LEGAL ENVIRONMENT RELATED TO MEDIA IN KOSOVO

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I. INTRODUCTION

Media and journalists in Kosovo operate in a difficult environment, with constitutional guarantees and legal rights that look very good in paper but are not respected and enforced in practice. There is pluralism in the media sector with a lot of broadcast as well as print media organizations offering media services to Kosovo citizens. Journalists are largely independent, and censorship is limited.

The major challenges facing media in Kosovo are not unique, but similar to challenges facing media in the region as well as Europe. The physical safety and physical integrity of journalists is the first such challenge, with physical attacks, threats and intimidation attempts made at journalists in the past few years to the level that the Kosovo Police has recommended to journalists considering bearing arms for their own safety.

In addition to the physical safety of the journalists, media operators and journalists face political pressure, financial pressure, business pressure and various tactics to alter the stories they are working on. Defamation lawsuits are used more as a tool to intimidate and silence the media than they are used to right a wrong done by the media.

Print media self-regulatory body has not been able to address the issue of news portals and online media beyond its reach as well as not been able to establish standards on fake news and other abuses which are pertinent to online media.

This report, thus, analyzes the legal environment related to media in Kosovo, by first identifying the relevant issues related to the applicable laws affecting media in Kosovo and second by looking at some of the thematic issues and presenting ideas about how to address those issues.

In preparing this report, laws have been analyzed and researched as primary sources as well as media reports and documents have been used as secondary sources.

II. SUMMARY OF MEDIA ENVIRONMENT IN KOSOVO AND MEDIA ACTORS

Media in Kosovo has been part of a rapid development since the end of the 1999 conflict between Kosovo and Serbia, and, following the installation of the first democratic institutions. This development was initially driven by external factors such as foreign embassies and donors, which aimed at opening and democratizing the society on the one hand and promoting pluralism and competition among various media service providers. Today, the media in Kosovo operates in a competitive and generally regulated environment and there are no major differences with the media in other countries in the region and elsewhere in Europe.
Media in Kosovo are divided in broadcast media or audio-visual media licensed and supervised by the Independent Media Commission (IMC)\(^1\); as well as print media including online media or news portals, which are overseen by the Press Council of Kosovo (PCK)\(^2\). At present, the IMC has licensed 61 national, regional and local TV channels\(^3\); 103 national, regional and local radio\(^4\); as well as 39 distribution operators\(^5\). On the other hand, there are at least 27 print media, and online media operators which are members of PCK\(^6\). However, the number of print media and online media operators is believed to be much larger, with a significant number of them not being members of PCK or otherwise not regulated.

IMC is an independent public body that is established based on the Kosovo Constitution and which is responsible for, inter alia, the regulation, management and supervision of the broadcasting frequency spectrum in Kosovo, that is, the regulation, licensing and oversight of broadcast media in Kosovo\(^7\). IMC reports to the Assembly of Kosovo\(^8\). On the other hand, the PCK has the status of a non-governmental organization established by the print media itself and the online media that make up its membership base. The PCK serves as a self-regulatory body that applies the Press Code of Kosovo and oversees the members in respecting and enforcing this Code.

In addition to these two institutions, there are a number of organizations in Kosovo that represent journalists, media or media actors. Two of these institutions are the Association of Journalists of Kosovo (AJK) and the Union of Journalists of Kosovo (UJK). Both of these institutions are organized as non-governmental organizations based on the Law on Freedom of Association in Non-Governmental Organizations and represent their member journalists. Meanwhile, the Association of Electronic Media in Kosovo (AEMK) represents the interests of broadcasting media in Kosovo, whereas the Association for Collective Copyright Management in the Field of Music (APIK) represents artists, performers and music producers in relation to audiovisual broadcast media.

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\(^1\) Independent Media Commission is established by the Law on Independent Media Commission. More information on IMC can be found at [www.kpm-ks.org](http://www.kpm-ks.org).

\(^2\) Press Council of Kosovo is a non-governmental organization acting as a self-regulatory body for press media and online media. More information about PCK can be found at [www.presscouncil-ks.org](http://www.presscouncil-ks.org).

\(^3\) Directory of Audio and Audiovisual media services licensed by the IMC, available at: [http://www.kpm-ks.org/?faqe=418&gjuha=1](http://www.kpm-ks.org/?faqe=418&gjuha=1).


\(^7\) Law on Independent Media Commission, article 3.

