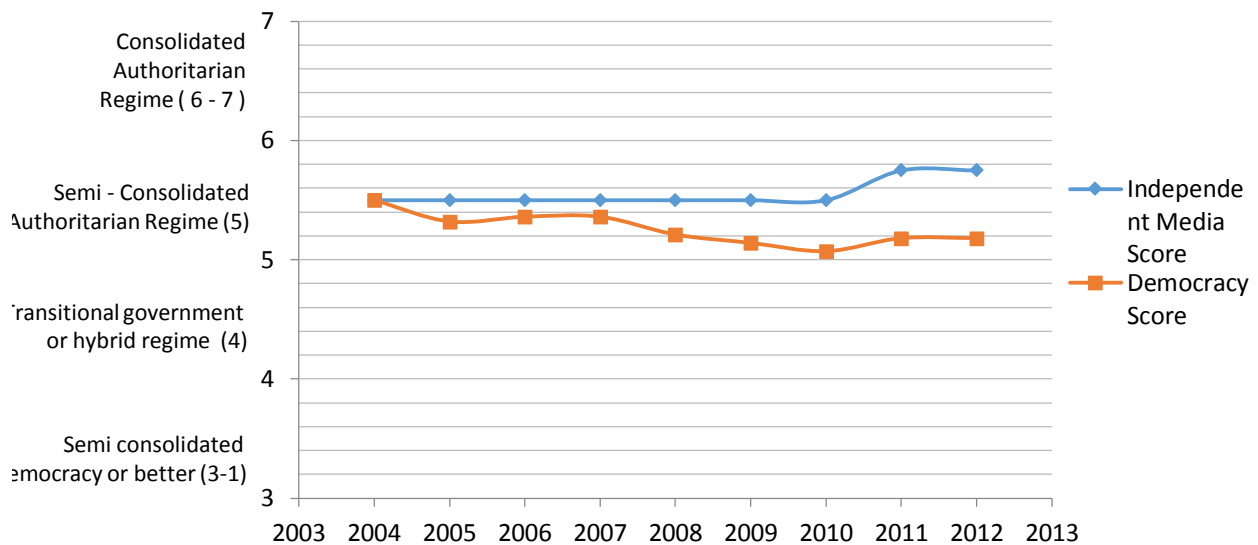
Comparison between EU, Western Balkans and Kosovo



The final comprehensive reports that analyze the freedom of the media in the country are the Nations in Transit and Freedom of the Press reports of Freedom House. In both reports, until 2012, Kosovo has consistently ranked in a bad position, which under the grid of the Nations in Transit report belongs to the semi-consolidated authoritarian regime. The findings for Kosovo until 2012 included issues ranging from the legal provision, pressure against journalists, the opaque ownership of print media, etc. Until this paper has been published, Freedom House had not yet made available the 2013 reports.³ However, considering the issues identified as problematic in the previous years by the Nations in Transit and Freedom of the Press reports and considering that little to no progress has been made on these issues, INDEP does not expect a considerable improvement of the score for Kosovo.

³ INDEP will reassess this paper as soon as the Freedom House reports become publicly available.

Freedom House - Nations in Transit Scores



Despite the slightly increasing scores in the international reports concerning the media in Kosovo, the country still faces many issues regarding its media sector. These issues reflect both challenges that the media are facing in developed democracy, such as a sustainable self-regulation model for print media and the financial viability of print media, to developing democracy issues such as pressure against journalists, improper legal framework, etc.

The positive developments center on the new Criminal Code in Kosovo and the successful campaign to remove provisions in this code that enabled the state to criminally pursue editors and journalists in certain questionable instances. Another positive development has been the adoption of the new law on the public broadcaster, RTK, and the Independent Media Council and the partial appointment of new board members for both. Additionally, after the government's decision to stop advertising in public outlets, the removal of the Value Added Tax for advertising in print media was well greeted by media and civil society, despite skepticism about their ability to cope with competition from new outlets. These major developments, among smaller ones, along with a nascent blogging community in the country have provided the bases for a slight amelioration of the score.

Nonetheless, findings of these reports and INDEP's comparison from the 2012 study, clearly indicate that numerous challenges inherited from previous years persist. The issue of the pressure against journalists continues to be a problem, and the methods used to intimidate editors and reports alike are evolving. Crimes against journalists are not being properly persecuted, furthering impunity. Despite the existence of a law on access to public documents, it is still unrealistically hard for journalists to gain access to public documents and let alone information. The RTK, despite the new law, continues to use Kosovo Budget funds to finance its activities and there has been no effort to find a contractor to collect a subscription fee as foreseen by the law. New media are still unregulated and unlicensed, and do not adhere to journalism standards. Their ownership structure is largely unknown. Regulation and self-regulation bodies for the media continue to face challenges in implementing their statutory duties due to lack of capacities and/or political pressure.

