

# Kosovo

by Krenar Gashi

*Capital:* Pristina  
*Population:* 1.8 million  
*GNI/capita, PPP:* US\$8,380

Source: The data above are drawn from the World Bank's *World Development Indicators 2014*.

## Nations in Transit Ratings and Averaged Scores

	Kosovo									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Electoral Process	4.75	4.75	4.75	4.50	4.50	4.25	4.50	5.00	5.00	4.75
Civil Society	4.00	4.25	4.25	4.00	4.00	3.75	3.75	3.75	4.00	3.75
Independent Media	5.50	5.50	5.50	5.50	5.50	5.50	5.75	5.75	5.75	5.75
National Democratic Governance	5.75	5.75	5.75	5.50	5.25	5.50	5.75	5.75	5.75	5.50
Local Democratic Governance	5.50	5.50	5.50	5.50	5.25	5.00	5.00	4.75	4.75	4.75
Judicial Framework and Independence	5.75	5.75	5.75	5.75	5.75	5.75	5.75	5.50	5.50	5.50
Corruption	6.00	6.00	6.00	5.75	5.75	5.75	5.75	5.75	6.00	6.00
Democracy Score	5.32	5.36	5.36	5.21	5.14	5.07	5.18	5.18	5.25	5.14

NOTES: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

# EXECUTIVE SUMMARY

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In 2013, Kosovo reached a historic agreement with Serbia, making significant progress toward stabilizing relations with its neighbor and taking a substantial step toward membership in the European Union (EU). Kosovo authorities organized local elections that were assessed as free and fair despite some violence in the north. For the first time, the elections were organized throughout Kosovo, including the northern municipalities with a Serb majority. Notwithstanding these successes, the country is still facing serious challenges to democratic transition. Checks and balances of democratically elected institutions are weak and inefficient, and the fight against corruption and organized crime lacks genuine political will.

**National Democratic Governance.** Under the auspices of the EU, the Kosovo government signed a landmark agreement on the normalization of relations with Serbia. If implementation succeeds, Kosovo authorities will be able to extend their authority in northern Kosovo while providing a higher level of self-government for Kosovo Serbs. The Kosovo parliament became more engaged and improved cooperation with civil society stakeholders, while the governing coalition's majority in parliament continued to dwindle. Due to the signing of a historic agreement aimed at normalizing relations with Serbia, *Kosovo's national democratic governance rating improves from 5.75 to 5.50.*

**Electoral Process.** Kosovo held free and fair municipal elections in November 2013. For the first time since independence in 2008, the four northern municipalities with a Serb majority also participated. Although the authorities failed to complete electoral reforms initiated after the fraudulent 2010 elections, the government heavily mobilized state institutions to prevent fraud. Only a few irregularities were reported after and during the elections, including intimidation and "family voting." The situation was tenser in the north, however, where Serb groups called for a boycott and the first round had to be repeated due to violence in three polling stations. Due to free and largely peaceful local elections in 2013, *Kosovo's rating for electoral process improves from 5.00 to 4.75.*

**Civil Society.** Kosovo's civil sector continues to suffer from a lack of funding, and trade union rights are weak in practice. In an important decision in April, the Constitutional Court annulled a problematic law adopted in 2012. The law would have allowed authorities to privatize nongovernmental organizations (NGOs), including microfinance institutions, and distribute their estimated €100 million in capital between private shareholders instead of the nonprofit sector. Due to the

annulment of a law that endangered Kosovo's civil society ecosystem, *Kosovo's civil society rating improves from 4.00 to 3.75.*

**Independent Media.** International observers and domestic media experts criticized continued government interference in the public broadcaster Radio Television Kosovo (RTK); the EU election observation mission noted the broadcaster showed a preference in its presentation of the ruling Democratic Party of Kosovo (PDK) during local elections. Due to unsuccessful appointments and the removal of its chair, the Independent Media Commission (IMC), which regulates broadcast media, remained dysfunctional in 2013. The lack of must-carry laws for cable operators resulted in a clash between cable operator IPKO and one of the biggest media companies, the Koha Group. Violence against journalists abated, however, and a study showed rapidly increasing rates of internet penetration. *Kosovo's independent media rating remains unchanged at 5.75.*

**Local Democratic Governance.** Under the Brussels Agreement, municipalities in the north will form the Association/Community of Serb municipalities, an umbrella organization representing the interests of local governments. The function and powers of the organization were still under discussion at year's end. In the November municipal elections, the Serbian community in the north elected its local representatives for the first time; several senior politicians also competed for local seats. In a controversial move, the Kosovo government initiated the establishment of two new municipalities on the eve of the elections. *Kosovo's local democratic governance remains unchanged at 4.75.*

