

# Kosovo

by Krenar Gashi

*Capital:* Pristina  
*Population:* 1.8 million  
*GNI/capita, PPP:* US\$3,510

Source: The data above are drawn from the World Bank's *World Development Indicators 2013*.

## Nations in Transit Ratings and Averaged Scores

	Kosovo									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Electoral Process	5.25	4.75	4.75	4.75	4.50	4.50	4.25	4.50	5.00	5.00
Civil Society	4.25	4.00	4.25	4.25	4.00	4.00	3.75	3.75	3.75	4.00
Independent Media	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.75	5.75	5.75
Governance*	6.00	n/a								
National Democratic Governance	n/a	5.75	5.75	5.75	5.50	5.25	5.50	5.75	5.75	5.75
Local Democratic Governance	n/a	5.50	5.50	5.50	5.50	5.25	5.00	5.00	4.75	4.75
Judicial Framework and Independence	6.00	5.75	5.75	5.75	5.75	5.75	5.75	5.75	5.50	5.50
Corruption	6.00	6.00	6.00	6.00	5.75	5.75	5.75	5.75	5.75	6.00
Democracy Score	5.50	5.32	5.36	5.36	5.21	5.14	5.07	5.18	5.18	5.25

\* Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.

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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**K**osovo officially ended its period of “supervised independence” in 2012, when the International Civilian Office (ICO)—a mission of Western countries recognizing Kosovo and tasked with supervising its independence—ceased its operations. Countries supporting Kosovo’s statehood concluded that the country had substantially implemented its independence framework, which stipulates the establishment of a functional state and focuses on minority rights and the decentralization of power.

A high-level political dialogue anchored by Catherine Ashton, the foreign policy chief of the European Union (EU), followed the failure of previous EU-mediated technical dialogue due to Serbia’s reluctance to implement agreements. The second meeting anchored by Ashton yielded an agreement on joint border management, though no enforcement mechanism has been established. Interethnic tensions in the north remained high and incidents included bomb attacks with casualties. An assessment by the European Court of Auditors concluded that the European Union Rule of Law Mission in Kosovo (EULEX) had failed to restore rule of law in this part of the country.

In line with the European integration agenda, Kosovo started visa liberalization talks and joined a structured dialogue with the EU on the subject of rule of law, and it got a green light to sign a Stabilization and Association Agreement. Kosovo was recognized by eight new countries in 2012—98 of the 193 UN member states now recognize Kosovo—and became a member of the European Bank for Reconstruction and Development (EBRD).

Despite these accomplishments and reasons for cautious optimism, national institutions in Kosovo remain weak and lack democratic accountability. Accusations of corruption, especially in the privatization process, are on the rise, and authorities have continuously failed to tackle high-level political wrongdoing. The head of the privatization agency died mysteriously from multiple stab wounds in what was ruled a suicide. The government was able to push through the privatization process despite opposition, harsh criticism, and protests. Legislative processes, such as the Law on the Central Bank and the Criminal Code, have indicated a lack of understanding on the part of members of parliament and the cabinet of fundamental rights, including the freedoms of media and association. The rule of law and especially the fight against corruption and organized crime remain among Kosovo’s biggest challenges.

**National Democratic Governance.** September 2012 witnessed the formal withdrawal of key international bodies established in 2008 to supervise and guide the development of Kosovo’s democratic institutions and rule of law. However,

these institutions remain weak, and it remains to be seen what steps the government will take to push forward key reforms. In October, the EU brokered meetings between Serbian and Kosovar leadership after previous agreements on technical issues lost momentum during Serbia's national elections. Brussels noted progress on Kosovo's European trajectory. *Kosovo's national democratic governance rating remains unchanged at 5.75.*

**Electoral Process.** Kosovo institutions have failed to complete electoral reforms initiated after fraudulent elections in December 2010. Electoral reform efforts stagnated in 2012, primarily due to disagreements between political parties and an emphasis on superficial changes. The gridlock was exacerbated by a dispute over the mandate of President Atifete Jahjaga. Kosovo had to organize two early elections when the mayors of Kacanik and Ferizaj were convicted and sentenced to prison. *Kosovo's rating for the electoral process remains unchanged at 5.00.*