From the business perspective, media still face financial challenges, although the higher presence of advertising in national televisions is indicative of the better position of television stations. Print media is facing severe economic woes, with numerous media closing down or in indefinite suspension. Some print outlets have migrated to an online form, with others considering the option. Official in house training programs for journalists are scarce or non-existent while academic programs struggle to keep up with modern practices. Journalist turnover in outlets remains high.

In order to ensure a sustainable and professional media sphere in Kosovo, finding a solution to the aforementioned persistent problems is imperative. As a result, an analysis of the causes of these persistent challenges has been conducted in order to provide recommendations for the improvement of the current situation in Kosovo's media.

IV MEDIA REGULATORS

Kosovo's media landscape is overseen by two bodies separated between print media and broadcasters. The print media sector is overseen by a self-regulating body named the Kosovo Press Council (KPC). The broadcast sector is overseen by a regulator whose existence is set forth by the Constitution of Kosovo, the Independent Media Commission (IMC).

The Independent Media Commission was established in 2005 pursuant to the position held by the Temporary Media Commissioner, a United Nations Mission in Kosovo appointee. The Independent Media Commission is responsible for licensing broadcasters according to its standards, both technical and professional. For this reason, the new law on the Independent Media Commission⁴ has foreseen that all its broadcast quality requirements be based on the European Union's Audiovisual Media Services Directive.

The IMC has been the topic of much debate in the Kosovo scene, primarily due to the problems relating to its highest decision making body, its council. Comprised of seven members elected from the Kosovo Assembly after public nomination, the council is responsible for all decision making concerning the enforcement of broadcasting regulation and licensing.

However, throughout the years, the Kosovo Assembly has consistently failed in electing a permanent council, and since the adoption of the new law in April 2012, the full council of the IMC has still not been constituted. Under the current law, the IMC is only responsible for gathering a list of nominees through public solicitation and relaying this list to an ad-hoc committee at the Assembly of Kosovo. This committee then interviews the candidates and proposes two nomination per available position in the council to the Assembly of Kosovo, who votes on the candidates.⁵ This process entirely sidelines the IMC from participating in the selection of its own decision making body, and allegedly offers ample space for the political interference of parliamentary parties. Under this new law, the proposals relayed from the parliamentary ad hoc committee to the parliament in early 2012 did not involve a single journalist, or individual with experience in journalism.⁶ Due to the longstanding lack of a council,

⁴ Assembly of Kosovo, Law No. 04 / L-044 on the Independent Media Commission

⁵ Under the previous law for the IMC, two of the members were nominated by the Special Representative of the Secretary General of the United Nations, one from the Assembly of Kosovo, while the other four were nominated by civil society, selected by the IMC and the list was relayed to the Assembly of Kosovo for voting.

⁶ Gazeta Jeta në Kosovë, Asnjë gazetar nuk rekomandohet për KPM, 16 August 2012, <http://gazetajnk.com/?cid=1,3,2913>, Last accessed on 30 April 2013.

lack of public awareness of its responsibility and a general lack of capacities the IMC has not been able to fulfill its roles.

Primarily, the IMC has not been able to move forward with the digitalization process in Kosovo. The digitalization process was started in 2007, as a key strategic objective of the IMC. The deadline for the completion of the digitalization process in Kosovo was set in June 2015, and working groups were established by the institution in 2009 in order to create a draft strategy for the digitalization process. However, the working groups have yielded a draft strategy for the digitalization of the broadcast system in Kosovo only in December 2012, a draft which is still under revision. It is highly unlikely that under the current trend of no fully elected council, lack of capacities and several allegations of political pressure, the IMC will be able to meet the June 2015 deadline for digitalization.

Another key problem facing the IMC is its ability cope with the proliferation of cable television providers and new media. Currently, the IMC operates with an outdated framework for regulating the cable television providers, their duties, responsibilities and the licensing methodology for cable-only television stations. Efforts by the IMC are underway to reevaluate the regulations for the Distribution of Audiovisual and Radio Media Services through Network Operators, as the new draft framework is called. This lacking regulative framework, coupled with the IMC's lack of capacities to quickly adapt regulation and make decisions causes severe problems in the media market in Kosovo. This is primarily due to the creation of an uneven competitive environment for traditional broadcast media, as cable providers and their relevant channels are not fully covered by broadcast regulations.