\(^8\) Ibid.
III. CONSTITUTIONAL AND LEGAL FRAMEWORK RELATED TO MEDIA IN KOSOVO

The Kosovo Constitution incorporates the highest standards of human rights and freedoms and creates a solid foundation for an open and democratic society in Kosovo. In addition to its content, which reflects high democratic standards, the Constitution has made directly applicable in Kosovo the European Convention on Human Rights and Freedoms and the International Covenant on Civil and Political Rights. In addition, the Kosovo Constitution obliges public authorities to interpret and enforce human rights in accordance with the jurisprudence of the European Court of Human Rights.

This section, consequently, includes a brief summary of the constitutional and legal framework in the field of freedom of expression and media in Kosovo. This summary will briefly address the most important documents of this field, starting with the European Convention on Human Rights, the Kosovo Constitution, relevant applicable laws in Kosovo, the Code of Ethics for Kosovo Media Service Providers approved by IMC as well as the Press Code of Kosovo adopted by the PCK.

European Convention on Human Rights and Fundamental Freedoms

Freedom of expression and information is a fundamental right guaranteed by Article 10 of the European Convention on Human Rights and Fundamental Freedoms (ECHR). Article 10 of ECHR protects freedom of expression, with few exceptions which shall be foreseen in law and are necessary in a democratic society. Freedom of expression includes, above all, freedom of opinion, freedom to receive and impart information and ideas. Freedom of expression can be limited in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. The limitations, however, must be prescribed in law and must be necessary in a democratic society. Based on Article 10 of ECHR, public authorities, whenever they intend to limit freedom of expression shall undergo a proportionality test to determine whether the limitation is necessary to protect the prescribed interest or whether the interests of the public to receive information outweighs the rights of others to protections afforded by Article 10 of ECHR.

Article 10 of ECHR provides as follows:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by

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9 Constitution of Kosovo, article 20.
10 Ibid, article 53.
public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 22 of the Kosovo Constitution stipulates that human rights and freedoms guaranteed by international agreements and instruments are applied directly in Kosovo and have priority in case of conflict with the provisions of laws and other acts of public institutions. Article 53 of the Kosovo Constitution, provides that human rights and fundamental freedoms guaranteed with the Constitution, are to be interpreted in accordance with the jurisprudence of the European Court of Human Rights (ECtHR).

We will analyze in Part V below, whether the courts in Kosovo apply the jurisprudence of ECtHR related to freedom of expression in cases involving media and freedom of expression in Kosovo.

Kosovo Constitution

The Kosovo Constitution guarantees freedom of expression and of the media by making the ECHR and the jurisprudence of ECtHR directly applicable in Kosovo. These rights are also protected as independent rights and freedoms foreseen with the Constitution.

Article 40 of the Constitution protects freedom of expression as follows:

1. Freedom of expression is guaranteed. Freedom of expression includes the right to express oneself, to disseminate and receive information, opinions and other messages without impediment.

2. The freedom of expression can be limited by law in cases when it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity or religion.

Further, Article 41 of the Constitution protects the right of access to public documents as follows:
1. Every person enjoys the right of access to public documents.

2. Documents of public institutions and organs of state authorities are public, except for information that is limited by law due to privacy, business trade secrets or security classification.

Finally, Article 42 of the Constitution guarantees the freedom of media as follows:

1. Freedom and pluralism of media is guaranteed.

2. Censorship is forbidden. No one shall prevent the dissemination of information or ideas through media, except if it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity or religion.

3. Everyone has the right to correct untrue, incomplete and inaccurate published information, if it violates her/his rights and interests in accordance with the law.

There is a key distinction between the protection afforded to freedom of expression and of the media by Article 10 of ECHR and the one afforded by Article 40 of the Kosovo Constitution. Whereas, Article 10 of ECHR lists a number of grounds based on which freedom of expression can be limited, Article 40 of the Constitution recognizes only one ground based on which freedom of expression can be limited, i.e., based on Article 40, freedom of expression can be limited “…when it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity or religion.”

This limited ground based on which freedom of expression can be limited is not so clear in practice however, where laws and regulations foresee other grounds, such as the right to privacy and reputation, as a ground for limiting freedom of expression.

With this exception, the Constitution of Kosovo applies the highest standards of protections in the field of freedom of expression and freedom of the media, and it is compatible with international standards and international legal instruments in this field.

