

The Consolidation Challenge

**Strengthening the independence of
media institutions in Kosovo**



Democracy for Development
Demokraci për zhvillim
Demokratija za razvoj

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Introduction

In a decade or so of the international management the media sector in Kosovo has experienced important transformation. Yet a general perception exists that the Kosovo media system still underperforms and the sector hinges between a stable and a precarious state. The liberal media regime pursued by the UN administration after it was dispatched in Kosovo in 1999, was successful in ensuring the de-monopolization of information in Kosovo, but the uncontrolled increase in media outlets in subsequent years has disrupted the media sector, creating a saturated media market with declining sources of revenue.

The international media assistance in Kosovo has been provided in three stages. 1) Support to opposition media during Serbian rule (1990s) 2) post-conflict media intervention (1999-2007), and 3) limited media support (since 2007, ongoing). The media assistance during those three stages has been of four types: 1) human capital development; 2) directly supporting media outlets; 3) regulatory framework and 4) supporting media institutions. Whereas the media assistance during all three stages has been substantial in all four types of assistance the donors have not gone much beyond the principal goals - which were to establish the range of media and supporting institutions. Furthermore, it appears that the strategies, approaches, and the goals of foreign assistance were not always clear and/or coordinated and this has had implications for the sector as a whole.

Background

Two of the most important organizations that have played an important role in both increasing the human capital of the Kosovo media have also been extensively involved in establishing media organizations and institutions over the last decade or so in Kosovo were the OSCE and IREX/USAID. The specific projects pursued by OSCE on one side and IREX/USAID on the other have been all product oriented. OSCE has helped establish the Radio Television of Kosovo (RTK) and in subsequent years it helped establish the Press Council of Kosovo (PCK), Kosovo Media Institute (KMI), Independent Media Commission (IMC) and Kosovo Media Association (KOSMA) among others. IREX Kosovo on the other has been engaged in establishing the two main commercial broadcasters with national coverage (KTV and RTV 21) and has worked hard to ensure the set up and increase the self-sustainability potential of these outlets. It has also played a central role in the establishment of the Association of Journalists (APJK), Association of Broadcasters (AMPEK) and Kosovo Terrestrial Network (KTTN). Meanwhile, smaller organization and projects such as Medienhilfe and Press Now albeit to a lesser degree have been systematic in supporting the core mainstream newspapers – Koha Ditore and Zeri and earlier their predecessors, the weeklies KOHA and ZERI as well as a few other alternative projects that have emerged after the conflict. Other donors, such as Government of Japan and EU through various targeted projects have been instrumental in provision of funding and technology for RTK and other important media institutions and such funding represents the bulk of the donors assistance.

This policy brief builds upon the findings of a research report that looked specifically on the ways in which three

media institutions - Independent Media Commission (IMC); Radio Television of Kosovo (RTK) and the Press Council of Kosovo (PCK) – established in the aftermath of conflict with considerable foreign media assistance - have evolved. The independence and long-term sustainability of the RTK and IMC are important conditions that Kosovo government must ensure¹ as it moves closer towards the Stabilization and Association Agreement (SAA) with the EU.² The PCK also remains an important institution for the Kosovo press affairs. As such, these institutions are a cornerstone for a sound media system in Kosovo.

¹ Government of Kosovo, Action Plan on the negotiation of the SAA, December 2012

² Recommendation for authorizing the opening of negotiations on a SAA between EU and Kosovo, Brussels, April 22, 2013)

Case studies and findings

IMC - Established in 2005, the Independent Media Commission (IMC) is a successor of the Temporary Media Commission (TMC) an institution set up in 2000, based on Bosnia's model³ with the mandate to regulate and license print and broadcast media in Kosovo. IMC inherited a number of characteristics and routines from TMC. All staff members (including the current CEO) worked at the TMC before being hired to IMC. Prior to TMC there was no regulator in place to monitor the Kosovo media.⁴ Throughout its mandate TMC was headed by foreign experts, guided by diverse philosophies about how media sector should, (if at all) be regulated in a post-conflict society.⁵ The different worldviews that have guided its work have continued to influence the ways in which IMC operates.