Moreover so, the Independent Media Commission is widely uninvolved in the now global debate over how to regulate online news portals. This problem has been one raised by numerous panelists in international reports concerning the media in Kosovo and has largely gone untreated by the IMC, or the KPC.

The issue of the lack of KPC involvement in the online news outlet debate is not surprising, as this self-regulating institution faces several challenges. Established independently from Kosovo institutions, and therefore Kosovo Budget.

The Kosovo Press Council, is registered as a not for profit association comprised of an administrative section and the assembly. The association is populated by print media representatives, including magazines and news agencies and three independent members that are not related to the media and are chosen basing on majority vote.

The KPC role is to serve as an adjudicator of the media's adherence to its Press Code of Conduct, a document adopted by the KPC according to best international standards. The association does this either through accepting complaints by third parties, or by initiating actions based on their monitoring of the media. Both cases are subject to prior KPC review for a valid claim and subsequent review by the KPC Council.

However, the KPC is severely limited in fulfilling their statutory duties. This is primarily due to the limited amount of financing available to the KPC. Under the current setting, the association is funded by contributions from its participating members. Nonetheless, member are not regular or committed to making the payments, forcing the KPC to require funding from additional sources such as external donors, which for an association of its type are fairly limited. As a result, this institution is at a consistent lack of resources for covering basic functions, let alone engage in activities such as regular media monitoring or use of outsourced technological capabilities for

its job. This is particularly true when concerning the participation in external capacity building activities for the representatives of the members or for the administrative staff of the institution.

One key benefit of the KPC's statute is that all complaints directed to this institution will cover the entire outlet for which a journalist who allegedly committed defamation works. This enables the KPC to function as a gateway for pressure toward journalists, involving their entire organization in disputes, which allegedly would somewhat deter complainants with malicious intent.

However, a major issue with the KPC remains the lack public knowledge of its role and function. Public awareness for the institution is crucial, as the institution relies on input from the audience, particularly wronged parties, to exercise its duties. Because of the lack of public knowledge about the role of the KPC, and the lack of capacities of the institution to pursue an awareness campaign, its role is largely unknown. Allegedly, better public information about the role of the institution would also lower the number of court cases for defamation and libel. Finally, the KPC lacks any Kosovo institutional support in the policy terms, such as a mechanism requiring parties addressing a court for defamation to first turn their complaints to the KPC.

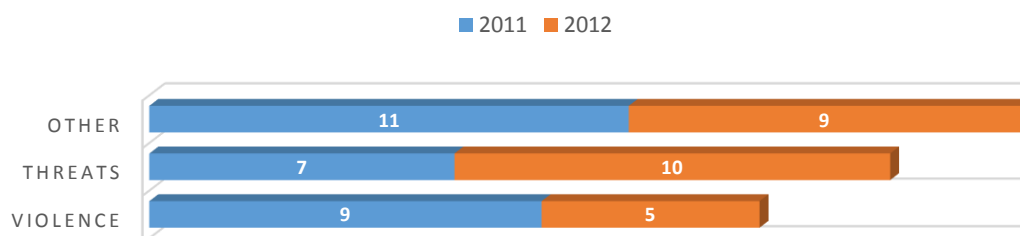
Both regulatory institutions face numerous challenges when concerning their ability to implement their statutory duties. While their roles are largely different, one thing remains the same, the lack of capacities to exercise their statutory roles to the full extent. In IMC's case, political willingness to solve the situation would go a long way towards solving the institution's problem. However, the centralization of the Council selection procedure to the Assembly of Kosovo indicates an interest in the Assembly to control the institution, particularly considering how no journalists or media professionals are among the names proposed for the current board. In KPC's case, the willingness of written media to fully functionalize this body is crucial and their lack of involvement in this procedure leaves much to be desired. This is also true of the lack of a policy mechanism that would involve the KPC in the process of solving minor defamation cases that otherwise burden courts.

V. PERSISTENT CHALLENGES

V.1 THE PRESSURE AGAINST JOURNALISTS

During 2012, the Association of Professional Journalists of Kosovo (APJK), reputedly the biggest such organization in Kosovo, recorded 24 cases of pressure against journalists. Out of these, five were physical assaults while ten of them were threats. These numbers, unfortunately, are not an accurate depiction as the APJK withholds part of the complaints it receives based on the requests of journalist. Even more disturbing is the constancy of the number of assaults against journalists, which shows no consistent decreasing trends, particularly for a country the size of Kosovo.