**Civil Society.** In April, the government proposed a new Law on the Central Bank and Microfinance Institutions, which allows the Central Bank to privatize some 17 microfinance institutions that operate as nongovernmental organizations (NGOs) and hand their estimated €100 million in capital over to private shareholders. Civil society organizations and the opposition parties insisted that this capital should be used to foster civil society and not to be given to a few individuals. After a heated debate in the parliament, the draft law was approved by a narrow majority. The politicization of the public University of Pristina continued in 2012 with the appointment of the deputy president of the New Kosovo Alliance, a party in the ruling coalition, as its rector. Private universities faced discrimination in the accreditation process for having staff members who opposed government policies. As a result of new legislation with potentially serious consequences for the sustainability of NGOs and increasing political pressure on higher education institutions, *Kosovo's civil society rating declines from 3.75 to 4.00.*

**Independent Media.** Journalists' associations and other civil society organizations joined forces in 2012 to push back against three controversial articles in a new Criminal Code drafted by the Ministry of Justice. Ultimately, pressure from the media and civil society as well as resignation of the justice minister over the matter yielded amendments removing the problematic articles. A new law on Kosovo's public broadcasting service (RTK) was adopted, guaranteeing the service a budget of 0.7 percent of the state budget, which is sufficient to cover its operations but lacks long-term sustainability. The government continued to delay and politicize key appointments to the Independent Media Commission. Violence against journalists persisted, often with impunity. *Kosovo's independent media rating remains unchanged at 5.75.*

**Local Democratic Governance.** Kosovo authorities continued to empower municipalities in accordance with the state's decentralization plan. Municipalities

gained new taxation powers, which should give them more revenue and budgetary authority. The final phase of decentralization did not happen in the Serb-majority municipalities mainly due to political complications. Political reasons also prevented a shift to democratically elected local governments in northern Kosovo. The majority of municipalities have failed to improve their performance: overstaffing remains a problem and services to the citizens have not improved. *Kosovo's local democratic governance rating thus remains unchanged at 4.75.*

**Judicial Framework and Independence.** Despite legislative reforms and a solid performance of the Constitutional Court, Kosovo's judiciary is only nominally independent from the executive branch. There are too few judges and prosecutors despite the great need for stronger rule of law. The judiciary has limited influence over its budget, which is drafted by the Ministry of Finance. The EU has criticized the selection process for judges and prosecutors. In 2012, senior politicians who were sentenced to prison terms managed to avoid serving their sentences. *Kosovo's rating for judicial framework independence remains unchanged at 5.50.*

**Corruption.** Corruption. Kosovo authorities and EULEX were not successful in pursuing any high-profile corruption cases in 2012. Instead, the authorities have focused on establishing institutions, such as the president's Anti-Corruption Council. The mysterious death of the head of Kosovo's Privatization Agency and a note he left describing political pressure for privatization bids has created a general perception that the whole process is heavily corrupt. In April, the head of the government's task force against corruption, Nazmi Mustafi, was arrested on suspicion of misconduct. Later in the year, two senior officials of the Ministry of Internal Affairs were accused of high-level bribery. The EU has criticized the implementation of anticorruption strategy and has urged the authorities to draft a new policy. Rising visibility of corruption during the year in no way translated to more energetic or substantive anticorruption efforts; therefore, *Kosovo's corruption rating declines from 5.75 to 6.00.*

**Outlook for 2013.** The ongoing dialogue between Kosovo and Serbia is expected to intensify in 2013, with the EU encouraging the countries to normalize relations in exchange for progress in the EU integration process. While an agreement with Serbia seems more possible than ever before, its implementation will be a big challenge for Kosovo. Local elections will be held in autumn and the authorities must complete an election reform beforehand. Although these will be elections for municipal assemblies and mayors, their result could have an impact on national politics. The government is scheduled to privatize Post and Telecommunications of Kosovo (PTK), a profitable company that is considered country's commercial pride. The sale of PTK could stoke fresh opposition to a privatization process that has angered trade unions, the public, and opposition politicians.

# MAIN REPORT

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## National Democratic Governance

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
n/a	5.75	5.75	5.75	5.50	5.25	5.50	5.75	5.75	5.75

September 2012 witnessed the formal withdrawal of key international bodies established in 2008 to supervise and guide the development of Kosovo's democratic institutions and rule of law. Having concluded that the Comprehensive Status Proposal (CSP) of United Nations special envoy Martti Ahtisaari (also known as the Ahtisaari Plan) had been substantially implemented, the International Steering Group, a body representing 25 countries, decided to end its supervision of Kosovar governance and conclude the mandate of the International Civilian Office (ICO).<sup>1</sup> Previously, the ICO had the power to override decisions by Kosovo's executive, legislative, and judicial branches. Pursuant to its closure, Kosovo authorities assumed full power over the country, amending necessary legislation as well as the constitution to reflect these changes.<sup>2</sup> Nevertheless, the country remains subject to a number of supervisory institutions, such as the European Union (EU) and its rule of law mission (EULEX).<sup>3</sup>