**Judicial Framework and Independence.** A judicial reform came into effect in January, introducing a new court system and an amended criminal code and criminal procedure code. Although the Constitution and the legislative framework guarantee the independence of the judiciary from the executive and the legislature, several cases of political interference were noted during the reporting period. The lack of funding, delays in appointments, and confusion over the jurisdiction of the Constitutional Court and the Supreme Court also damaged the integrity of the judiciary. *Kosovo's rating for judicial framework independence remains unchanged at 5.50.*

**Corruption.** Assisted by the EU rule of law mission (EULEX), Kosovo authorities secured the first verdict in a high profile corruption case. The former head of Kosovo's Anticorruption Task Force, Nazmi Mustafi, was sentenced to five years in prison for accepting a bribe. Kosovo authorities also adopted a new anticorruption strategy and made several changes to the legal framework. Despite these positive developments, corruption and organized crime remained a serious problem in the country. Pending the implementation of legal and policy-level amendments, *Kosovo's corruption rating remains unchanged at 6.00.*

**Outlook for 2014.** Kosovo is scheduled to hold parliamentary elections in 2014. Subject to changes in the balance of power in the parliament as well as the results of the local elections, the elections could take place in the fall, as planned, or the parties in parliament might call early elections in the summer. The implementation of the Brussels Agreement—which includes establishing the Association/Community of Serb Municipalities—is likely to spark domestic political debates and verbal clashes with Serbia. The government will seek to complete the privatization of the telecom industry, a process strongly protested by the opposition.

# MAIN REPORT

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## National Democratic Governance

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
5.75	5.75	5.75	5.50	5.25	5.50	5.75	5.75	5.75	5.50

In April, the governments of Kosovo and Serbia signed the “First Agreement of Principles Governing the Normalization of Relations” or the so-called Brussels Agreement.<sup>1</sup> Brokered by the European Union (EU), the historic deal called for the establishment of an Association/Community of Serbian Municipalities, the integration of Serbian structures in the Kosovo Police force, and the incorporation of judicial authorities within Kosovo’s legal framework. It also enabled the organization of local elections in the north and called on both parties not to block each other’s European accession process.<sup>2</sup> The deal did not require Serbia to recognize Kosovo’s independence but stipulated the withdrawal of Serbia’s presence from ethnic Serb-dominated northern Kosovo. In exchange, Kosovo agreed to expand the level of self-governance for Kosovo Serbs. Once implemented, the agreement is expected to open the way for Kosovo’s government to extend its control over the northern part of the country, which had de facto been controlled by Serbia.

In addition to aiming at the normalization of relations between Kosovo and Serbia, the agreement paved the way for Kosovo’s EU integration. Immediately after the conclusion of the deal, the European Commission recommended the opening of negotiations toward a Stabilization and Association Agreement (SAA), which is the first step in the path to full EU membership. The Commission also recommended concluding a framework agreement that would enable Kosovo to participate in EU programs open to other Western Balkan countries. On October 28, negotiations on the SAA started, marking a great success in EU-Kosovo relations.

Despite the landmark Brussels Agreement, northern Kosovo remained volatile for most of the reporting period, marked by simmering interethnic tension and occasional violent incidents involving firearms and explosives. Two children were injured in the ethnically divided city of Mitrovica in separate blasts in February. In July, following an arrest of two Kosovo Serbs wanted for attempted murder, two policemen serving in the EU rule of law mission (EULEX) suffered injuries in clashes with the local population in the municipality of Zvecan.<sup>3</sup> The most serious incident of the year was the assassination of a EULEX police officer in September, who was on duty in the town of Zvecan.<sup>4</sup>

In the same month, Serbia decided to formally dismantle its administrative and security structures in the region, paving the way for local elections scheduled for 3 November.<sup>5</sup> During the year, there were several protests against integration and tensions increased within the Serb community living in the north as elections

approached.<sup>6</sup> On election day, violent groups vandalized ballot boxes in North Mitrovica, resulting in a revote in three polling stations.<sup>7</sup>

The November local elections, which are generally used as a test of popularity, did not result in any major changes for the parliamentary parties. The ruling Democratic Party of Kosovo (PDK) remained the largest party, followed by the Democratic League of Kosovo (LDK), which managed to increase its support.<sup>8</sup> The Alliance for the Future of Kosovo (AAK) of former prime minister Ramush Haradinaj finished third, while the Vetevendosje (Self-Determination) movement remained the fourth political power.

During the reporting period, the Kosovo parliament fulfilled its role and managed to arrive at a relatively strong political consensus regarding major political developments, such as the dialogue with Serbia. The Brussels Agreement was ratified by two-thirds of the votes of all MPs.<sup>9</sup> The only political party consistently opposing the deal was Vetevendosje, while other parties had some of their members deviate from the party line. The government's legislative agenda was quite ambitious: the parliament adopted 51 laws in 2013, while 29 draft-laws were still being processed at year's end.<sup>10</sup> Frequent and ad-hoc changes in the legislative agenda, however, hindered the efficiency and transparency of the lawmaking process.