CASES OF PRESSURE AGAINST JOURNALISTS



Similarly to 2012's findings, the main issue with the persistence of the violence against journalists is the impending impunity of attackers. Currently, the investigation and prosecutions of crimes against journalists is virtually nonexistent and even in the event of a trial, the consequences for the perpetrators are minimal.⁷ Primarily, this is the result of highly overburdened and politically influenced judiciary.⁸ The judiciary branch in Kosovo currently suffers a backlog⁹ of 218,748 of cases. The backlog is the consequence of a severe lack of capacities and funding of the judiciary branch in Kosovo, with a severely deficient number of judges, an issue also faced by the prosecution. This means that crimes against journalists take considerable amounts of time to resolve, leaving journalists in a long legal battles and hampering their ability to pursue their professions, particularly when their personal security is at risk.

As a recent example, the attack on the staff of Kosovo 2.0 during the publication of their quarterly magazine is the most clear. In December 2012, Kosovo 2.0, a blogging platform and the publisher of quarterly magazine was attacked by masked individuals during their preparation of the launching event for their latest issue. Kosovo 2.0 had received threats during the day and police presence had been summoned. The police had been unable to protect the venue and participants due to the unexpected large number of attackers. Additionally, a large unannounced crowd of protesters, without permission to protest, had stopped the launching event after the attack. To this day there have been no prosecutions of the attackers, despite the criminal actions, hate speech and violations of constitutional provisions of free speech. This event is a clear indicator of the lack of the lack of prosecution of crimes against journalists and despite harsh reactions from international and local institutions no amends have been made.

⁷ IREX, Media Sustainability Index 2013: Kosovo, p.68.

⁸ European Commission Country Progress Report for Kosovo, 2012.

⁹ The backlog are cases that are two years or older that have not been solved so far.

Unfortunately, this problem is not alleviated by the corruption and links to organized crime that has characterized the judiciary in Kosovo post-independence.¹⁰ Corruption adds to the inability of judges to quickly and efficiently process cases, offering an advantage to parties with the intent to put pressure on journalists. This is of special concern when considering that the pressure by business owners subject to journalistic investigations has witnessed an increase in recent years.¹¹ Such pressure has started to mount by the use of the Law against Defamation and Insult, enabling people cited in reports to sue the journalists at will.

This trend is substantiated by two phenomena characteristic to the current setup of the law and the condition of the judiciary. Primarily, parties that have been wronged by a media outlet can address their concern to two regulatory bodies, namely the Kosovo Press Council or the Independent Media Commission, the first being responsible for the written media while the latter for broadcast media. However, these lawsuits often bypass these institutions, directly addressing courts, which is an indicator that the allegedly wronged parties have no intent to seek a resolution but to apply pressure to journalists or exact revenge.

Secondarily, the current provisions of the Law on Defamation and Insult place the burden of proof on journalists, instead of requiring the accusing party to prove that the journalists did not follow professional norms.¹² Under these circumstances, therefore, the pursuit of a court battle by an alleged wronged party, without resorting to the KPC and IMC first, strongly indicates a trend of using the law to place pressure on journalists. This practice is problematic in Kosovo, as the judicial branch, with most of the training focused around the communist legal system, lacks the capacities to properly implement and adjudicate on cases of defamation, particularly in an influenced judiciary. In our 2012 report, INDEP suggested that such a practice might become a tool for parties with the intent to pressure or otherwise exact revenge upon journalists and unfortunately, this practice appears to have taken foothold. Whether these trends are systemic or sporadic is an important question that needs to be answered prior to attempting to pursue a solution to the aforementioned problems.

In early 2012, the Kosovo Government presented a draft of the new Criminal Code which included provisions for the criminal liability of journalists and editors for content published in their outlets as well as provisions for the disclosure of sources, and provisions for libel. Nonetheless, civil society representatives, experts and media representatives themselves widely opposed these provisions as they were seen as potential impediments to the freedom of speech. The provisions were amended, removed and reinstated several times during the period of seven months starting February 2012, as the supporting and opposing sides advocated at the Assembly of Kosovo.¹³ The advocacy efforts even saw joint media protests and boycotts of the government in order to persuade them to amend the law. The Criminal Code of Kosovo was adopted with the controversial provisions which was followed by the resignation of the Deputy Prime Minister of Kosovo Hajredin Kuci. The final version of the law saw the provisions removed, and Mr. Kuci returned to his post.

