**Kosovo**

by Krenar Gashi

- **Capital:** Pristina
- **Population:** 1.8 million
- **GNI/capita, PPP:** n/a

Source: The data above were provided by The World Bank, *World Development Indicators 2012.*

### Nations in Transit Ratings and Averaged Scores

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* 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

Flawed elections in December 2010 and February 2011 exposed Kosovo’s government to scrutiny and harsh criticism throughout 2011, offsetting small but important achievements in municipal governance and judicial independence. Kosovo remains subject to a wide array of governing authorities, with elected Kosovar officials overseen by the International Civilian Representative (ICR) and the European Union Special Representative (EUSR)—two separate offices, as of May 2011—and supported by the European Union Rule of Law Mission (EULEX). The United Nations Interim Administration Mission in Kosovo (UNMIK) maintained its presence in municipalities north of the Ibar river.

In February, parliament elected a new president—prominent businessman and politician Behgjet Pacolli. One month later, the Constitutional Court invalidated Pacolli’s election on the grounds that not enough deputies had voted. The ruling, which was praised by the international community and civil society, made it clear that opposition parties could block future presidential elections by boycotting the vote. Consequently, the governing coalition initiated constitutional amendments to introduce direct presidential elections in 2012.

The Republic of Serbia continued to fund so-called “parallel institutions” of governance in Kosovo, mostly in the ethnic Serb–dominated northern municipalities. During the year, these structures weakened, with communities increasingly operating within Kosovo’s constitutional framework, except for the municipalities north of the Ibar river. Local governments gained further autonomy, though they remain overdependent on central authorities in some respects. The improvement of municipal services and increased citizen involvement in local self-government were major achievements during the year.

For the first time since Kosovo declared independence from Serbia in 2008, the two countries began European Union (EU)—backed bilateral talks in March 2011. Though five agreements were reached, Kosovo and Serbia failed to find an effective implementation mechanism. In July the Kosovo government decided to enforce trade-embargo reciprocity measures with Serbia, deploying special police forces to two checkpoints on the northern border to block Serbian goods from entering the country. Local Serbs responded with protests, some of which turned violent.

At year’s end, the European Commission (EC) agreed to begin a dialogue on visa-free travel for Kosovans in 2012. In another positive step, the government conducted Kosovo’s first population census in 30 years, a politically sensitive issue because of the legacy of ethnic cleansing. The EULEX mission also had some increased success in fighting war crimes during the year. Thirteen new countries, mostly African and Asian, recognized Kosovo’s independence in 2011. Country officials lobbied intensely for new recognitions.
National Democratic Governance. Kosovo’s government was formed following an election criticized by both national and international observers, as a consequence of which the credibility of parliament and the government was questioned often in 2011 and legislators spent much of the year on reforming electoral legislation. The government breached a key loan agreement with the International Monetary Fund (IMF) and pursued the privatization of Kosovo’s largest public asset without a parliamentary-approved strategy. The most important process of the year, the dialogue with Serbia, achieved some results, and the EC noted progress on Kosovo’s EU integration efforts. Electoral problems and breach of the IMF contract undermined some modest gains in the government’s performance, and citizens saw no improvements in the quality of representation and governance. As a result, Kosovo’s national democratic governance rating remains at 5.75.

Electoral Process. Due to systematic fraud and multiple irregularities in the parliamentary elections of December 2010, the Central Election Commission (CEC) organized multiple re-votes in January 2011. The electorate largely boycotted the new polls and voter turnout was much lower than in December. A recount of 40 percent of the votes cast in December ordered by the CEC and completed in January revealed evidence of electoral fraud by commissioners at 712 polling stations. Perpetrators were not properly prosecuted, which created a perception of impunity. This tarnished a decade of successfully organized free and fair elections. The Constitutional Court overturned the February presidential election. Due to clear evidence that authorities failed to guarantee free and fair elections in 2010 and other electoral shortcomings, the rating for electoral process worsens from 4.50 to 5.00.

Civil Society. While freedom of association was respected in 2011, the financial viability and reputation of civil society suffered from funding cuts amid the global economic downturn, the migration of many activists into politics, and the weak performance of the “Democracy in Action” election observers. Moreover, civic groups faced political pressure and harassment, with ruling members of parliament slandering some activists. Due to the sustained financial and political pressure on civil society organizations and the latter’s limited ability to scrutinize the ongoing state-building processes, Kosovo’s civil society rating remains at 3.75.