The separation of powers between the legislative, executive, and judicial branches does not always function well and the independence of state agencies, such as regulatory bodies, reporting to parliament continues to be challenged. The legal framework guaranteeing the functioning of these bodies is not uniform, and legal bases defining their responsibilities and accountability mechanisms are lacking. In addition, the Kosovo Assembly has no sanctioning mechanisms in place in case of breach or illegal behavior. The European Union and civil society organizations have continuously criticized the politicization of public administration as well as the governing boards of independent agencies.<sup>11</sup>

The parliament also improved its cooperation with civil society organizations, promoting consultations with stakeholders.<sup>12</sup> The number of thematic parliamentary debates and public hearings grew, and MPs resorted to the interpellation of government ministers more often. This resulted in a more engaged parliament, where parliamentary committees were more committed to supervising the work of the government, ministries, and independent agencies. The government was not always sufficiently cooperative, the number of cases when cabinet ministers failed to attend parliamentary interpellations remained high. Intensified engagement, however, also brought its problems. The European Commission's October progress report noted that a proposal by the parliament to debate the verdict in a high-profile judicial case in March was an unnecessary interference in the functioning of the judiciary.<sup>13</sup>

Due to deep divisions within the ruling PDK, the governing coalition continued to depend on the votes of nonaligned MPs in the parliament. Parliamentary support for Prime Minister Hashim Thaçi dwindled in 2012, and defections by disgruntled MPs had left the ruling coalition between the PDK, the New Kosova Alliance (AKR), the Kosovo Serb Independent Liberal Party (SLS),

and the GP 6+ parliamentary group of minority MPs with only 59 members in the 120-seat parliament. Parliamentary speaker Jakup Krasniqi, who was also PDK's general secretary, fervently criticized Prime Minister Thaçi during 2013 for his undemocratic rule and the lack of democracy in Kosovo.<sup>14</sup> Krasniqi announced to leave PDK in February, taking with him several supporters.

Krasniqi was backed by Fatmir Limaj, former vice chairman of the PDK and one of the most popular politicians in Kosovo, who was indicted and was being tried for war crimes by the EULEX mission in Kosovo. Limaj was acquitted of all charges in September,<sup>15</sup> and the former Kosovo Liberation Army (KLA) commander agreed with the ex-KLA secretary Krasniqi to form a new party in October.<sup>16</sup> On the November 3 elections, Krasniqi and Limaj established separate citizen initiatives and ran for municipal assemblies and mayoral positions as separate entities from the PDK. Neither of them resigned formally from their positions in the PDK or the parliament, whilst they publicly supported a division of the party in the election.

Following a considerable success in the elections, Krasniqi promoted the idea of a caretaker government of professionals, pointing out that the governing coalition did not have the majority in the parliament and that several of its initiatives had fallen victim to parliamentary gridlock.<sup>17</sup> Many MPs from the governing coalition and the opposition favored early elections scheduled for spring 2014.<sup>18</sup> Uncertainty over the date of the election could jeopardize the process, as an election reform was still underway at year's end.

In April, the government proceeded with the controversial privatization of the national telecommunications company PTK and announced a German-American consortium would get 75 percent of the shares of the most profitable company in Kosovo.<sup>19</sup> The opposition parties, however, pointed out irregularities during the privatization process and questioned the capacity of the companies winning the bid to run the country's telecommunication giant. The parties blocked parliamentary approval of the bid and initiated a motion to start an inquiry into the matter.<sup>20</sup> Following two months of investigation, the privatization process failed and the company remained in the hand of the state.<sup>21</sup>

### Electoral Process

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
4.75	4.75	4.75	4.50	4.50	4.25	4.50	5.00	5.00	4.75

Kosovo held municipal elections on 3 November, with runoff votes at the start of December. Although the elections were organized under the same 2008 legal framework as the deeply flawed elections of 2010, national and international observers hailed them as largely free and fair and an important step forward for Kosovo's democracy.<sup>22</sup> Owing to the April agreement with Serbia—which aimed at normalizing relations between the two countries—the elections encompassed the four northern municipalities (Leposavic, North Mitrovica, Zubin Potok and Zvecan) that until recently had been administered by Serbia.<sup>23</sup>

Senior Serbian officials, including Prime Minister Dacic, were involved in the campaign and chose to support a unified political entity for Kosovo Serbs, under the banner of the Civil Initiative Srpska. The electoral alliance comprised of several Belgrade-based political parties, including the governing Socialist Party of Serbia (SPS) and the Progressive Party of Serbia (SNS). Although the Serbian government envisaged a sole contender, altogether 18 parties ran for the votes of the Serbian constituency, with 8 of them running in northern Kosovo.<sup>24</sup>

Kosovo Serbs, however, were not only divided along party lines. The supporters of the “No” campaign agreed with an earlier decision of an ad-hoc local Serb assembly that participation would equal the recognition of the independent Kosovar state.<sup>25</sup> On election day, groups of people calling for a boycott gathered in front of the polling stations in northern Mitrovica and intimidated, threatened, and in some cases physically prevented people from casting their ballots. In the afternoon, the violent groups entered into three polling stations in the municipality of North Mitrovica, using tear gas and destroying ballot boxes.<sup>26</sup> The Central Electoral Commission (CEC) decided to repeat elections in these three polling stations; the decision was supported by both the Kosovar and Serbian governments and the European Union.