The Criminal Code also opened the debate about yet another form of pressure that might be placed on journalists, namely when should journalists be forced to disclose such sources. A shield law that would protect the sources of journalists in Kosovo does not currently exist. The initial draft of the Criminal Code of Kosovo, under article 38, stipulated ambiguously when

¹⁰ Organization for Security and Cooperation in Europe, "Independence of the Judiciary in Kosovo: Institutional and Functional Dimensions" (2012), p4.

¹¹ IREX 2013. p.69

¹² IREX 2013. p.71.

¹³ Gazeta Jeta në Kosovë, "Kodi Penal pa Nenet p pa Nenet për Mediat," 24 February 2012. <http://gazetaink.com/?cid=1,1018,1469> Last Accessed on 30 April 2013.

journalists should be required to disclose their sources. Revisions of this article required journalists to disclose their sources only in cases when an imminent danger to people's lives has been proven.¹⁴ However, the disposition was widely regarded by the media as inappropriate and was removed in the final draft of the Criminal Code, although some civil society and international organization argued to the contrary. Currently, efforts are underway by an opposition party to adopt a law on the protection of the sources of journalists.

The lack of a shield law for journalists' sources placed undue pressure on the media. Due to the size of the country and the high complexity of interactions between individuals, journalists are often pressed to use anonymous sources in order to complete their investigation. This trend has been noticed even through INDEP's media monitoring and is regarded as a staple component of investigative journalism, although a highly discouraged one. Nonetheless, the lack of provisions for the protection of sources exposes media and journalists and their sources of information to undue danger. As a result, it is crucial that the implementation of legal framework that clearly stipulate the circumstances under which journalists should disclose their sources be carried out.

Besides the direct and professional problems facing journalists in Kosovo, media organizations still fail to provide consistent contractual relations with their employees. As detailed in the 2012 report, the media sector is still lagging behind the implementation of the Law on Labor, and most journalists don't have contracts with their employer. As a result of the lack of contractual obligations of both parties, journalists are placed under pressure of losing their jobs unexpectedly, without the protection of a contract. This is an indirect means of pressure that works on several levels, primarily created a situation of job instability, secondarily offering media managers the opportunity to control journalists. Additionally, the lack of contracts also enables journalists to unexpectedly cede their duties at an employer, subsequently damaging the employer or worse bringing internal knowledge to another medium.

All of the aforementioned factors result in what the international reports concerning the media in Kosovo dub as the general lack of investigative journalism, self-censorship and protocol journalism. However, the latter are symptoms and the process that leads to these issues needs to be solved on a higher scale, as recommendations that target these problems directly have not yielded sustainable results so far.

V.2 LAW ON ACCESS TO PUBLIC DOCUMENTS

International reports concerning the state of the media in Kosovo have continuously identified the lack of a law on access to public documents and subsequently the lack of its implementation as a serious problem for the media in the country.

The primary issues related to the law on access to public documents lie on the lack of political will to ensure its implementation. By controlling the type of information available to certain media, the government can use access to public information as a reward tool for media reporting favorably.

On the other hand, a dysfunctional system for access to public documents also places journalists and media in an unfavorable position. In order to obtain the information, journalists are posited to find alternative sources which opens the media and journalists to the dangers of publishing inaccurate data. Publishing such data, in turn, makes the liable to lawsuits besides the obvious impact it would have on the reputation of the outlets. This problem stems directly from attitudes

¹⁴ Assembly of Kosovo – Transcript of the Plenary session of the Assembly of Kosovo held on 20 April 2012.

inside Kosovo institutions, seeing as the lack of willingness to disclose public documents, namely documents not labeled as secret, is an authoritarian practice.

Additionally, this type of unofficial red tape concerning access to public documents places a strain on journalists' and media resources. The pursuit of information through tertiary sources considerably lowers efficiency and competitiveness of some outlets as opposed to government friendly media. Unfortunately, the aforementioned issues, as posited in INDEP's 2012 report, have not marked any improvement during the 2012 reporting period.

Building up on these problems with the law on access to public documents, the lack of disclosure of information has also surfaced as an issue. Deriving from the wording of the law, civil servants in Kosovo institutions apply the law only to physically available documents and not information. In turn, information existent in non-written form is virtually impossible to obtain, as officials deny existence, claim ignorance or claim lack of coverage by the law. In turn, this leads to an improper freedom of information legal framework from the legal perspective and from the implementation perspective.