Independent Media. The government enhanced the legislative framework for the media, but in some cases failed to implement it or protect media freedoms enshrined in the constitution. The public broadcaster Radio Television Kosovo (RTK) continues to be financed directly by the state, and produces increasingly one-sided, progovernment coverage. Journalists faced political pressure and harassment throughout the year, and defamation remained a criminal offense. The government cut advertising in print media. Due to the insufficient implementation of constitutional guarantees on press freedom and no improvement to the reporting climate, Kosovo’s independent media rating remains 5.75.
Local Democratic Governance. The decentralization process initiated in 2008 continued to show results in 2011. Municipal administration, funding and services are improving, including in the new municipalities created in 2008 and 2009 and majority-Serb municipalities south of the Ibar. In 2011, municipalities improved conditions for the readmission and integration of returnees, a critical consideration in the EC’s decision to begin the visa dialogue with Kosovo by year’s end. However, local governments remain dependent on central institutions, especially on budgetary matters, and decentralization is a major challenge north of the river Ibar, where parallel structures are entrenched. Owing to a range of progress in the municipalities, from services to administration and conditions for returnees, Kosovo’s local democratic governance rating improves from 5.00 to 4.75.

Judicial Framework and Independence. Kosovo’s court system continued to suffer from structural weaknesses in 2011, and judicial autonomy remained fragile. In April, the government established a special council that many observers feared would create opportunities for the executive to meddle in the judiciary. However, the year also saw important improvements and evidence of progress. A new council to manage prosecutions began to operate, salaries for judges and prosecutors were raised to increase independence, and the government sponsored important legislation like the Law on Protection of Witnesses. The Constitutional Court proved its independence in two key judgments, and modest progress in the prosecution of war crimes and other criminal cases was observed. Owing to important new reforms, evidence of the Constitutional Court’s independence, and modest progress on serious criminal cases, Kosovo’s judicial framework and independence rating improves slightly, from 5.75 to 5.50.

Corruption. As in previous years, privatizations, public tenders, and the management of state-owned enterprises created ample opportunities for corruption. There continue to be many discrepancies between the declared assets and wealth of public officials and their reported earnings. In a positive development, an anticorruption task force was established, consisting of appointed prosecutors who will deal exclusively with corruption cases. Authorities drafted and in some cases adopted new anticorruption legislation, including measures on the declaration and origin of gifts to public officials. Pending clear evidence that these laws will be implemented to fight misconduct and graft, Kosovo’s corruption rating remains at 5.75.

Outlook for 2012. Domestically, Kosovo will focus on amending the constitution and a few laws in order to conclude its supervised independence, which will formally end with the planned closure of the International Civilian Office (ICO). The government must also enact electoral reforms crucial to redeeming the electoral system after the flawed 2010 elections. Meanwhile, discussions with the European Union will follow two main threads: structured dialogue and the visa liberalization process. The biggest difficulties facing Kosovo in 2012 will be problems in the north and the fight against corruption and organized crime. Improved relations with Serbia and further regional integration will remain key challenges in the coming year.
Main Report

National Democratic Governance

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State-building efforts by Kosovo authorities and international institutions lagged in 2011 due to the fallout from the problematic 2010 elections and the immaturity of governing institutions. Nevertheless, the country made some progress on European Union (EU) integration, as reflected in the promise of the European Commission (EC) to launch a dialogue with Pristina on visa-free travel within the EU.¹

Electoral problems cast a large shadow all year. Due to the marred December polls and problems with the February presidential election, the main political parties agreed to hold direct presidential polls in 2012 and early general elections in 2013. With such a short mandate, legislators in the Assembly (parliament) of Kosovo spent much of 2011 reforming the Law on General Elections and the constitution. Two ad hoc parliamentary committees led these tasks separately, while the mandate for the Committee on Election Reform was extended for 2012.

The legislative process and parliamentary life improved during 2011; some two-thirds of all members of parliament (MPs) elected in 2010 and 2011 were first-time deputies, bringing new enthusiasm to government sessions. Transparency of parliamentary proceedings was satisfactory, with plenary sessions being partially aired on the public broadcaster Radio Television Kosovo (RTK). In 2011, more ministers were asked to report to parliamentary committees than in previous years, although parliamentary oversight of the government remained very weak.² Due to an extended institutional crisis and delays in establishing democratic institutions following the election process, the parliament did not adopt a single law until mid-July.