Northern Kosovo remained volatile throughout 2012, with Serbia continuing to fund "parallel" public and security services for the region's ethnic Serb majority. In April, an explosive device blasted an Albanian residence in the Serb-dominated northern part of the ethnically divided city of Mitrovica, killing one person and wounding others.<sup>4</sup> Sporadic incidents, including gunshots and blasts, kept intercommunal tensions high. A report by the European Court of Auditors concluded that "there has been almost no progress in establishing the rule of law in northern Kosovo."<sup>5</sup> In February, municipal authorities in northern Kosovo held a referendum on the question "Do you accept the institutions of the so-called Republic of Kosovo?" With a voter turnout of 75 percent, 99 percent voted "No." Kosovar authorities and the international presence in the country dismissed the referendum as illegal, while Serbia's government said it was completely unnecessary and meaningless.<sup>6</sup>

The official end of Kosovo's supervised independence followed some notable progress on the country's EU integration agenda. In January, the European Commission launched a dialogue on visa-free travel for Kosovo citizens.<sup>7</sup> In order to maintain tighter supervision of reforms related to rule of law, in May the EU launched a high-level "structured dialogue" forum that will regularly assess progress on judicial reforms and the fight against organized crime and corruption.<sup>8</sup> Following the closure of the ICO, the European Commission released a feasibility study that identified no legal obstacles to the establishment of a Stabilization and Association Agreement (SAA) between the EU and Kosovo.<sup>9</sup> The feasibility study

concluded that Kosovo is “largely ready” to reach an SAA—an important early step toward EU membership negotiations—so long as more progress is achieved on rule of law, minority rights, public administration, and trade.<sup>10</sup> Although the European Commission has not highlighted the problem, the fact that five EU member states still do not recognize the country’s independence may complicate the unanimous ratification of an SAA.

With the exception of talks with Serbia, most policy goals related to the EU agenda and closure of the ICO have relatively wide support, even among opposition parties. However, when it comes to more divisive internal policies and decisions, the government is weak. The fraudulent elections of December 2010 continue to undermine its legitimacy in the eyes of opposition parties and other non-state actors. Parliamentary support for Prime Minister Hashim Thaçi has dwindled, and defections by disgruntled MPs have left the ruling coalition between Thaçi’s Democratic Party of Kosovo (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.<sup>11</sup> Thus, the coalition depends on the votes of 10 non-aligned MPs, out of which seven are MPs from minority groups, including a more radical Kosovo Serb entity, the United Serb List, led by Rada Trajkovic.

The government proceeded with the controversial privatization of the energy sector in 2012, selling its grid and distribution services to the Turkish consortium Calik-Limak for €26.3 million. Civil society groups and opposition parties opposed the deal, which they claimed would switch energy distribution from a public to a private monopoly and thus undermine liberalization.<sup>12</sup> When the opposition Vetevendosje (Self-determination) party organized a protest on the day the agreement was signed, police barred their MPs from attending the ceremony.<sup>13</sup> Parliamentary speaker Jakup Krasniqi subsequently accused Interior Minister Bajram Rexhepi, who had given the police their orders, of leading a siege of the parliament.<sup>14</sup> Rexhepi’s interference with police operations was in direct violation of the autonomy of the police service and was widely seen as an indicator of the fragility of the independence of institutions and the checks and balances between them.

Divisions within the ruling PDK deepened throughout 2012. Krasniqi, who is also PDK’s secretary general, criticized his party and accused Prime Minister Thaçi of opaque and authoritarian leadership.<sup>15</sup> Meanwhile, the party has welcomed into its ranks agents of the Kosovo Information Service (SHIK)—a shadow intelligence service of the PDK that was investigated by EULEX for serious crimes committed following the end of the 1999 conflict.<sup>16</sup>

The EU continues to facilitate negotiations between Kosovo and Serbia. Five agreements were reached in 2011 as a result of bilateral talks on so-called technical issues, including trade.<sup>17</sup> A sixth important agreement on Kosovo’s participation in regional meetings was reached in Brussels on 24 February 2012. According to this deal, Kosovo will be represented in regional-level meetings with a footnote reading: “This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration

of independence.” Since Serbian representatives have consistently boycotted all regional events where Kosovo is invited to participate, the agreement is a significant benchmark in stabilization of relations.