**Criminal Code of Kosovo**

The Criminal Code of Kosovo (CCK) of 20.04.2012, contained special provisions on criminal liability for criminal offenses committed through the media. These provisions were later repealed with Law No. 04 / L-129 on Amending and Supplementing the Criminal Code of the Republic of Kosovo, providing that defamation lawsuits should be dealt only in the context of a civil claim and that there shall be only civil liability for such cases.
Currently, the CCK foresees a number of criminal offences which may be committed through media or which may have an impact on media in Kosovo

Article 141 of the CCK sanctions the incitement of discord and intolerance as follows:

Whoever publicly incites or publicly spreads hatred, discord and intolerance between national, racial, religious, ethnic and other groups or based on sexual orientation, gender identity and other personal characteristics, in a manner which is likely to disturb the public order shall be punished by a fine or imprisonment of up to five (5) years.

As can be seen from the provision itself, incitement to hatred, discord and intolerance must be spread publicly and there must be a likelihood that the incitement will disturb the public order.

Article 190 of CCK could be used by media and journalists, against unlawful attacks and limitations on freedom of expression and freedom of the media.

Article 190 of CCK sanctions the violation of equal status of citizens and residents of the Republic of Kosovo as follows:

Whoever due to the national or ethnic origin, race, religion, or because it does not belong to any affiliation, or because of political beliefs or other beliefs, gender, disability, gender identity, sexual orientation, language, education, social status, social background, material condition, or any other personal characteristic, denies or restrict to the other the rights defined by the Constitution, Law or other provisions, other general acts or ratified international agreements, or gives privileges or favors on the basis of such a difference, shall be punished by imprisonment of up to three (3) years.

The provision above provides an extensive list of protected persons, including persons having “...other personal characteristics”, which could include journalists, who would be able to invoke this article whenever faced with threats, attacks or other attempts at silencing them.

Article 201 and 202 of CCK prohibit the unauthorized interception and the unauthorized photographing and recording of persons. Article 202 of CCK provides as follows: “[w]hoever, without authorization, photographs, films, or videos or in any other way records another person in his or her personal premises or in any other place where a person has a reasonable expectation of privacy, and in that way fundamentally violates another's privacy, shall be punished by a fine or by imprisonment of one (1) to three (3) years.” Article 202, paragraph 4 provides an exception stating that "[t]here is no criminal liability if the photographing or
recording is conducted to discover a criminal offence or the perpetrators of a criminal offence, or to present as evidence to the police, prosecution or court, and if the photos or recordings are submitted to these authorities.”

To be considered a criminal offence, the recording must be made in personal premises or in a place where the person has an expectation of privacy and it must fundamentally violate the other persons’ privacy.

Article 392 of CCK prohibits violating the secrecy of court proceedings as follows: “[w]hoever, without authorization, reveals information disclosed in any official proceeding which must not be revealed according to law or has been declared to be secret by a decision of the court or a competent authority shall be punished by a fine or by imprisonment of up to one (1) year.”

Civil Law Against Defamation and Insult

The Civil Law Against Defamation and Insult was adopted on 01.05.2008 and has not been amended ever since. The law stipulates that it aims at regulating civil liability for defamation and insult while guaranteeing freedom of expression in conformity with ECHR and ensuring not to place unreasonable limits on freedom of expression including the publication and discussion of matters of public interest and importance. The law further states that it aims at ensuring the essential role of media in the democratic process as public watchdogs and transmitters of information to the public.

The Civil Law Against Defamation and Insult provides that it shall be applied and interpreted in conformity with ECHR and the jurisprudence of the ECtHR. The law foresees a number of interpretation principles and exceptions, such as reasonable publications, opinions, immunity, which are exempt from liability. The law shifts the burden of proof about the truthfulness of the information to the Respondent in cases not involving public interests. The law further provides that any compensation ordered for liability should be proportional to the harm caused and should not have a chilling effect on freedom of expression and the media.

Law on Access to Official Documents

The Law on Access to Official Documents guarantees the right of every person, without any discrimination, to have access based on request on documents held by, drafted and received by public institutions. Persons requesting access to public documents do not need to show a reason for the request. The request must be sufficiently detailed to enable the identification of the document. Institutions may request that persons requesting access pay symbolic fees to cover the actual costs for copying the requested documents.
The Law on Access to Official Documents provides several grounds for the limitation of the right to access to official documents. These grounds include, inter alia, national security, public order, disciplinary proceedings, privacy and legitimate interests of others, economic, monetary and fiscal policies, commercial and other economic interests.