The parliamentary opposition remained fragmented in 2011, failing to unite behind a single platform that could realistically challenge the governing coalition. On important issues such as northern Kosovo, opposition parties supported government action. Another important process, the ongoing dialogue with Serbia, received less support from the opposition, especially the Levizja Vetevendosje (the Self-Determination Movement), which opposed the talks.

Kosovo’s bloated public sector has been a source of criticism by the International Monetary Fund (IMF) for years. Nevertheless, during the formation of the new government in February, Prime Minister Hashim Thaçi expanded the cabinet to placate militants within his Democratic Party of Kosovo (PDK) who are not in parliament, as well as the party’s minor coalition partner, the New Kosova Alliance of Behgjet Pacolli. A new ministry for diaspora was established, increasing the number of ministries to 19, each managed by a minister and at least two deputies. By April, the government had a total of six deputy prime ministers. Following through
on a campaign promise by PDK in the 2010 elections, in March the government also increased public sector wages by up to 50 percent over the objections of international lending institutions. In June, the IMF responded by suspending over €100 million in Stand-By Agreement (SBA) loans to Kosovo’s government because the wage increases violated public spending caps in the deal.³

International loans and grants were an essential element of the 2011 budget approved at the end of March. The government also made plans to pay down Kosovo’s €227 million deficit by privatizing its biggest public asset, the Post and Telecommunications of Kosovo (PTK). The privatization of PTK has been highly contentious, and a failed attempt to agree on a timeline for the sale already brought down the government once in 2010. In 2011, the government bypassed the previous year’s approval process by writing the privatization directly into the draft budget. Having nearly exhausted the three-month limit on budget approval, the Assembly approved the draft—with the privatization plan—over the opposition’s objection.⁴ The privatization proceeded, but was cancelled in October after the withdrawal of a bidder over a corruption investigation of senior PTK management.

In March, Kosovo began a dialogue with Serbia over technical issues such as customs and telecommunications. Backed by the EU, these are the first high-level bilateral talks between the countries since Kosovo’s 2008 declaration of independence. Though five agreements were reached, Kosovo and Serbia failed to find an effective implementation mechanism. In July the Kosovo government decided to enforce reciprocity measures with Serbia by trying to enforce an effective embargo of Serbian products (ever since “UNMIK” was removed from Kosovo customs stamps in 2008, Serbia has blocked Kosovo imports). On 25 July, Pristina deployed special police forces to two checkpoints on the northern border with Serbia to block Serbian goods from entering the country. Local Serbs responded with protests, some of which turned violent. One checkpoint was burned down, and one Kosovo police officer was shot dead in the unrest. As the situation escalated, Kosovo Serbs placed barricades on the main roads between the north and the rest of the country. KFOR, the North Atlantic Treaty Organization (NATO)–led peacekeeping mission, subsequently took control of security issues above the Ibar. Some barricades remained at year’s end, surrounded by temporary checkpoints manned by KFOR troops. Despite initial support, the opposition and civic groups later criticized the government’s border action as immature and poorly planned. The international community openly opposed it.

In May, the functions of the International Civilian Representative for Kosovo (ICR) and the EU Special Representative (EUSR) split. Fernando Gentilini, an Italian diplomat, was appointed interim EUSR, while Pieter Feith continued as ICR. The EUSR and the European Commission Liaison Office (ECLO) in Pristina merged into the EU Office in Kosovo. On 21 December, EU High Representative Catherine Ashton appointed Samuel Zbogar, former foreign minister of Slovenia, to run the EU Office in Kosovo.
On 9 January the Central Election Commission (CEC) organized a partial repeat of the December 2010 parliamentary election. This followed an order by the Election Complaints and Appeals Panel (ECAP), an independent body that analyzed 364 complaints of irregularities and fraud filed by political parties and independent observers. The ECAP ordered repeat polls in the municipalities of Skenderaj, Drenas and Decan, as well as two voting centers in the municipalities of Malisheva and Lipjan. New polls in areas where voter fraud had been proven were an attempt to save the election as a whole, which the opposition was preparing to contest. Political parties also appealed some of the ECAP’s decisions before the Supreme Court, which ruled in favor of an appeal by the Self-Determination Movement and ordered repeat elections in the municipality of Mitrovica for 23 January.