This next stage of this dialogue was interrupted by parliamentary and presidential elections in Serbia, since the Serbian delegation did not want to participate in negotiations during the campaign. Tensions rose as Kosovo authorities moved rapidly to implement the agreements that had been reached, but Serbia did not.<sup>18</sup> However, after the formation of Serbia’s new government, the EU’s high representative for foreign affairs and security policy, Catherine Ashton, facilitated a fresh round of talks, this time at the prime-ministerial level. According to Ashton, the first high-level meetings between the countries since 2008 were “frank and open.”<sup>19</sup> The second meeting anchored by Ashton yielded an agreement on joint border management, though no enforcement mechanism was established. Some of Kosovo’s opposition politicians contend that no negotiations with Serbia should take place before an apology is extended to Kosovo for the 1998–99 conflict. In October, police in Pristina used teargas and excessive force to shut down the Vetevendosje movement’s protest against the high-level talks.

Throughout the year Kosovo managed to maintain macroeconomic stability, mostly owing to the fact that the country is quite isolated from global financial markets. Internal reforms helped the country jump 19 places, to 98, in the World Bank’s *Doing Business* report ranking.<sup>20</sup> NGOs criticized the government for addressing World Bank indicators while failing to attract foreign investors or spur job creation.<sup>21</sup> The UNDP *Public Pulse 2012* report shows increased citizen dissatisfaction with the central government and growing concern over the state of the economy.<sup>22</sup> This survey also shows that distrust, lack of cooperation, and even physical separation between and among ethnically identified citizens has worsened significantly, mainly due to public discussions regarding a potential solution for northern Kosovo.

### Electoral Process

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
5.25	4.75	4.75	4.75	4.50	4.50	4.25	4.50	5.00	5.00

After deeply fraudulent elections in 2010, Kosovo institutions vowed to engage fully in the reform of the electoral system. The main objective of reforms proposed in 2011 and 2012 was to minimize fraud, but other elements such as electoral districts and candidate lists were also opened for discussion. The special parliamentary committee established to deal with these issues in 2011 proved unable to reach a decision on the creation of more electoral districts or a switch from party-list voting.<sup>23</sup> Overall, electoral reform efforts stagnated in 2012, primarily due to disagreements between political parties and an emphasis on superficial changes.<sup>24</sup>

The gridlock reached its peak in August when the opposition Democratic League of Kosovo (LDK) resigned its chairmanship of the special parliamentary

committee for electoral reform and joined other opposition parties in contesting the legitimacy of President Atifete Jahjaga. Jahjaga had been elected by the national assembly in April 2011 after the Constitutional Court ruled that the election of Begjet Pacolli's was unconstitutional (a boycott by opposition lawmakers had left the parliament short of a quorum). Under an agreement by the government and the LDK, Jahjaga was supposed to serve only nine months before constitutional reforms interrupted her official, 5-year mandate with direct presidential elections in 2012. However, in July 2012 the Constitutional Court responded to a request for clarification from the government by ruling that Jahjaga had a right to serve through 2016. This has created a silent crisis where the head of state lacks the support of political parties in the opposition and is seen as too close to the governing coalition parties. The disagreement, including an ongoing boycott by opposition parties, also played a role in slowing electoral reforms.

With reforms still incomplete, Kosovo had to organize early mayoral elections in the municipalities of Kacanik and Ferizaj when both incumbents were convicted and sentenced to prison—one for extortion, the other for involvement in a fatal traffic accident.<sup>25</sup> Civil society organizations participated in the monitoring process and expressed concern over some technical issues faced by some polling stations, mainly regarding the voting registry and security.<sup>26</sup> Nevertheless, the elections were considered relatively fair and democratic. Both votes were characterized by low turnout and heavy mobilization of PDK loyalists, which helped the party to retain power in both municipalities.

There is ample evidence that weak implementation of legislation is a greater threat to electoral processes in Kosovo than the actual shortcomings in the country's existing laws. Of the more than 5,000 election crimes reported in relation to the December 2010 elections, only 37 percent had been by October 2011. Seven people were sentenced to prison, while other received small fines.<sup>27</sup> In efforts to avoid lax sentencing by judges, the new Criminal Code that will enter into force in 2013 foresees both fines and prison time for election fraud. Yet there has been little progress so far in combatting election crimes, and political inference could stand in the way of implementing and enforcing the new provisions.