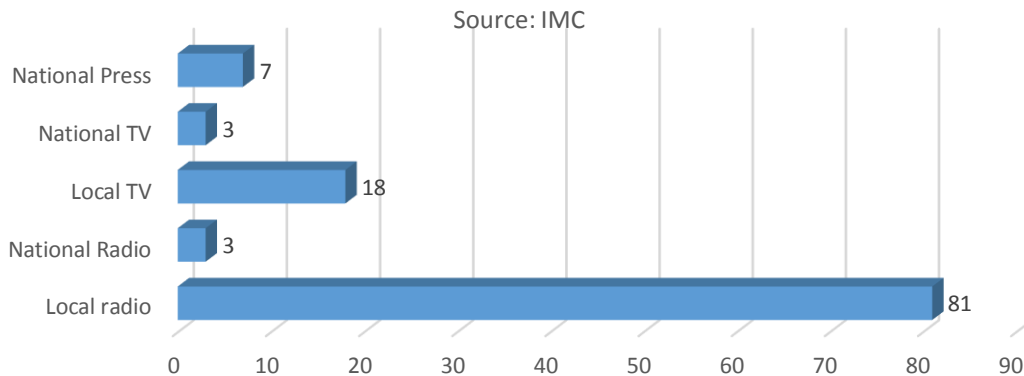
The issue with the current set up and implementation of the law on access to public documents severely affects the general public and the media in particular. This problem, stemming from a lack of political will that can only be described as authoritarian, will require both awareness raising, training and multiple level checks and balance efforts to solve. Unfortunately, with a country with severe economic woes and numerous legislative priorities the process, as has been witnessed until now, will be drawn out.

V.3 MEDIA MARKET

Kosovo's media market continues to be well populated, with a total of 112 traditional media outlets and numerous online news portals. As of 2013, Kosovo boasts 84 radio stations, 21 television stations and seven national newspapers. The majority of the broadcasters are local, with radio stations leading in numbers in comparison to television by a large margin. In terms of national coverage, only six television and news stations currently enjoy the licenses, with no new licenses having been granted at least since 2009.¹⁵ The license granting procedure has been a focus of debate in Kosovo media due to the requirements for granting and also controversies toward the IMC's potential politicization.

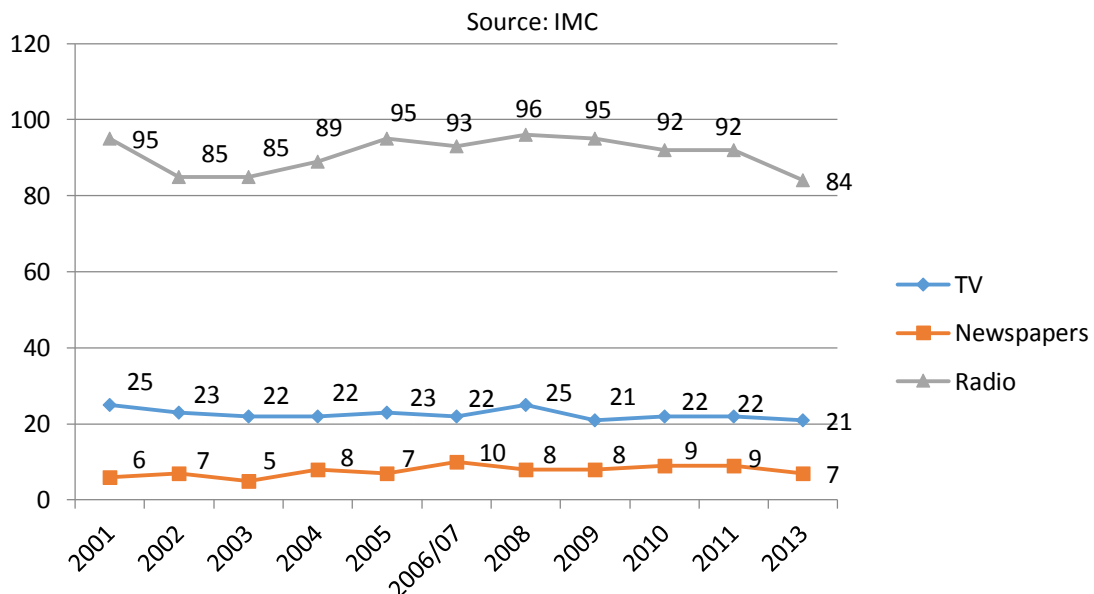
¹⁵ No new licenses have been given for national televisions since the establishment of KTV and RTV21, almost in the early 2000s.