The repeat votes followed publication of the CEC’s preliminary results for the December 2010 polls and three days of renewed political campaigning. This provided space for leaders of political parties to engage in further manipulations to the advantage of certain candidates. Systematic pressure towards loyal electorate of political parties was witnessed, and many cases of vote-buying were reported. Two candidates from the main political parties PDK and the Democratic League of Kosovo (LDK) complained that the release of preliminary results had undermined their chances in the re-vote. Furthermore, smaller political parties that had won a respectable number of votes in these municipalities were discouraged from running again since their national results would not change, and they would fall short of 5 the percent threshold for entering parliament. With supporters of these parties largely boycotting the polls, turnout undershot the overall rate of 47.8 percent. In the repeat polls, the ECAP received another 91 complaints of voting irregularities.5

The recount and repeat voting delayed the formation of a new Assembly and government. The CEC published the final certified results on 7 February, just two weeks before the first session of the Assembly, fuelling uncertainty that undermined the credibility of democratic institutions. PDK placed first in the final tally, with 34 of the 120 parliamentary seats. The LDK won 27 seats, Self-Determination Movement won 14, Alliance for the Future of Kosovo (AAK) won 11, and the Coalition for a New Kosovo won 9. The latter coalition is led by the New Kosovo
Alliance (AKR) of Behgjet Pacolli and includes the Justice Party and Social-Democratic Party. This group, together with minority parties, formed a governing coalition with the PDK. With internal divisions in the constituent parties, the government remains unstable.

As part of the coalition deal, Pacolli was nominated to the presidency, and was elected with a simple majority in the third round of parliamentary voting in February. Opposition MPs—who had walked out before the final vote—brought the results before the Constitutional Court, which ruled that in the absence of a two-thirds quorum, Pacolli’s election had been unconstitutional.8 As a result, the governing coalition had to form an agreement with the opposition LDK on the presidency. Reached after heavy pressure from the international presence in Pristina, the agreement resulted in the election of Atifete Jahjaga, a former deputy head of the Kosovo Police, with no political experience or affiliation. It was widely reported that U.S. Ambassador Christopher Dell had pushed for her presidency in a closed-door session with top political leaders. Jahjaga won more than two-thirds of the votes in the parliament.

Authorities showed virtually no determination to prosecute those responsible for electoral fraud.9 At year’s end, courts had issued only 119 verdicts in a total of nearly 200 cases of alleged misconduct in the 2010 and 2011 polls, involving over 1,300 defendants. The courts usually levied fines, with prison sentences in only seven cases. Prosecutors have appealed most of the verdicts for what they see as lenient sentencing.

Kosovo’s liaison office for nongovernmental organizations (NGOs) lists over 6,000 registered organizations, although most are inactive. Several civic activists—some of them formerly harsh critics of the government—took political jobs in 2011, fueling a perception of government critics as blackmailers looking for public positions. The reputation of civil society organizations was further damaged by their inadequate election monitoring in December 2010. Some 5,000 observers from the civic network of election observers “Democracy in Action” filed zero complaints at the ECAP following the deeply fraudulent parliamentary elections.10 The coalition seemed disorganized, prioritizing the publication of preliminary results and not filing complaints on irregularities. Some observers reportedly participated in a systematic fraud scheme.

Though the impact of their activities remained modest in 2011, NGOs and informal citizen groups stepped up their efforts at the local and grassroots levels, especially on municipal policy, corruption, and environmental issues. A number of protests took place during the year, most notably related to the privatization of PTK. Throughout 2011, NGOs continued to work on interethnic reconciliation, but

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with minimal impact north of the Ibar due to the political tensions there. Groups focusing on human rights, gender issues, and minority representation continued to promote equal access to justice, employment, education, and healthcare, with some impact at the national and local levels.

Environmental issues gained momentum in public discourse in 2011, as an ad hoc consortium of NGOs came together to scrutinize the energy sector, gaining the attention of national and international stakeholders. The group encouraged leading international scientists to reassess both the effectiveness and cost of the government’s plan to build a new coal-burning power plant, and closely examined the role of multilateral development agencies in energy-related domestic projects. The privatization of electrical energy generation and distribution has been notably nontransparent.

In general, the government’s attitude toward NGOs remains unfriendly, and cooperation between NGOs and the legislature in 2011 was mainly ad hoc. The capacity of NGOs in Kosovo to scrutinize laws and draft legislation remains limited. The EC’s 2011 progress report criticized Kosovo’s government and parliament for not involving civil society in policy and law-making processes, or doing so on a purely pro forma basis.