#### Civil Society

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
4.25	4.00	4.25	4.25	4.00	4.00	3.75	3.75	3.75	4.00

In April 2012, the government sponsored a new law on the Central Bank of Kosovo and Microfinance Institutions, challenging a basic mechanism of Kosovo's civil society ecosystem. The Law on Freedom of Association of NGOs stipulates that when any NGO ceases to exist, its capital should be transferred to other NGOs working toward the same goals. However, the new law passed in 2012 allows the Central Bank to turn these organizations into private businesses without stipulating what is to become of any assets, including donations, they accumulated as NGOs.<sup>28</sup>

The law is especially relevant for NGOs that have been operating as microfinance institutions, providing fast and easy loans to individuals and businesses at high interest rates. Over the last 12 years, these NGOs have accumulated approximately €100 million in capital, which civil society groups and the political opposition insist should remain in the NGO sphere rather than transforming into assets of former NGO directors and associates.<sup>29</sup> Despite a boycott by opposition MPs, the new legislation was approved by a narrow majority.

There are more than 6,000 NGOs registered with the Ministry of Public Administration, but prominent civil society activists believe that only 300–400 of them are active and play a role in shaping public opinion or monitoring the activities of state institutions. Overall, civil society is considered to be independent from state structures. However, funding for NGOs, which mainly comes from international foundations, has been declining, mainly due to the attention given to other emerging democracies in the Middle East and Caucasus, which are seen as a higher priority than Kosovo. In the absence of any kind of policy that would guide incentives, businesses continued to support cultural activities rather than NGOs, and private support for NGO activities is minimal.

The European Commission launched the Civil Society Facility in order to enhance the involvement of NGOs in Kosovo's policy dialogue. The project has a budget of €3.3 million for a three-year period and aims to foster the involvement of civil society organizations in policymaking through a more rigorous consultation process, as well as increasing the involvement of social partners in the socio-economic development of the country.<sup>30</sup>

Trade unions were more active in 2012, motivated by the government's efforts to sell state companies to investors. The Independent Union of Energy, which represents employees of state-run energy sector, regularly organized protests against the privatization of the Kosovo Energy Distribution and Grid (KEDS) between May and October.<sup>31</sup> The Union of Independent Trade Unions of Kosovo, an umbrella organization, led a petition drive against the privatization of key public assets—including KEDS, telecommunications and the Trepca mines—and gathered 50,000 signatures from Kosovo citizens within one month.<sup>32</sup> The impact of these protests has been virtually nil as the government ignored them entirely.

The ongoing politicization of the University of Pristina was particularly flagrant in 2012. For over a decade, politicians have been nominated for top academic positions at Kosovo's largest institute of higher learning, enjoying rapid academic advancement despite their questionable academic degrees. During the reporting period, Ibrahim Gashi, deputy president of the New Kosova Alliance, the minor governing coalition partner, was appointed rector of the university.<sup>33</sup> Gashi was serving as deputy minister of foreign affairs up until his appointment.

Government influence in private education is mainly exercised through the accreditation process. Universities whose owners, leaders, or prominent professors were not in line with government policies faced extra trouble during this process in 2012, and, in some instances, rejection.<sup>34</sup> Many senior politicians continue to serve as full-time professors both in public and private universities.

## Independent Media

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.75	5.75	5.75

Despite widespread opposition from news outlets and media watchdog organizations, the new Criminal Code adopted by Kosovo's parliament on 20 April contained three articles with potentially problematic implications for media freedom. Articles 37, 38, and 39 included language that could have been misused by courts to compel journalists to reveal their sources under broadly defined circumstances.

Journalists responded to the code's adoption by boycotting the activities of state institutions, while local and international media organizations and NGOs pressed President Atifete Jahjaga to return the code to the parliament for revision.<sup>35</sup> President Jahjaga did so, but her veto was overridden by a simple majority vote in the parliament. During the heated debate that accompanied this vote, MPs from ruling and opposition parties alike argued for "greater control" over the media and journalists.<sup>36</sup> Deputy prime minister and minister of justice Hajredin Kuçi resigned from both his positions in June, saying he was embarrassed by the vote.<sup>37</sup> The Ministry of Justice soon drafted amendments to remove the problematic articles from the Criminal Code and submitted them to the parliament for consideration.<sup>38</sup> This time, the legislature relented, adopting the ministry's amendments on 5 July.<sup>39</sup> Minister Kuçi returned to his positions shortly thereafter. The saga over the new media legislation, which lasted three months in total, highlighted the hostility and distrust many government officials feel toward the independent media. However, the episode also demonstrated the ability of the Association of Professional Journalists of Kosovo (APJK) and other civil society organizations to mobilize when their rights are at stake.