Broadcasters in Kosovo 2013



While the number of outlets in Kosovo indicates a generally thriving media scene, the number of outlets has started to dwindle. From 2011, the number of radio stations has fallen by eight while there are two less national newspapers and one less television stations. The radio broadcasters have been declining steadily in the past six years, with national newspapers following suit, as a number of them have either become insolvent or have periodically stopped reporting. This status is indicative of INDEP's prediction in our 2012 report, in which we foresaw that decreasing advertising revenue as a result of the economic situation in the country and lack of competitiveness in the media market will result in fewer outlets.

Number of Outlets in Kosovo



The lack of competitiveness largely stems from a lack of capacities to develop modern approaches to attract advertising in the market. Primarily, Kosovo media are faced with the issues of lacking consistent, independent and reliable ratings, viewership and press circulation data. These three crucial strategic decision making tools for media across developed democracies are unavailable in Kosovo. As a result, media managers are unable to make data-based decision making concerning the content that they should deliver to their audiences, their main public

categories and the public's interest. This also leads to an inability to serve advertisers specialized targeted audience access, offering them less value for their investment. In turn, no consistent advertising can be acquired, as advertisers have no compelling reason to do business with any particular outlet other than perceived size of audience. This, among other revenue stream diversification methods, such as subscriptions, specialized on demand reporting, spin off entertainment magazines, and many others, currently leave the media market unable to advance.

A concrete example of this issue can be best described by the continuing dispute between KTV, a Koha Group national television station, and the telecommunication provider IPKO. Despite the perception that television stations are generally better off than other mediums, KTV demanded two cable providers that they pay a 10,000 euro monthly fee for the right to transmit its channel, which both providers refused. While such a demand might be interpreted through the prism of simply attempting to acquire new income sources, the events that followed indicate that even television stations are battling hard times.

After the refusal of both cable providers to pay the required fee, the Koha Group, both through its television and through the newspaper started publishing several investigative articles concerning IPKO's business affairs. Unfortunately, because of the immediate consequence of the events, namely the refusal to pay and the initiation of the series of investigative pieces, it can be inferred that this was a retaliation campaign by KTV towards IPKO. IPKO subsequently moved the KTV down eighty channels to position 83 from channel three in which it was initially situated in, while the other provider switched it to number seven. This indicates a problem with the regulative framework for cable providers as the IMC's only complaint was that it wasn't warned in advance of the move. Viewers can program channels manually to their convenience.

While broadcast media are displaying some signs of financial problems, written media are in a far worse position. In 2011, Kosovo institutions barred all advertising in the media. This severely affected the print media sector by removing the main advertiser in the market. Nonetheless, stopping the advertising helped remove a method of control that the government had over media.¹⁶ To alleviate the strain placed on newspapers, the Kosovo government decided to remove the value added tax for advertisements on the written press. Nonetheless, this strategy hasn't been sufficient to offset the trend of the decreasing profitability of the print sector in Kosovo. In fact, one major newspaper moved entirely to an online platform with at least one more in the process of doing the same. The move to the online platform proves the print outlets are struggling to secure sources of advertising and that print distribution is not financially viable in Kosovo. This is also indicative of a new trend developing in Kosovo, which is the proliferation of online news outlets.

Online news outlets have flourished in the country in the past two years, with revenue streams allegedly being enough to sustain their functioning. Nonetheless, there are numerous concerns that surround these outlets. Primarily, these outlets behave like traditional media in an online setting, which means that they should ascribe to the same professional and ethical principles. However, gross violations of copy right laws, ethical and professional codes of conduct and also a general lack of accountability prevail. These factors provide for an environment where more traditional media are placed in an inferior position due to the unbalanced competitiveness coming from online portals, particularly considering the increasing tendency in Kosovo to use the internet as a means of information.

¹⁶ Gashi, K., "Circulation and politicization of the print media in Kosovo", OSCE – KIPRED, Kosovo 2009.

Secondarily, these online portals have not been subjected to any of the self-regulatory or regulatory bodies such as the Kosovo Press Council (KPC) or Independent Media Commission (IMC). As a result, both the content on these portals and the content of their comment sections are entirely unmonitored for adherence to broadcasting or print media standards. As a result, these portals have the opportunity to become gross violators of the Law on Defamation and Insult, Law on Copyright, taxation and ethical standards. Finally, the ownership structure of online news portals is almost entirely unknown, which leaves considerable amounts of space for unchecked media concentration. On the other hand, ownership of the media is still largely transparent, partially of the public availability of business registration data and largely because of the small size of the country.