The Parliament of Kosovo is currently reviewing a new draft law on access to public documents which has been submitted by the Government. The new draft law promotes the “open-by-default” publication of public documents as well as limits the discretion of public authorities on refusing access to public documents. Institutions must undergo a proportionality test before outweighing the protected interest for non-disclosing of information with the public’s right to receive information. Further, the new draft law creates an Information Commissioner, that will oversee the enforcement of the law. The Information Commissioner can, inter alia, approve requests for access to public documents which were previously refused by the relevant public institution and issue fines for public officials and public institutions in case they refuse access to public documents without providing reasons and in case they destroy public documents for the purpose of non-publication.

**Law on Protection of Whistleblowers**

A new Law on Protection of Whistleblowers has entered into force since December 2018. The new law incorporates the highest standards of protection of whistleblowers. The law has been drafted taking into account Recommendation CM/Rec (2014)7 of the Council of Europe on Protection of Whistleblowers. The new law sets out a wide objective stating that “[t]he purpose of this Law is to enable the whistleblowing of violations in the public and private sector and the protection of whistleblowers.”

The new law on protection of whistleblowers applies to the public and private sector. The law recognizes three types of whistleblowing: internal, external and public whistleblowing and sets out the procedure and grounds for each type. Further, the new law lays out the protections afforded to persons during the whistleblowing process and in case any detrimental effects have happened to them as a consequence of whistleblowing. In case of employment and dismissals, the law shifts the burden of proof to the Employer to prove that it did not dismiss the employee as a result of whistleblowing.

**Law on Independent Media Commission**

The IMC is a constitutional category regulating the spectrum of broadcasting frequencies in the Republic of Kosovo, licensing public and private broadcasters, defining and implementing the broadcasting policies and exercising other authorizations as defined by this law. The Law on IMC defines the competencies of the IMC with the aim of promoting the development of a
sound market for audiovisual media services offering services to all citizens of Kosovo without
discrimination.

The IMC is authorized to, among others, license both public and private broadcasters and
renew licenses; impose fines for entities that violate sanctions; approve licensing conditions;
decide on licensing and re-licensing applications for the use of frequencies.

Based on the Law on IMC, this institution supports the freedom and pluralism of audiovisual
media services while in relation to broadcasting policy it stipulates that the broadcasting policy
set by the IMC should be in accordance with accepted international broadcasting standards
and human rights, relevant EU legislation, and in particular with the European Commission
AVMS Directive, fully respecting democracy and the rule of law as well as the protection of
freedom of expression.

**Code of Ethics for Media Services Providers in Kosovo**

The Code of Ethics for Media Services Providers in Kosovo is a document approved by the IMC.
Pursuant to Article 2 of the Code, the provisions of this Code shall apply to all Media Service
Providers licensed by the IMC to guarantee freedom of expression, which includes the right to
receive and transmit information, the right to hold opinions and the right to express other
messages without being obstructed, respecting the principles of the Constitution of Kosovo,

The Code of Ethics is of special importance as its provisions clearly define the obligations of
Media Service Providers in Kosovo regarding the content of the material being transmitted and
the language used, individual rights, the content of certain programs, rights of children, the
right to react, and similar obligations.

The Code of Ethics is based on and promotes freedom of expression as well as a good guide to
ethical principles, internationally accepted standards, and the due diligence and care that
Media Service Providers must respect when conducting their work.

**Press Code of Kosovo**

The Press Code of Kosovo has been adopted by the PCK as a tool of self-regulation of the print
and online media in Kosovo. The purpose of the Code is to protect citizens rights from
reporting done by print and online media as well as the protection of journalists from
unfounded appeals submitted to PCK.

The Code stipulates that it is based on existing international standards of journalistic practice.
It intends to serve as a basis for a self-regulatory system which will be considered
professionally and morally mandatory for journalists, reporters, editors, owners and publishers of newspapers, portals and news agencies. Further, the Code requires journalists and editors to respect ethical principles and protect the professional integrity of journalism. The provisions of the Code guide journalists about reporting, preventing hate speech and violence, the right to respond to the individual or organizations affected, the protection of children and minors, protection of privacy, and copyrights.

**Law on Radiotelevizion of Kosovo**

Radiotelevizion of Kosovo (RTK) is the public broadcaster of Kosovo, regulated through the Law on Radiotelevizion of Kosovo. This law foresees the mandate and management of RTK, its financing, accountability and the participation of minorities. RTK reports to the Parliament of Kosovo. The law foresees that RTK is financed by numerous sources, such as the public budget, subscribers, income generated through its commercial activities. Despite this, the majority of funding is provided by the public budget, with no subscriber system in place and no major income generated from commercial activities. RTK must dedicate 10% of its budget for the channel in Serb language. RTK is managed by a Board of Directors appointed by the Parliament of Kosovo and by the Managing Director elected by the Board.