Kosovo's Independent Media Commission (IMC), an institution established in 2005 to regulate and license all non-print media in Kosovo, remained at least 5 members short of its intended, 7-member total for all of 2011 and most of 2012.<sup>40</sup> The mandate of four IMC members expired in December 2010, while the remaining two members' tenure—the IMC has not actually had 7 members, as required by law, since 2008—expired in May 2012. In August, the National Assembly finally appointed six new members, none of whom had any relevant media experience and all of whom had preexisting ties with political parties.<sup>41</sup> The delay of appointments and their politicization damaged the reputation and the independence of the IMC.

New legislation on the financing and management of the public broadcasting service, Radio Television Kosovo (RTK), was approved by a narrow margin on 29 March after two years' delay and growing signs that the government was using the system as a propaganda tool through selective programming and news reporting. In the absence of a stable funding mechanism, the broadcaster was dependent on a six-month emergency fund, renewed twice a year.<sup>42</sup> The new law stipulates that 0.7 percent of the government's annual budget will go to RTK, less than the 0.9 percent recommended by the European Broadcasting Union (EBU). The amount is sufficient to cover the broadcaster's operations, but lacks long-term sustainability.

The new law also cleared the way for the establishment of a new public channel designated for the Serb community living in Kosovo.

The Association of Professional Journalists of Kosovo (APJK) continued to speak out in defense of media freedom and journalists' rights—organizing media rights events, reacting regularly in cases of violence against journalists, and playing an active role in the campaign against Articles 37 and 38 of the draft Criminal Code. By contrast, the Kosovo Press Council, a media self-regulation body, remained quite passive, neither setting nor implementing fines for violations of media ethics. During the reporting period, neither APJK nor the Press Council was consulted, directly or indirectly, by any state authority on the drafting of important policies, legislation, and bylaws affecting the media.<sup>43</sup>

Violence against journalists persisted throughout the year. The APJK reported 11 cases of violence and threats against journalists, mostly carried out by government officials, members of the Kosovo Police, and businessmen.<sup>44</sup> There are no records showing successful prosecution of these cases by the state. APJK has not been active in filing complaints through the courts.

#### Local Democratic Governance

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
n/a	5.50	5.50	5.50	5.50	5.25	5.00	5.00	4.75	4.75

During 2012 the process of transferring powers to municipal governments continued in line with the decentralization plan, albeit at a slow pace, and with limits. Closure of the ICO prior to the establishment a new, Mitrovica North municipality was seen as a failure of the international community to deal with Pristina's lack of authority in the ethnic Serb–populated half of the city of Mitrovica, above the Ibar river. Kosovo authorities did make some progress in this regard during the year, establishing an Administrative Office in northern Mitrovica. The office is in charge of providing services to citizens as well as working with the central government to coordinate projects, especially investments, in this part of the country.<sup>45</sup> Kosovo Serbs opposed this move by the government but no serious confrontations resulted from the decision during the reporting period. Serbian authorities have continued to operate in parallel with Kosovar ones throughout northern Kosovo. In October, Serbian security forces arrested a Serbian national in northern Mitrovica; Kosovo authorities treated the case as a kidnapping.<sup>46</sup> The sovereignty of Kosovo is continuously challenged by the operations of these forces.

In 2012 the government failed to fulfill the last phase of decentralization for Serb-majority municipalities, policies dealing with municipal authority over education and the election of local police chiefs. These changes remained a low priority on government's overloaded agenda, particularly as they could not be implemented in the northern municipalities.

In October, based on International Monetary Fund recommendations, the central government transferred certain fiscal powers to municipalities, which will

be able to set tax rates and manage their own revenue. The basis for the property tax, which accounts for more than half of municipal revenue, has been expanded, with municipalities expecting an increase of their budgets in 2013.<sup>47</sup>

The Kosovo Agency of Statistics published the results from the 2011 census in 2012, providing detailed demographic and economic information for each municipality.<sup>48</sup> As of 2014, distribution of government grants to municipalities is to be based on these statistics. The municipality of Pristina that is expected to lose the most as a result, since census data show that the capital city in particular has significantly fewer residents than was previously believed.<sup>49</sup> Pristina Mayor Isa Mustafa leads the Democratic League of Kosovo (LDK), the largest opposition party in parliament, a factor that may also contribute to clashes over the budget between central and local authorities, particularly in the lead-up to the fall 2013 municipal elections. The government continues to stall progress on legislation that would give Pristina more autonomy and authority over municipal operations.