A successful rerun was held on 17 November. Due to the extended presence of law enforcement agencies—including the European Union Rule of Law Mission in Kosovo EULEX—no incidents were noted during the rerun and only one isolated attack occurred in the southern municipality of Parteš during the runoffs on 1 December.<sup>27</sup>

Voter mobilization led to a country-wide turnout of 46 percent, in the four northern municipalities with a Serb majority, however, the boycott resulted in a much lower turnout, averaging around 25 percent.<sup>28</sup> A persistent problem with electoral administration was the inaccuracy of voter lists. The lists reportedly included the names of deceased people or people who have left the country long ago. There were 1,779 million Kosovars entitled to vote in the 2013 elections, which represented a 12 percent increase from 2010, whereas according to the most recent estimates around 1.81 million people lived in Kosovo.<sup>29</sup>

Out-of-state voters could also register and vote, however, of the more than 41,000 applicants—most of them from Serbia and Montenegro—only about one-third were approved by the CEC. The number of invalid votes was also worrisome: of 811,498 ballots cast, 70,782 were declared invalid.<sup>30</sup> The high number of invalid ballots allegedly originated from uneducated voters but it also raised suspicions of fraud.

Other minor irregularities included violating the secrecy of the vote in cases of “family voting,” when family members go to the voting booth together, as well as a few instances of intimidation. In addition to political parties and the CEC, state institutions were heavily mobilized to guarantee the elections are conducted freely; and relevant bylaws were in place in time. The Office of the State Prosecutor tasked 50 prosecutors, located in offices and police stations across Kosovo, with reporting irregularities on election day. The prosecutors pressed charges against around 40 people, most of them election commissioners on duty.<sup>31</sup>

The outcome of the elections surprised many as most of the incumbents failed to get reelected. Shpend Ahmeti of Vetevendosje scored an unexpected victory in the capital, Pristina, ousting incumbent mayor Isa Mustafa of the LDK and putting his party in power for the first time. The LDK won in two additional municipalities, Gjilan and Ferizaj, while the Alliance for the Future of Kosovo (AAK)—the party of recently acquitted former prime minister Ramush Haradinaj—lost two of its important municipalities, Peja and Gjakova. PDK lost Gjilan, Ferizaj, and its stronghold, Mitrovica South. In the north, the Citizen Initiative Srpska won almost half of all Serbian votes.<sup>32</sup> The defeat of the incumbents was largely seen as a result of protest votes against the parties in power, not necessarily as an endorsement of the policies of opposition parties. Mayoral candidates from the opposition, in general, received more votes than their party lists.

Due to disagreements between political parties, efforts to reform electoral legislation have stagnated since the fraudulent 2010 elections. Several meetings of political party leaders, both formal and informal, took place in 2013, but numerous issues, including the composition of the Central Election Commission (CEC) and the drawing of the electoral threshold, remained unresolved at year's end.

#### Civil Society

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
4.00	4.25	4.25	4.00	4.00	3.75	3.75	3.75	4.00	3.75

The constitutional and legal framework of Kosovo guarantees freedom of association and the independence of civil society in the country. The main law that regulates the civil sector is the Law on Freedom of Association in Non-Governmental Organizations (NGOs). The provisions of the law are in line with democratic principles and guarantee an environment free of state pressure and bureaucracy. A government Department for Registration and Liaison with NGOs operates within the Ministry of Public Administration. The procedure for registration of NGOs is fast and easy, whereas registered NGOs automatically become legal personalities and can freely operate. NGOs have legal obligations to pay income and rent tax.

According to the legislative framework, NGOs can register as associations or foundations. There were more than 7,000 NGOs registered between 1999 and 2013, out of which some 10 percent are thought to be active.<sup>33</sup> The law does not require the automatic deregistration of inactive NGOs.

In 2012, the government adopted the Law on the Central Bank of Kosovo and Microfinance Institutions, which contained contentious provisions that challenged a basic mechanism of Kosovo's civil society ecosystem. According to the law, the capital accumulated by defunct NGOs should no longer be distributed in the NGO sector but allowed the Central Bank to turn these organizations into private businesses instead, without stipulating what is to become of their assets, including donations. The law was especially relevant for NGOs that had been operating as microfinance institutions, accumulating approximately €100 million in capital up to then.