**Law on Copyright and Related Rights**

The Law on Copyright and Related Rights applies and protects news articles and news investigations as copyrighted works. The law allows the reproduction and redistribution of news articles by other media only after 12 hours from the original time of the initial publication.

**IV. THEMATIC ISSUES RELATED TO MEDIA AND JOURNALISTS IN KOSOVO**

This part deals with thematic issues of importance to the media and journalists in Kosovo, such as, among others, the issue of protection of journalists from criminal acts, protection from defamation lawsuits, protection of whistleblowers, protection of sources.

**Protection of Journalists from Criminal Acts**

Journalists in Kosovo, in particular those reporting on corruption and sensitive issues, are often victims of threats, intimidation and violence. Two journalists, Vehbi Kajtazi and Parim Olluri of the online newspaper Insajderi have been physically attacked as a result of their work as
Another journalist, Valon Rashiti of TV T7 was attacked while doing his job reporting from the University Clinical Center of Kosovo.

Journalists reporting about corruption, organized crime and businesses are more often targets of threats, indigitation and attacks. Until recently, law enforcement institutions have not taken threats and attacks against journalists very seriously, treating them as ordinary crimes committed against private citizens. This resulted in “impunity” for the offenders and an environment of insecurity for journalists. Further, public officials and institutions have been encouraging journalists privately to get licenses and carry guns as well protection vests as the institutions cannot guarantee safety.

Currently there are no special criminal acts against journalists defined in the CCK, which would provide for the distinction between criminal acts done against journalists as different from ordinary crimes done against private citizens. Nevertheless, the CCK provides a good basis to investigate and prosecute individuals for crimes committed against journalists. As we’ve seen above article 190 of CCK which prohibits the violation of equal status of Kosovo citizens could be used to address threats and violence against journalists in addition to the other criminal acts which are foreseen with the CCK.

Further, institutions, in particular the Police and the Prosecutors Office should act swiftly whenever a call or a report by journalists of threats, intimidation and attacks occur. On the other hand, the courts should issue more severe sentences against persons threatening and attacking journalists, as low sentences have often resulted in encouragement of the perpetrators to repeat their acts.

Defamation Lawsuits

Defamation lawsuits are a daily occurrence in Kosovo. More often than not defamation lawsuits are used as a tool to silence journalists. To date there has not been any court decision which has approved a defamation lawsuit against the media. This is so for a couple of reasons. First, the majority of defamation lawsuits have been lodged with the courts in the past two to three years and have not yet been decided in the merits taking into account the long time the courts take to issue a decision. Second, a number of defamation lawsuits have been dismissed due to procedural issues, such as not filing lawsuits within the three months deadline prescribed by the Civil Law Against Defamation and Insult.

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11 Online newspaper Insajderi, “A violent Year for journalists in Kosovo” available at: https://insajderi.com/vit-dhunshem-per-gazetaret-ne-kosove/
12 Online news portal Telegrafi, “Journalist Valon Rashiti is attacked” available at: https://telegrafi.com/sulmohet-gazetari-valon-rashiti-reagon-agk/
What’s more important, however, is that the judges that deal with defamation lawsuits, are not properly trained in such cases and in particular are not knowledgeable with the ECtHR jurisprudence on Article 10 and defamation cases. Despite efforts made to train particular judges on the subject, they still lack the resources and the skills to properly balance the conflicting rights often involved in defamation cases.

**Protection of Whistleblowers**

The new law provides a good basis for the protection of whistleblowers; however, this law has not yet been invoked in a concrete case of whistleblowing. There are whistleblowers, or better say anonymous sources that leak and furnish valuable information to journalists and media outlets on topics of public interests. However, these sources remain anonymous and journalists have an obligation to protect their anonymity.

The new law on protection of whistleblowers applies to the private sector as well, yet the private sector as well as employees in this sector are not aware about the law and the protection it affords to whistleblowers. Thus, awareness campaigns must be held to inform employees and employers of their rights and obligations from the law on whistleblowing.

**Reporting About Court Proceedings**

Reporting about court proceedings and criminal investigations is another issue journalists and organizations protecting journalists interests and the legal system should work more on. In principle, once a case reaches the court it becomes public, with few exceptions when children, privacy and family issues are involved. There is no practice and the prosecutor’s office are reluctant to publish indictments, which they have submitted to the court. As a result, most indictments are leaked to journalists and media outlets and published by them consequently.