Decentralization has not improved the performance of municipalities nor the services they offer. Lack of professionally qualified personnel has hindered project management at the municipal level, whereas overstaffing is a phenomenon in most municipalities.<sup>50</sup> According to a formula promulgated by the central government, there should be one local civil servant for every 780 residents in municipalities, or 650 residents for municipalities that have fewer than 100,000 people.<sup>51</sup> Based on Kosovo's most recent census data, this means that the country's municipal governments are overstaffed by a total of more than 3,100 civil servants.<sup>52</sup> GAP Institute, a think-tank, highlighted this as an indicator that municipalities are used by political parties to secure employment for their loyalists, rather offering services for citizens.<sup>53</sup>

Eight mayors of different municipalities have been charged with crimes, mostly relating to abuse of office; two have been convicted of extortion, illegal possession of weapons, corruption, and intimidation.<sup>54</sup> Transparency and accountability in municipal governments have stagnated or in some cases worsened.

The Kosovo government has not attempted to extend its authority in the north, and Serbia's government gave up on organizing local elections for Serbia-run municipalities in Kosovo. In May, however, the Organization for Security and Cooperation in Europe (OSCE) facilitated elections for Serbia's president and parliament so that its citizens living in Kosovo could vote.

#### Judicial Framework and Independence

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
6.00	5.75	5.75	5.75	5.75	5.75	5.75	5.75	5.50	5.50

The Kosovo judiciary has performed better in quantitative terms since the 2011 introduction of a policy of "equal salaries," which raised judges' and prosecutors' wages to the level of cabinet ministers' salaries (a 400 percent increase, on average).<sup>55</sup> The policy was intended to boost morale and decrease incentives for corruption in the court system. The Ministry of Justice drafted a new Criminal Code during the

year, which was adopted by the parliament, and a new Criminal Procedure Code, which was still under discussion at year's end. However, despite a few effective reforms and the existence of a legislative framework that should enable the court system to function independently, Kosovo's judiciary continues to operate under intense political pressure. Rule of law is not reliably enforced, especially in cases dealing with high-level political corruption. As noted by the European Union, the majority of judges are selected by politicians, rather than by an independent panel of peers.<sup>56</sup>

Though state authorities have declared improving the functioning and independence of the judiciary to be a priority,<sup>57</sup> the system at a whole remains underfunded, including the offices tasked with its oversight. Two independent bodies, the Kosovo Judicial Council (KJC) and Kosovo Prosecutorial Council (KPC), are responsible for overseeing the judiciary and administering the courts and prosecutors' offices. In practice, their role remains limited in both policymaking and in ensuring freedom from executive interference. In 2012, only 1.29 percent of the total €1.5 billion euro state budget was allocated to supporting the KJC and KPC.<sup>58</sup> The amount increased slightly in the 2013 budget.<sup>59</sup> The KJC and the KPC have no powers over the allocation of their budget, which is drafted by the Ministry of Finance.

Kosovo has fewer judges and prosecutors per capita than most countries in the region, including Serbia, Montenegro, and Croatia. This has led to an enormous backlog of cases and an often sclerotic pace of issuing rulings. Civil society organizations have conducted studies showing that the current budget is insufficient for any further development of the judiciary.<sup>60</sup> The judiciary also does not have any budgetary flexibility and is dependent on the executive for any operational matters. Cases where the government has made direct intervention in budgetary lines of the judiciary were also noted.<sup>61</sup>

In contrast, the Constitutional Court is in charge of drafting its own budget, thus avoiding the government's financial influence over this important institution. The court is highly regarded by the public for its independence, despite some controversial rulings, including one that said reforms involving the presidency should not preclude the sitting president from serving her full, five-year mandate. Civil Society organizations have argued that the Constitutional Court should be used as a budgetary model for the KJC and KPC to increase their policymaking and operational capacities, as well as their independence.<sup>62</sup>

Equality before the law was not always in evidence during the reporting period. In several cases, the courts were unable or unwilling to follow through with prosecutions involving political figures and interests. Politicians of the governing political party managed to delay or postpone criminal processes against them. The former mayor of Ferizaj, Bajrush Xhemajli, was sentenced two years imprisonment for causing an accident with fatalities, but his sentence was delayed repeatedly and he remained at large.<sup>63</sup> The former mayor of Kacanik, Xhabir Zharku, was sentenced for extortion and illegal possession of firearms. Despite a warrant for his arrest, he managed to leave the country and avoid serving his sentence.