Throughout the year, government officials employed hostile rhetoric in reference to NGOs and civil society activists, accusing them of working against the country’s interests or colluding with foreign intelligence services. During one June 2011 plenary meeting, parliamentary deputy Xhevahire Izmaku (PDK) accused civil society activists of working for interests of other countries and not their own.

State-backed and government-oriented media also slander civil activists. At regular intervals in 2011, progovernment newspapers and the public broadcaster RTK blasted different NGOs and their leaders, casting aspersions on their funding sources. Kosovo’s private and more independently-minded media attempted to counter this trend by promoting a positive image of civil society.

Funding for NGOs has suffered amid the global economic downturn. Moreover, the attention of the donor community has shifted from Kosovo to other geopolitical hotspots, further undermining the financial sustainability of many organizations. Think tanks and advocacy centers have been most severely affected by the drop in funding, with no significant increase in domestically based private donations, philanthropy, or volunteerism. In the absence of tax or other incentives to sponsor NGOs, businesses in 2011 continued to focus their donations on cultural activities.

Trade unions in Kosovo have minimal impact. The Union of Independent Trade Unions of Kosovo, an umbrella organization, has been active since 1990, but it has struggled to protect workers’ rights, often lacking consistency and succumbing to government pressure. An effective tactic of the PDK has been to support the creation of other parallel unions, thereby undermining the membership and negotiating position of the unions.

Public education is weak on many fronts. The University of Pristina is controlled by the Ministry of Education, Science, and Technology with its number of students being constantly increased as part of political campaigns, without proper planning. Private universities, meanwhile, have strengthened their curricula and improved
the level of academic discourse in Kosovo by attracting prominent international lecturers and promoting academic journals and debates.

**Independent Media**

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Government authorities took steps to improve the legislative framework for media independence in 2011, though enforcement was very weak. The long-term financial sustainability of RTK remained unresolved, and journalists continued to face political pressure and physical attacks.

In an effort to harmonize existing audiovisual media legislation with EU directives, Kosovo’s Independent Media Commission (IMC) issued regulations on licensing fees, cable operators, and protection of minors and children. Expansion of cable operators increased media diversity by bringing local and national TV stations, as well as special cable stations, to the public. The IMC also completed the process of licensing terrestrial broadcasters and cable operators. Under current regulations, cable operators do not have to include local and national terrestrial TV stations in their packages. Most cable operators carry these stations on a fee-basis only and drop them in the event of late payments. At least one television station insists cable operators are not transmitting its signal because its programming criticizes the government.

Although the Ministry of Justice has sponsored an amendment to decriminalize defamation, parliament had not yet approved the law at year’s end. In the meantime, government officials, diplomats, and the heads of public enterprises continued to press legal action against journalists and civic activists. Though no rulings under the existing criminal defamation provisions were issued in 2011, several cases remained pending. In November, the CEO of PTK sued Arbana Xharra, editor of the daily Zeri, for libel. Vehbi Kajtazi, a journalist at the daily Koha Ditore, also faces criminal defamation charges brought by a former judge of the court of Pristina. The EC warned Kosovo authorities in its 2011 progress report that defamation is not a criminal offense under European standards.

In 2011, government interference continued at Kosovo’s only public broadcaster, RTK. RTK operates as a self-managing organization led by a general director who is answerable to a board of directors. Kosovo’s government controls most of the managerial positions at RTK, but has not established a funding mechanism for its operation. The broadcaster depends on a six-month emergency fund, which is renewed twice a year. Without secure or independent funding, RTK has lost much of its stature, viewed increasingly as a state TV station that merely transmits government activities. After the publication of Freedom House’s 2011 Nations in Transit report, the anchor of the broadcaster’s main news program called the authors “people who do not wish well on Kosovo.” In a July letter, the IMC demanded a retraction from RTK.
Funding for RTK dropped from €10.5 million in 2010 to €8 million in 2011. As a result of funding cuts, RTK reduced its investments in non-Albanian programming. The Fund for the Support of Media of Minority, Multiethnic, and Other Special Groups has been defunct since 2009, when collection of the public broadcasting fee was suspended.