The main international donors of the IMC were OSCE, IREX/USAID and the European Commission. Donors approaches to IMC consisted in legal reform, institution-building, technical support (equipment/software and monitoring system), salaries, capacity building and training (in house or abroad), and awareness campaigns. While the interim period towards Kosovarization was partially supported by OSCE, (i.e. salaries for international board members from 2006-2008) the agency received only a €20,000 kick off grant from OSCE in 2006 as part of an awareness campaign. Since then the funding for the IMC

³ Stacy Sullivan, "Restructuring the Media in Post-Conflict Societies: Four Perspectives – The Experience of Intergovernmental and Non-Governmental Organizations." A Background Paper for the UNESCO World Press Day Conference, Geneva, May 2000.

⁴ See: Sullivan 2000.

⁵ Empire Lite as a Swamp, Anna Di Lellio, http://dev.ulb.ac.be/cevipol/dossiers_fichiers/7-di-lellio.pdf

has come primarily from the Kosovo budget. Yet, international donors continued to be instrumental in the assistance to IMC. In 2009 IMC received a grant from European Commission (EC) in the amount of €one million to upgrade its monitoring system. Apart for the monitoring system provided by EC grant, other projects that IMC received since 2006 were short-term projects/single activities. Albeit the assistance to IMC was coordinated - the goals for the IMC, based on the feedback from interviewees, were not realized.

In the first year of its operation, IMC adopted an internal code of procedure, code of ethics, the policy on public rulemaking, the broadcasting policy and the guidelines on sanctions.⁶ However, as it became Kosovarised it faced a number of challenges and difficulties such as the lack of professionally trained staff, shortage of funds, under-equipment and so on. Albeit the IMC receives funding from the Ministry of Finances on annual basis the lack of insight on how to better position itself in the changing dynamics of the broadcast sector has left the potential of the institution under-utilized. It continues to be a reactive, rather than proactive institution.

The issue of whether IMC can sustain its independence remains unclear. The opinion is split on whether the support to IMC over the years, has yielded sustainable results, in other words, whether it created the grounds for IMC to be independent institution. There is some agreement that IMCs independence on formal grounds exists but its functional independence is difficult to exercise due to interference from political and business interests. In particular imposing the decisions on RTK remains problematic. Also in terms of financial resources IMC independence is further compromised due to insufficient capacity of the IMC to

⁶ IMC Website

negotiate with the Ministry of Finance its year-to-year budget. Furthermore, the upcoming digitalization, which was tied to the phenomenon of increased politicization of appointments in the IMC Commission, are bound to make it an even more vulnerable institution as they have in the last two years. For example, IMC challenges (such as licensing of broadcasters or ensuring compliance with Copyright Law) have been successfully addressed and IMCs independence was sustained. Yet, when IMC had to decide on extending broadcasting licenses or ensuring RTKs compliance with advertising quota (both issues that have had broader political implications) it was unable to deliver on its mandate and its reputation has suffered. Increasing its potential to generate revenues so that it becomes financially self-reliant is the only way for IMC to move forward.

RTK - With regards to RTK, It appears that the efforts to set up a public service broadcaster modeled upon BBC in Kosovo have backfired and in turn have produced a broadcaster that remains under strong government influence. RTK might have an even harder time ensuring autonomy so long as it does not re-evaluate its goals and orientations that make it susceptible to political influence. One such goal should be to give up from its focus on socio-political agenda and focus more on socio-cultural agenda.

When RTK began broadcasting in 1999 its central role was to achieve specific social and political goals (promoting peace, multi-ethnicity and promoting diversity). RTK not only did meet this goal but it became its champion in important ways. Yet, in due time RTK also set out to achieve important media-specific objectives – such as the goal to have the best news bulletin and the best current affairs programs, thus putting itself in competition with commercial broadcasters in the coverage of politics, at a time when those broadcasters were still supported by donors. What it did in fact was that it got embroiled in an

unfair competition with commercial broadcasters, and becoming attractive to politicians to use it in favor of advancing their political agendas. Given RTK unique potential to do this (due to its technical capacities and greater penetration in the audience with its news bulletins reaching the audiences of around 500,000) its advantage in a way became its own liability. Kosovo as a post-conflict society needs a public service like RTK to continue to provide all sorts of information, and it also needs to sustain its independence. However, so long as RTK focuses on politics in its agenda the politicians will likely continue to attempt to use it and abuse it. The focus of RTK instead of focusing on the day-to-day politics should be on political events. In other words, put aside the coverage of party politics and focus more on advancing the cultural agenda of Kosovo as a new state if it intends to maintain its independence down the road.