## Corruption

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
6.00	6.00	6.00	6.00	5.75	5.75	5.75	5.75	5.75	6.00

Efforts to fight misconduct and graft continued throughout the year without notable progress, leaving corruption as Kosovo's biggest challenge. Authorities have proposed new laws and established new institutions to fight corruption, but these efforts have produced scant results in the form of convictions or other sanctions.

In 2011, the government created an Anti-Corruption Task Force of specialized prosecutors and police investigators to work on high-profile corruption cases. The head of this task force, Nazmi Mustafi, was arrested in April 2012 and charged with abuse of office and unauthorized possession of weapons.<sup>64</sup> The trial was ongoing at year's end.

In February 2012, President Jahjaga established the National Anti-Corruption 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 is largely ceremonial and it held only a few meetings in 2012.

The Ministry of Justice drafted an important Law on Extended Powers for Confiscation of Assets Acquired by Criminal Offence, which was a missing link in the fight against corruption and organized crime since there was no legislation to enable authorities to confiscate ill-gotten assets. The legislation was followed by a heated debate, mostly concerning the retroactivity of its implementation. The EU has acknowledged the final draft to be both just and efficient, providing extended powers to the courts while limiting the potential for abuse.

Perception of corruption remains high, especially in connection with the privatization process. In June, the head of Kosovo's Privatization Agency Dino Asanaj was found dead in his office in Pristina.<sup>65</sup> The autopsy concluded he had committed suicide, despite the fact that he had 11 major stab wounds and many superficial ones. A note found by Asanaj's body and ostensibly written by him described the pressure he was under over the privatization of state-owned enterprises, including the Grand Hotel, Pristina's central hotel. Deputy Prime Minister Behgjet Pacolli and Deputy Finance Minister Astrit Haraqija were among those questioned by the police, as well as two MPs, Uke Rugova, the son of the late president Ibrahim Rugova, and Naser Osmani, who sits on the board of the Privatization Agency.<sup>66</sup> They were all named in the letter. The investigation was closed when Asanaj's death was concluded to be suicide. The U.S. Federal Bureau of Investigation also was called in to investigate since Asanaj was an American citizen, but concluded there was no new evidence to suggest that it was not a suicide.<sup>67</sup> Many of Asanaj's close friends and colleagues strongly rejected the conclusion that he had taken his own life.<sup>68</sup> Following Asanaj's death, allegations of corruption in the privatization process reached a peak, becoming a rallying point for numerous trade union protests and a consistent focus of parliamentary debates. The speaker of the parliament, Jakup Krasniqi, said the judiciary must hunt the organized crime behind the privatization

process, which, he said, included senior politicians.<sup>69</sup> No major corruption cases were successfully tried during the year.

Another corruption scandal during the year involved a procurement tender for printing Kosovo passports. The representative of an Austrian company that won the tender was arrested in early November, after €1.4 million from the Ministry of Internal Affairs disappeared during a transaction.<sup>70</sup> The investigation was ongoing at year's end, with two senior ministerial officials facing bribery charges.<sup>71</sup>

Political party financing in Kosovo is opaque, owing to the weaknesses in the law. The law does not prohibit donations from legal entities that provide goods or services to the public administration, allowing a “payback” phenomenon to happen. An 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. The newspaper's investigation showed that a single company that was major sponsor of the ruling PDK had been favored by the party in public procurement contracts.<sup>72</sup>

Political figures continued to get rich while in office, according to civil society activists who compared statements of wealth that politicians had voluntarily submitted to the Anti-Corruption Agency.<sup>73</sup> No charges have been pressed against politicians who amassed significant assets while they were in power.

An October 2012 report by the European Court of Auditors suggests that assistance from the EU has had a limited effect so far in combatting high levels of corruption and the persistence of organized crime.<sup>74</sup> The EU's evaluation of Kosovo's 2009–11 anticorruption strategy indicates limited implementation due to inadequate institutional cooperation and coordination, as well as lack of support and commitment by the senior leadership in all public institutions.<sup>75</sup> Overall, the fight against corruption remains largely a matter of political rhetoric and the political will to consistently and energetically enforce the rule of law remains weak.

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