A new draft law on RTK submitted to parliament in December guarantees direct funding from the state budget for a transitional period of three years, but makes no provisions for RTK’s longterm sustainability. The current draft law also stipulates that RTK’s board will be elected by parliament with a simple majority of the votes, giving the government even more leverage over RTK’s editorial policy. Some opposition parties and civil society groups have argued that the board of the public broadcaster should be elected with the support of at least two-thirds of all parliamentary deputies.

For most of the year, the government continued to pressure newspapers through selective advertising, investing heavily in progovernment outlets. In September, new amendments to the Law on Public Procurement banned government advertising in the media, ostensibly putting an end to this practice. With most newspapers depending on the government for 15 to 20 percent of their advertising revenues, the abrupt withdrawal of state support was a mixed blessing. One solution proposed by the media and civil society groups, has been to eliminate the value-added tax (VAT) on newspapers, which is currently 16 percent.

The government failed to appoint a spokesperson in 2011. The only official media contact remains Deputy Prime Minister Hajredin Kuci, whom journalists complain is usually too busy for comment or consultation. State institutions are generally hostile to journalists, particularly from the printed media. The independent daily Zeri and Koha Ditore have been the government’s main targets, with many cabinet ministers publicly condemning the newspapers, denying them access, and calling their journalists and publishers liars. Minister of Trade and Industry Mimoza Kusari-Lila and Minister of Interior Bajram Rexhepi temporarily stopped speaking with Zeri in 2011 due to the newspaper’s critical coverage of their ministries.

The Association of Professional Journalists of Kosovo (APJK) elected a new board at its general assembly meeting in March. Under new leadership this association, by far the largest media NGO in Kosovo, is showing significant impartiality and professionalism and has implemented internal reforms. APJK also amplified its advocacy of journalists and their rights.

Violence against journalists remained an issue in 2011. The APJK reported 22 cases of physical attacks on reporters during the year, none of which were prosecuted. Most of the perpetrators were low to mid-level officials or businessmen with alleged government ties, according to the APJK. During the presidential elections, a parliamentary press officer assaulted Laura Hasani, a photojournalist for Zeri, as she was taking pictures in the Assembly. Bojan Bozovic, a journalist with the Klan Kosova cable TV station, was attacked by ethnic Serbs in northern Kosovo while filming a story.
Local Democratic Governance

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The decentralization process that began with Kosovo’s declaration of independence in 2008 has, in recent years, brought power structures closer to the citizenry. Though some challenges remain, authorities have made progress in transferring competences to local governments and streamlining their operations, and public satisfaction with municipal services is rising, according to surveys.

Improvements were witnessed in 2011 in every municipality, including the ones created in 2008 and 2009. Municipal budget allocations have risen with the overall budget of Kosovo; local authorities have also improved revenue collection. However, the government’s commitment to building a new highway between Kosovo and Albania has diverted funding from local projects. Many municipal infrastructure ventures did not receive federal co-financing in 2011, as promised.

Public services improved in municipalities, including those traditionally provided by government ministries. For example, most municipalities began issuing personal documents, once a competency of the Ministry of Internal Affairs. Furthermore, the municipalities played an important role in national policymaking, particularly with regard to the readmission and integration of returnees from abroad. The success of these measures is a key requirement of visa liberalization dialogue with the EU.

The municipalities have further decentralized power to sub-municipal authorities. In the spirit of this policy, a pilot project to decentralize budgets for public schools was established in March. Several schools in different municipalities created bank accounts and manage petty cash, and their management has improved. This program is expected to trickle down to other segments of the public sector.

The new Serb-majority municipalities are improving. Assemblies and administrations are operational, revenue is up, and the authorities are working to implement development strategies. Living conditions are improving as a result, while the Belgrade-backed parallel structures are weakening. In 2011, this bolstered social development throughout Kosovo while relieving interethnic tensions in most of the country. Under local self-governing provisions, Kosovo Serbs enjoy even more autonomy than the majority-Albanian municipalities. However, above the Ibar river, in northern Kosovo, decentralization remains a challenge. The parallel structures there influence the local population, jeopardizing the decentralization plan and challenging the statehood of Kosovo, as the border blockades last year demonstrated.