Civil society organizations harshly opposed the law and, following a heated public debate, the ombudsman asked the Constitutional Court to annul the controversial articles. On 12 April 2013, the Court ruled that the five articles were not compatible with the constitution and annulled them.<sup>34</sup> As a result, the assets of NGOs can no longer be transferred to for-profit entities.

Cooperation between civil society and the government has been weak and ad-hoc, with advocacy efforts on part of the NGOs often being disregarded.<sup>35</sup> In July, the government adopted a new strategy on civil society collaboration for the period of 2013–2017. The document is a comprehensive action plan, instructing government institutions to involve civil society organizations in every step of the lawmaking process and help build a sustainable financing system. Its implementation may run into problems, however, as the strategy lacks a financial component. As a positive development, NGOs can register to receive updates and participate in meetings and public hearings of parliamentary committees.

The lack of funding remains a significant challenge for Kosovo's civil society. Most of the available funding comes from international foundations and the development programs of foreign governments. In the past few years, however, the overall interest of the donor community has declined in the Western Balkans. In the absence of clear incentives, businesses continued to support specific cultural events and charitable activities instead of NGOs, and fundraising from private sources did not yield significant revenue.<sup>36</sup> The government has not developed any instruments to engage civil society organizations in the provision of services.

The legal framework of Kosovo guarantees the freedom to join trade unions and unions exist in most of the sectors representing workers and their rights. Implementation of the law, however, remains weak, and the Union of Independent Trade Unions—an umbrella organization—is regularly called upon to speak out against violations of the right to unionize, among other freedoms, and workplace discrimination.<sup>37</sup> In the past, the government often supported the creation of parallel unions to undermine the membership and negotiating position of already existing unions. Several cases with workers prevented from forming unions were reported in the media, including the infamous case involving the construction company Bechtel, which laid off its employees when they wanted to unionize.<sup>38</sup>

Government influence and politicization have been a problem in Kosovo's higher education system. For over a decade, politicians have been nominated for top academic positions at the University of Pristina, enjoying rapid academic advancement despite their questionable academic degrees. In March, the government decided to open three additional public universities in the towns of Mitrovica, Gjakova, and Gjilan.<sup>39</sup> It was unclear where the investment or the teaching staff would come from. There are numerous private universities, with many colleges offering different programs both in undergraduate and graduate studies. Senior policy-makers continue to serve as professors in both private and public universities.

## Independent Media

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
5.50	5.50	5.50	5.50	5.50	5.50	5.75	5.75	5.75	5.75

Freedom of speech and press freedom is guaranteed by Kosovo's legal framework. The existence of several overlapping laws causes considerable confusion, and implementation is still lagging behind. The European Union has repeatedly criticized Kosovo authorities for having 14 separate laws to regulate the media sector.<sup>40</sup>

The media market is likewise oversaturated. For a population of 1.8 million, the country enjoys a very plural media scene with 8 daily newspapers, 21 TV stations—out of which 3 are broadcast countrywide—and 83 radio stations.<sup>41</sup> This oversaturation, however, significantly limits the revenue media outlets can generate from the advertising market. In the past few years, several outlets had to close down due to the lack of sufficient funding. This left the journalists working for them in a precarious situation.<sup>42</sup> Many journalists work without employment contracts and insurance, on the basis of consultant agreements.

The internet remains free and unregulated, and the last three years witnessed the proliferation of internet-based news agencies, magazines, and other publications. Internet penetration is also growing fast, according to a study by the Kosovo Association of Information and Communication Technology, in 2013, more than 76 percent of Kosovo's population had access to the internet.<sup>43</sup> This number, which placed Kosovo among the best in the Western Balkans, represents an improved access to news and information for Kosovo's young population.

The picture is less positive for the traditional media, where government interference continues to be a significant problem. The board of the public broadcaster Radio Television of Kosovo (RTK) is appointed by the Parliament with a simple majority, while the broadcaster is financed from the state budget, jeopardizing the editorial independence of the channel.<sup>44</sup> Although the RTK broadcast politically diverse opinions, the EU election observation mission noted the broadcaster showed a preference in its presentation of the ruling PDK and Prime Minister Hashim Thaci.<sup>45</sup>

In 2013, the public broadcaster started a second channel, RTK2, which broadcasts in minority languages, mainly in Serbian. RTK2 is available through cable operators. Earlier, international press freedom organizations had expressed fears the new channel would cause RTK1 to discontinue its minority language programming, but the programs continued at year's end.

The regulatory framework is plagued by political interference and a lack of resources. Print media are regulated by the Press Council of Kosovo (PCK), a self-regulatory body composed of newspaper editors, while broadcast media are regulated by the Independent Media Council (IMC), an independent body that reports to the parliament. The independence of IMC, however, had been put to question several times in the past due to the politicization of appointments.<sup>46</sup> Nominations

to the council are handled by an ad-hoc parliamentary committee, which selects two candidates for each open position and refers them to the parliament.