The courts have not yet established clear standards applicable towards media in the court room. Some judges allow the audio and video recording of the entire court session, whereas some other allow only five or ten minutes of recording and no audio recording. Some judges close the proceedings on grounds of privacy and family matters without properly doing a proportionality and balancing test between the right to privacy and protection of family of an accused public official and the right of the public to receive information on his wrongdoings.

Media and journalists must work with judicial institutions to establish unique rules and standards which are applicable on all cases, as well as with the prosecutors’ office to advocate for and publish indictments.
Print media self-regulation

Another important issue is the print media and online media regulation. PCK acts as the self-regulatory body of print and online media. Not all online media are members of the PCK however. News portals and online media have proliferated in the past ten years and Kosovo is no exception. Various news portals exist for various business and political interests other than genuine journalism. A number of them do not have public information about who owns them and their editorial staff.

Online media in Kosovo, similar to online media elsewhere, engages in clickbait articles and reporting styles as well as publishing fake news, without properly determining the facts of their reporting subjects.

PCK lacks the resources and capacities to regulate the media beyond its purview. The courts more often than not are not able to locate the physical address of certain online media, to deliver any order or decisions by the court in cases of defamation lawsuits against online media operating only based on a web-address.

PCK should strengthen its capacities and legal documents to better address the challenges of online media, clickbait and fake news. On the other hands, options should be considered with business registration agency or other regulatory bodies, to oblige legal entities purporting to offer media services to disclose their ownership structure and editorial staff.

V. COURT PRACTICE RELATED TO MEDIA AND JOURNALISTS IN KOSOVO AND THE APPLICATION OF JURISPRUDENCE OF THE EUROPEAN COURT FOR HUMAN RIGHTS

The court practice related to media in Kosovo is scarce to undergo any analysis. So far, in the past few years only a couple of interim measures have been decided and few major cases. One of these cases was a defamation lawsuit known as Zhugolli v. Zeri, brought by a company close with the ruling party PDK. The company had won a lot of public tenders after PDK came into power in 2010. Daily newspaper Zeri had reported that this company had financed the campaign of PDK and was now being rewarded with tenders for it. Zhugolli claimed damages in the amount of 700,000 Euro’s from Zeri. Ultimately Zhugolli lost the case, as the court found that Zeri was referring to public documents when reporting about the case and that it did not express any of its own opinions. The court does not reference or use the jurisprudence of the ECtHR to reach its conclusion in this particular case.

Likewise, in other cases as well involving requests for interim measures by public officials against news articles published about them, by which they request the temporary removal of articles until the court determines the merits of the case, the courts do not apply the jurisprudence of the ECtHR, rather they just apply domestic law on civil procedure and the civil law against defamation and insult.

Judges lack the resources and the skills to identify and properly apply the ECtHR jurisprudence in cases involving media in Kosovo. First and foremost, most judges do not read and speak English, which are the basic preconditions to identifying and applying the ECtHR jurisprudence. Second, they are not able to do a balancing exercise between the right to privacy and reputation on the one hand, and the right of the public to information on the other.

In addition to trainings on the ECtHR’s jurisprudence, judges and courts in Kosovo need publications, such as guides or case summaries, which they could use and incorporate in their judgments.

VI. RECOMMENDATIONS

The following recommendations could be used to further advocate for a safer legal environment for media and journalists in Kosovo:

1. Law enforcement institutions, such as the Kosovo Police, Basic Prosecutor’s Office and the Basic Courts should act swiftly without any delay whenever threats for attacks or attacks have been made towards journalists. The Association of Journalists of Kosovo should establish a hot-line or work with the institutions to establish hot-lines, which could be used by journalists to report violence against them as soon and as effectively as possible.

2. The prosecutor’s office and courts should decide on cases involving media and journalists faster and should deliver more severe sentences as a means to prevent further crimes from happening.

3. Courts should establish clearer and unique standards for reporting about court session. The Kosovo Judicial Council could work together with AJK and other media actors to establish these standards.

4. Prosecutor’s office should publish indictments as they represent public documents.
5. Defamation lawsuits should be decided on faster and the courts should take into account and apply the jurisprudence of the ECtHR when deciding on defamation cases.

6. Trainings and guiding materials as well as cases of ECtHR related to freedom of expression and media shall be delivered to judges deciding on defamation lawsuits.

7. Press Council of Kosovo shall establish clear standards and address the issue of online media outlets that do not submit to its jurisdiction about addressing complaints.