Despite the overall progress, many challenges in local governance remain. Most municipalities lack human resources. Often, development strategies are poorly planned, drafted, and implemented. It is also true that local authorities remain dependent on central authorities in some regards despite constitutional and legal provisions guaranteeing their autonomy. The lengthy institutional crisis highlighted
this reality. Although municipal assemblies approved and delivered their 2011 budget proposals on time, the dissolution of the parliament in late 2010 caused multiple budgetary delays. As a result, municipalities had to operate on limited, insufficient funding from national authorities until the federal budget was approved in March. No capital investments were made at the local level in the first three months of the year, and municipalities had to subsequently rush procurement activities to use all the funds allocated to them for 2011.

Finally, the absence of a law on Kosovo’s capital city continued to undermine the functionality of services in the country’s largest municipality, Pristina. The central government shows little interest in improving conditions in Pristina, which is ruled by the opposition LDK. Lobbying efforts by the municipal authorities have been weak. The more the law is postponed, the worse the situation becomes, especially after the 2011 census, which revealed in June that Pristina has only half the 400,000 residents it previously claimed. As budget allocations are based on population figures, Pristina’s budget for 2012 may be affected.

Judicial Framework and Independence

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The judiciary has been a key concern in Kosovo for years. The reporting period saw important progress on judicial independence, including reform efforts and two key rulings by the Constitutional Court, though enduring problems include political interference and inefficiency.

January 2011 saw the establishment of the Prosecutorial Council of Kosovo, an independent body that will manage prosecutions and relieve the Judicial Council and the Ministry of Justice of responsibility over prosecutors and non-prosecutorial staff, respectively. Initiated in 2010, judicial reform met the milestones promised for 2011, with full implementation expected by 2013. As part of this reform, salaries for judges and prosecutors increased in January 2011, which has improved their independence and attracted highly qualified professionals to the judiciary.

The government played a positive role in sponsoring legislative changes in 2011, as well as judicial reform. Parliament adopted the Law on Protection of Witnesses while the government drafted and approved a new criminal code, set to take effect in mid-2012. The Ministry of Justice licensed Kosovo’s first 50 mediators, who will play an important role in relieving the overloaded court system and reducing the case backlog.

The Constitutional Court passed numerous rulings praised by civil society and the general public. In March 2011, it ruled that the presidential election of Behgjet Pacolli had been unconstitutional. Another important ruling followed in September, with the court clarifying that parliamentary deputies, the president, and other members of the government are not immune from prosecution for actions outside their official mandate.
Unlike the Constitutional Court, the ordinary court system and the prosecutor’s office remain dependent on the government. The judiciary cannot initiate legislation and is quite limited when it comes to drafting policies, planning and executing its budget and managing non-judicial personnel.

Seeking better coordination between the Prosecutorial Council, the Judicial Council and other state institutions, the government decided in April 2011 to establish the Consultative Council for Justice, comprising representatives of the Judicial Council, Prosecutorial Council, the Office of the President, the government, and the international presence in Kosovo. Although the role of the council is technically consultative, it was foreseen that every judicial decision and policy would require its approval. However, the judicial and prosecutorial councils said this supra-institution would interfere with their mandates. Civic groups interpreted it as clear and unnecessary executive overreach. To avoid duplicate institutions, the judiciary and the Office of the President boycotted the council.

Despite some progress, political interference and the subordination of judges and prosecutors is an urgent problem for the Judicial Council, Supreme Court, and Prosecutorial Council. Judges and prosecutors have a poor track record on corruption and organized crime cases and tend to avoid cases that involve senior politicians. When Florin Krasniqi, a Vetevendosje MP, filed a private indictment against Prime Minister Hashim Thaçi, a judge in the Municipal Court of Pristina declined the case because it involved senior politicians.

The Special Prosecution Office (SPRK), a joint body between Kosovo prosecutors and those of the EU Rule of Law Mission (EULEX) investigated several high-profile politicians in connection with war crimes and corruption cases during the year, including the case of Fatmir Limaj, the deputy president of the PDK and a former member of the Kosovo Liberation Army (KLA). Limaj and nine other ex-KLA figures were indicted in July by the District Court of Pristina on charges of war crimes allegedly committed in the village of Klecka in 1999. Initially, EULEX said Limaj could not be detained because of a murky constitutional provision on immunity of parliamentarians; however, at the government’s request, the Constitutional Court clarified in September that immunity only applies to MPs’ parliamentary activities, and Limaj was put under house arrest. The ruling, praised by the international presence, was perceived to be supported by the government, as well, which caused some tension within the PDK but did not harm the coalition.