The IMC had been short of its intended seven-member total for most of 2011 and 2012 and remained dysfunctional in 2013. In April, due to deep disagreements between the governing parties and the opposition, the parliament voted against two nominees selected by the committee twice, and the positions remained vacant at year's end.<sup>47</sup> At the same time, two members of the IMC were dismissed due to a conflict of interest in December;<sup>48</sup> along with the chairman, who had held political positions before and whose 2012 appointment violated the requirements.

The dysfunctional IMC was unable to make significant progress in the digital switchover. A draft strategy was submitted to the parliament in December 2012 and two public discussions took place during the summer of 2013. The strategy, however, was not yet adopted at year's end, which risks meeting the deadline of 2015 adopted by all European countries.

The IMC had failed to provide must-carry requirements for cable operators, a significant problem that was exposed in 2013 during a dispute between the cable operator IPKO and one of the largest media companies, Koha Group. Following unsuccessful negotiations of a broadcasting fee, IPKO reassigned Koha Group's TV station, Kohavision, from channel number 3 to channel 83 in April, grouping it together with local broadcasters. Earlier, *Koha Ditore*—the daily newspaper published by Koha Group—published critical reports on IPKO's transformation from a nonprofit organization to a commercial company, as well as its purchase by a Slovenian company, Telekom Slovenije. The reports also contained allegations on political ties between previous and current IPKO leadership and Kosovar Prime Minister Thaci.<sup>49</sup> IPKO claimed Koha Group is using its outlets to pressure them into securing a disadvantageous deal with Kohavision.<sup>50</sup>

Kosovo's Law on Access to Public Documents is limited in scope, and its implementation is unsatisfactory on both national and local level. State institutions often fail to reply to journalists within the timeframe provided by the law, and government authorities frequently deny access to representatives of the media and civil society.<sup>51</sup>

Journalists are free to associate; there are two major associations on the national level—the Association of Professional Journalists of Kosovo (AGPK) and the Union of Journalists of Kosovo (UGK)—and several other local and regional organizations. The AGPK, which played a major role in representing journalists' interests in 2012, was plagued by internal problems during the reporting period. Due to allegations of close ties between the newly elected president of the organization and business and political leaders,<sup>52</sup> several board members left the AGPK, and the independent media decided not to report on its activities.<sup>53</sup> Violence against journalists abated in 2013; however, perpetrators are rarely prosecuted.

## Local Democratic Governance

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
5.50	5.50	5.50	5.50	5.25	5.00	5.00	4.75	4.75	4.75

The successful administration of local elections in November was a major step forward for local governance in Kosovo. Elections were held, for the first time, in the northern municipalities with a Serbian majority, where parallel structures administered by the Serbian government had been in place since 1999. The institutions—which are expected to be established in the beginning of 2014—will serve as the first legally elected local representation of the north and will seek to institutionalize cooperation with Pristina authorities.

The Brussels Agreement signed between Kosovo and Serbia on 19 April provides for the establishment of an Association/Community of Serb municipalities, which will serve as a coordinating body between the central and local level of government. Based on the principles of the European Charter of Local Self-Government, the member municipalities will be able to transfer powers to this umbrella organization and use it as a platform for cooperation in the areas of economic development, education, health, urban and rural planning. The Association/Community could further be strengthened by additional competences and will participate in key Kosovo institutions safeguarding national minorities. The agreement also set out the incorporation of Serbian police officers in the Kosovo police, with their own regional police commander as well as a regional special unit.

Ambiguities in the text of the agreement and differences in interpretation between Kosovar and Serbian authorities, however, could lead to problems in implementation. Disagreement between the parties over the name of the institution already signaled a difficult start to the negotiations. The Serbian delegation insisted on the word “community” (in Serbian “zajednica,” which can also be translated as “union”), which corresponds to the name of previously existing Serb institutions and conveys a potential impression of independence from Kosovo’s constitutional order. The Kosovo delegation, on the other hand, preferred to name it “association,” like the existing Association of Kosovo Municipalities, raising fears that the agreement would create a separate entity in the multiethnic state, with the new institution acquiring executive powers. Eventually, the joint name of Association/Community represented a compromise, and the actual role of the institution was still shaping up at year’s end.

Kosovo authorities have completed a substantial transfer of power from the central government to municipalities based on a decentralization plan required by the international community upon Kosovo’s declaration of independence in 2008. To this date, however, the municipalities continue to be highly dependent on the central government. According to a recent analysis by the Ministry for Local Self-Government in Kosovo, an average of 82 percent of their budget originated from the central government.<sup>54</sup> The collection of property tax remained the main source of revenue for municipal governments.