The media market in Kosovo, despite all the hardship and from a business perspective is generally healthy. Multiple media outlets exist, with a satisfying ratio of local to national radio. There are no market entry restrictions for individuals intending to venture into the media field, besides capital and ownership is largely public and there isn't a presence of media concentration or trends indicating that one will develop. Nonetheless, due to the bad economy and stagnating business strategies, most media outlets are facing financial woes, which makes them liable to business interests, advertiser pressure and lack of development.

This reflects also on journalists, since remuneration despite being higher than national average, do not provide a satisfactory level of security to ensure enough commitment to the profession or outlet. As a result, the perception of journalist turnover in the industry remains high, although, like most other areas in the media sector, there are no official statistics confirming such a trend. More needs to be done by the media to ensure sustainable revenue streams that will not infringe upon editorial integrity or journalistic ethics.

VI. CONCLUSIONS

While overall, the standing of the freedom of speech in Kosovo according to international reports has marked a slight increase from 2012, many of the problematic indicators from previous years continue to repeat themselves. The main setbacks in Kosovo's media scene as identified in 2012 have either marked no progress or very little.

Primarily, pressure against journalists remains an issue. Real threats, such as physical violence, verbal threats and other forms of intimidation show no reassuring signs of decreasing and although relatively few in number, are still problematic for a small country such as Kosovo. Intimidation methods against journalists are also starting to evolve, with the Law on Defamation and Insult now being used as a method to either frighten, deter or take revenge on reporters. Additionally, journalists enjoy little to no job security, as increasingly strapped for cash media fail to implement Law on Labor provisions. To this date, Kosovo also lacks legal provisions for the protection of journalists' sources. Despite this, many media houses continue to produce investigative pieces, with donor funded media being the most successful.

Another major problem affecting the media and journalists is the lack of access to public documents. The Law on Access to Public Documents continues to not be properly implemented, mainly because of a propensity of government institutions to use the law as a measure of control on the media. Additionally, the law is flawed, treating only public documents but leaving information, such as policy white papers, out of coverage. This issue presents a serious problem to journalists and editors and because of the political involvement, and not lack of governmental capacities to implement it, has been considered as a method of control against the media.

Media regulation and self-regulation bodies continue to face severe challenges. While both institutions are battling financial woes, both of them are also faced with internal and external pressures. The IMC still doesn't have a full Council due to the inability of the Assembly of Kosovo to select a candidate. The legal provisions for the selection of the council in the new law for the IMC have entirely excluded the institution from the selection of its own council and instead moved it to the Assembly of Kosovo, putting into question the issue of potential politicization. The KPC on the other hand struggles with collecting the mandatory fees from its members and therefore is constantly struggling with lacking capacities. This makes it impossible for them to conduct their duties and raise awareness in the public for their rights. Both institutions receive little support from Kosovo institutions.

The media market is still well populated, with local radios taking the bulk of the market. In the past three years, online news portals have proliferated, although the problems related to their quality, adherence to the Law on Copy Right and responsibility are ample. Nonetheless, many of the media are facing financial challenges, although the extent to which the economic situation in the country can be blamed for the phenomenon is questionable. This is primarily because the media have shown no interest in investing in market specialization, development of a rating and circulation system and other data quantification methods. No official training tracks exist within media while academic institutions are struggling to keep up with the latest trends in journalism education.

The state of the media in Kosovo in 2013 leaves much to be desired, with the problems facing the media sector still being characteristic of relatively authoritarian states. A lot remains to be done in order to ensure that the judiciary promptly reacts to cases of violence and assault against journalists and is able to properly implement the Law on Defamation and Insult. Additionally,

the public broadcaster is still to find a sustainable, independent financing method finally detaching it from state funds. The law for the main broadcast regulator and the public broadcaster are in need for amending only one year after their adoption, as the provisions for the selection of their higher decision making bodies are inadequate and leave room for politicization. More institutional support and member commitment is needed for the appropriate functionalization of the Kosovo Press Council. In order to ensure business sustainability and independence from third party sources of income, media need to develop strategic and long term approaches to increasing revenue. Finally, Kosovo institutions should be hard pressed to show more commitment to ensure genuine freedom of speech and freedom of the media in the country.