In northern Kosovo, rule of law remains weak. The court system in Mitrovica, an ethnically divided city straddling the river Ibar, is comprised exclusively of EULEX judges and prosecutors. Otherwise, neither municipal nor minor offense courts function in the north.

As acting president during the institutional crisis, Speaker of the Parliament Jakup Krasniqi issued 103 pardons in February 2011; 62 pardons were issued in
February 2010. Many of those pardoned had been convicted of serious crimes, including human trafficking.\textsuperscript{26}

## Corruption

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Despite some legislative and reform efforts by authorities, 2011 saw no concrete results in the fight against misconduct and graft, which continued to be a problem in privatizations, public tenders, and the management of state-owned enterprises. The government also interfered in the private sector, with evidence that it tried to create monopolies in certain industries.

Prosecutors continued to launch new corruption investigations before resolving previous cases. Most of the cases against the so-called “big fish” remain open, with no charges pressed. In a positive development, the state prosecutor established an anticorruption task force. Some of the unit’s appointed prosecutors will focus exclusively on corruption cases.

The SPRK investigated a number of complex corruption cases in 2011, with some success. The CEO and the Chairman of the board at PTK have been charged with abuse of office for signing a contract on a virtual mobile operator that allegedly damaged shareholder interests. The owners and management of Z-Mobile, the private company that benefited from the contract, face charges as well; a trial is scheduled for early 2012. The Kosovo Police were also investigated for misconduct. In October, EULEX arrested six officials within the Ministry of International Affairs and law enforcement on allegations of weapons procurement fraud in the police.

Despite the widespread perception of entrenched government corruption, no new investigations against political leaders were announced in 2011. The Office of the Auditor General and the media have uncovered many problems with the management of public funds, but prosecutors have not followed up on the most serious cases. The financial statements of most politicians and public officials remained problematic, with a high number of discrepancies between declared incomes and assets.\textsuperscript{27} Under EU pressure, in 2011 authorities amended the Law on Public Procurement to require ministers to personally sign every major contract within their ministries. This is intended as an anticorruption measure because ministers will be legally responsible for awarding public tenders. The Ministry of Justice has also drafted a special law to make it easier for prosecutors to confiscate property bought with illegal income, but the law had not won parliamentary approval at year’s end.

The international community plays a central role in pushing local authorities to fight corruption. Following the problematic elections in December 2010, the international community—especially U.S. Ambassador Christopher Dell—asked political parties to form a “clean government” free of persons under investigation.\textsuperscript{28} Some politicians, including Fatmir Limaj, were excluded from the cabinet.
The 2011 Law on Witness Protection, effective August 2012, was hailed as a crucial step in the fight against corruption and organized crime. In September the Law on Protection of Informants (whistleblowers) entered into force, while another law regulating property holdings of senior public officials and gifts to public officials was amended. These laws were all in effect at year’s end, though it was still too early to assess their implementation.

The state continues to interfere in the private sector. In the name of reducing the informal economy—which some say comprises 30 percent of all economic activity in Kosovo and remains problematic despite recent tax administration reform—in June 2011 the government required businesses to install electronic bookkeeping equipment. However, only two companies received licenses to sell this equipment. The Competition Commission concluded that this created a monopoly. Under the so-called Energy Market Model, the government may also be attempting to create a monopoly in the generation and distribution of electricity, some civic groups say. The plan has never been made public.\textsuperscript{29} Due to state interference in the private sector and a bloated bureaucracy, the World Bank ranked Kosovo 117 out of 183 countries in its 2012 \textit{Doing Business} report,\textsuperscript{30} a red flag to the potential foreign investors Kosovo needs to bolster its weak economy.

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Ibid., 14.

EC, Kosovo 2011 Progress Report, 6.


Ibid., 39.


EC, Kosovo 2011 Progress Report, 7, 16.


EC, Kosovo 2011 Progress Report, 49.


European Commission, Kosovo 2011 Progress Report, 16.

Main news edition of RTK, 30 June and 1 July 2011. Also the letter of Independent Media Commissioner to the RTK management of 15 July 2011.


EC, Kosovo 2011 Progress Report, 12.

Ibid.


Radio-television 21 interview with U.S. Ambassador Christopher Dell, 5 February 2011. The same message was delivered to Prime Minister Thaçi the Principal Deputy Assistant Secretary for Political-Military Affairs of the U.S. Thomas Countryman.