The decentralization process and the transfer of power to municipalities had made local governments more attractive for senior politicians. Numerous high-level politicians, including cabinet ministers, ran for municipal and mayoral positions in the November local elections. Notably, the vice chairman of Vetevendosje, Shpend Ahmeti, was elected mayor of Pristina, while PDK cabinet members Blerand Stavileci and Petrit Selimi were running for the municipal assembly of the capital. A senior official of the LDK, former deputy prime minister Lutfi Haziri, was elected mayor of Gjilan. Mimoza Kusari Lila, deputy prime minister and minister of trade and industry, resigned from her positions to get elected as mayor of Gjakova municipality.

After the government had set up Serb-majority municipalities as part of the independence plan in 2008 to empower the Serb community in Kosovo, numerous Albanian settlements wished to create their own local government structures. Between 2009 and 2011, 11 groups of villages submitted requests to the Ministry of Local Government Administration to become municipalities.<sup>55</sup> Since all municipalities and especially the small ones receive government grants, the status of municipality is appealing to smaller settlements because of financial gains. However, poor project management and overstaffing on the local level have been hindering the efficiency of municipal governments.<sup>56</sup>

In two separate decisions in May and July 2013, the Kosovo government decided to establish two new municipalities: Has, in southern Kosovo, and Zhegra, in the southeast.<sup>57</sup> The opposition strongly protested the decision and claimed the governing parties were seeking to maximize their gains on the eve of local elections. A detailed independent analysis by GAP institute, a local think tank, showed that the creation of new municipalities would reduce the overall budget for all municipalities in Kosovo, increase public expenditure and the number of civil servants, and would leave the new municipalities completely dependent on the central government due to a lack of resources.<sup>58</sup> Because of local elections in November, the new municipalities were not yet established at year's end.

#### Judicial Framework and Independence

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
5.75	5.75	5.75	5.75	5.75	5.75	5.75	5.50	5.50	5.50

Although Kosovo's constitution and laws offer a solid framework for protecting fundamental freedoms and rights, their implementation is lagging behind in practice. Enduring problems include challenges to equality before the law and political interference in the work of the judiciary both by the executive and legislative branches.

A judicial reform came into effect in January, introducing a new court system and an amended criminal code and criminal procedure code.<sup>59</sup> In the new system, municipal courts are replaced by basic courts and regional district courts by specialized courts of appeals, while the Supreme Court of Kosovo remains the

highest judicial authority.<sup>60</sup> To ensure a smooth transition process, the Judicial Council appointed representatives of the new court structures, including court presidents, on time. In a formal opinion, the Supreme Court clarified potential ambiguities in connection with the transition.

The court system remains underfunded. In 2013, the judiciary received less than 1.5 percent of the Kosovo budget of €1.5 billion, which accounted for 0.5 percent of the country's GDP.<sup>61</sup> As a consequence, Kosovo has fewer judges and prosecutors per capita than most EU countries or neighboring Serbia, Montenegro, and Croatia. The backlog of cases continues to pose a significant problem. Even though the government had successfully implemented a strategy that lowered the number of pending cases in the past few years, the reporting period saw an increase of about 10 percent, with a total of 235,000 cases at the end of 2013. The increase in workload was partly due to the reorganization of the court system. The number of court decisions that are yet to be executed was also very high, rising past the 100,000 figure.<sup>62</sup>

Due to partisan wrangling, some key positions were left unfilled during 2013. The Constitutional Court of Kosovo was still one judge short at year's end, which jeopardized the court's daily work. The major political parties, PDK and LDK, insisted that their loyalists take the position, while independent and professional candidates received little support in the parliament. Two members of the Kosovo Judicial Council (KJC)—an independent body responsible for overseeing the judiciary—were still to be appointed in December. The European Commission repeatedly instructed the government to ensure the majority of the judges are elected by their peers. In addition, the Commission criticized the authorities for filling only 334 out of 404 judicial and 125 out of 146 prosecutorial positions.<sup>63</sup>

Oversight of the judiciary is inefficient. In 2013, none of the few disciplinary sanctions against judges and prosecutors resulted in dismissal.

Separation of powers is weak in practice, during the reporting period, government officials or members of parliament interfered with the work of the public prosecutor and the courts on several occasions. In March, a group of MPs demanded the establishment of a parliamentary commission to investigate the high-profile Kiqina case—in which former Kosovo guerillas were convicted of a revenge killing—calling the 2002 verdict “unfair.” The parliament rejected the probe after EU and U.S. representatives warned against overturning a decision of the judiciary.<sup>64</sup> The European Commission also criticized the government for statements they made during the indictment of key PDK officials, who were accused of war crimes in the cases of Klečka and Drenica Group.<sup>65</sup>

Equality before the law and the right to a fair trial remains a persistent challenge, mainly due to judges' and prosecutors' lack of experience and disregard for separation of powers. Minor crimes and cases against people with no political ties are prosecuted quickly with often maximum penalties, while cases against influential criminals frequently drag on for years.<sup>66</sup> As an example, young people caught possessing small quantities of cannabis reportedly spend months in pretrial detention, while their dealers are often released.<sup>67</sup>

The European Commission also urged Kosovo authorities to establish a sound legal framework for the interception of telecommunications, distinguishing between judicial interception and interception for intelligence purposes in order to avoid political influencing of criminal cases. Independent civil society reports noted that Kosovo judges and prosecutors breach their code of ethics by talking about ongoing investigations and trials.<sup>68</sup>

Confusion over the jurisdiction of the Constitutional and the Supreme Court also undermined the integrity of the judiciary. In January, the Constitutional Court annulled a Supreme Court decision in the case of the former mayor of Ferizaj, Bajrush Xhemajli. The court stated the constitutional rights of the PDK politician—who had been sentenced for dangerous driving—were violated during the trial.<sup>69</sup> The progress report published by the European Commission in October criticized the Constitutional Court’s decision to step in “as an (additional) court of last instance.”<sup>70</sup>

During the reporting period, Kosovo made some progress in strengthening international cooperation by concluding two bilateral agreements on mutual legal assistance with Albania and Italy. Cooperation with countries that do not recognize Kosovo as well as with international organizations of which Kosovo is not a member, such as Interpol, is administered via the international mission of the United Nations (UNMIK) or the EU (EULEX) present on Kosovo territory.

#### Corruption

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
6.00	6.00	6.00	5.75	5.75	5.75	5.75	5.75	6.00	6.00

Generally, the political will to curb corruption and organized crime had been weak in Kosovo, and it remained largely a subject of political rhetoric during the reporting period. High perceived corruption in the state administration as well as on the level of senior politicians hinders the country’s development and makes it difficult to attract foreign direct investment.<sup>71</sup> Witness intimidation continued to be a serious problem, and the implementation of the legal framework was limited. Despite the fact that the public sector generates about one-third of the country’s GDP—with many businesses and even entire sectors being heavily dependent on doing business with the government—and a widespread public perception of corruption as one of the biggest problems in Kosovo, the number of cases that are brought before justice remains small.<sup>72</sup>

New criminal and procedural codes came into force in January 2013, strengthening the legislative framework against corruption. Pertinent changes include amendments to the definition of conflict of interest, non-declaration of assets, and failure to report criminal offenses. In March, a new Law on Extended Powers for Confiscation of Assets Acquired by Criminal Offense entered into force, filling an important gap in the fight against corruption and organized crime as legislation enabling authorities to confiscate ill-gotten assets had been absent. The

EU progress report on Kosovo, however, noted that law enforcement agencies are very reluctant to initiate financial investigations.<sup>73</sup>

The parliament adopted a new Anti-Corruption Strategy and Action Plan in February, covering the period between 2013 and 2017. The speaker of the parliament, Jakup Krasniqi, criticized the strategy, saying it was merely a piece of paper serving to boost EU integration indicators and increase the government's presence in the media.<sup>74</sup> The strategy included a corruption risk assessment and set out an investigation of priority sectors but was not matched by proper budgetary allocations. The first high-profile verdict for corruption and misconduct was delivered in May 2013. In a case that started in 2012, a basic court sentenced the former head of the Anticorruption Task Force—an organization founded in 2011 to work on high-profile cases—to five years imprisonment. Nazmi Mustafi was sentenced for accepting a bribe to drop charges in an ongoing investigation.<sup>75</sup> At the same time, authorities failed to empower the Anti-corruption Task Force, which lacked two out of five prosecutors at year's end, making its day-to-day operation difficult.

The multiplication of institutions dealing with corruption in the past few years did not bring on more efficiency. In February 2012, President Jahjaga established the National Anticorruption Council to coordinate inter-institutional efforts in the fight against corruption. Although the move was widely welcomed by the international community, the council's role remained largely ceremonial in 2012, and the institution was completely inactive in 2013. The anticorruption department of the police, in cooperation with the EULEX mission, launched six investigations, mainly covering offenses of bribery and fraud.<sup>76</sup> The Anticorruption Agency improved its cooperation with the prosecution, which now provides systematic feedback to cases reported by the agency.

Political party financing in Kosovo is opaque, owing to the weaknesses in the law. A 2012 investigation by the *Zeri* daily revealed that companies that were sponsoring political parties during their election campaign were the most likely to win government tenders.<sup>77</sup> Parliament adopted an amendment to the Law on Financing Political Parties, which was requested by the EU, in a rush in August 2013. Opposition parties, especially the LDK, criticized the law, saying the changes were not substantial and left room for numerous interpretations.<sup>78</sup> Inconsistencies in declaration and false declaration of assets by politicians remains a problem.

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