The rationale behind pushing forward such a solution for RTK rests in the fact that Kosovo in recent years has a more diverse spectrum of media outlets and regional broadcasters including cable channels in which political actors can compete successfully and this could serve as an exit point for RTK, to gradually abandon political coverage, in particular its focus on the day to day agendas of political parties, and reorient more towards the broader socio-cultural agenda, in par with its focus on nurturing multi-ethnicity and diversity in the new state of Kosovo. After all, the Law on RTK 2012 envisages such a role in great detail, and it can serve as a roadmap for a successful transformation.

Clearly, in recent years, RTK has increasingly become a focus of overlapping political, economical and other interests of multiple stakeholders who see RTK as a strategically important asset and it will continue to be vulnerable to interference unless it re-designs its role as a

public broadcaster. The model it pursued in the past can serve as a roadmap. Between 2002-07 RTK strived to achieve financial independence from the Kosovo budget, considering its dependence to the Kosovo public (through subscription fee) as the best possible outcome.⁷ The subscription fee collected via KEK ensured RTK a solid financial sustainability between 2003-2009. However, the arrangement did not leave much space for political interference on RTK, and at one point, a year before the expiry of the contract between KEK and RTK, (KEK, claiming that it was suffering losses with the arrangement) decided to unilaterally terminate the contract.⁸ Next, the Constitutional Court of Kosovo suspended RTK's subscription fee, considering the collection of it as unconstitutional.⁹ The then RTK management saw this development as an effort of politics to interfere with RTK on the eve of elections 2007.¹⁰ RTK also cited UNMIKs lack of support in continuing the collection of subscription fee, despite the recommendations of the EBU to the opposite.¹¹ After KEK terminated the contract, allowing RTK six months to find an alternative, Kosovo Assembly dragged the matter further due to its failure to adopt the new law on RTK. Also the lack of willingness among the RTK

⁷ Raport Vjetor per vitin 2005 – Radio Televizioni i Kosoves [RTK Annual Report 2005] p.5, 2006

⁸ RTK's Financial Sustainability: Finding alternatives to public broadcaster financing, GAP Policy Brief, October 12, 2011. The Court required Assembly to review the Article 20.1 RTK Law (2006) until Dec 1, 2009. On June 14 2010 it reiterated the temporary measure until January 1, 2011. The case is still open.

⁹ GAP Policy Brief, October

¹⁰ RTK Annual Report 2007: The rreport cites a government spokesperson's remarks that "the re-introduction of the contract with RTK can be done if it changed its editorial policy towards the government" as a signal that politics was behind the termination of contract.

¹¹ Raport Vjetor per vitin 2007 – Radio Televizioni i Kosoves [RTK Annual report 2007] p.7

management and board to propose alternative solutions then also took its tool. In the absence of a solution, in 2010, RTK from a situation in which it was ensuring more than 80 % of its income from subscription fee (2007) and the rest from the advertising, moved to the point where it became fully dependant on the Kosovo budget.

At present, a particularly worrisome issue is the lack of willingness of the new RTK management to propose the re-introduction of the subscription fee. It appears that the RTK management feels comfortable with the status quo and unable or unwilling to require the re-introduction of license fee.

At this point, RTK generates about 1/7 of its budget through incomes from advertising and other resources. However, its continuity as a public service broadcaster, might be put in question if between now and 2014 it does not find a long-term financing solution – either through broadcasting fee or through some other mutually approved mechanism. As a last resort, it might still continue its dependence on the Kosovo Assembly budget but it will have to set its terms with regards to what role it would play. As is, it is principally considered as a mouthpiece of the government and by default then (due to the ways in which it focuses on the coverage of the day to day political agenda) as the mouthpiece of the leading political parties. Such an approach must come to an end.

The implications with regards to the preservation of RTKs independence have been clear. Especially, since 2008 as RTKs dependence on state budget increased, Kosovo Government has been accused of interfering with the independence of RTK.¹² In addition, RTK has been increasingly criticized of forging nepotism ties in its midst,

¹² Monitorimi i Programit Informativ te Radio Televizionit të Kosovës, [Monitoring of the Informative Program of RTK] 2011/01, KIPRED, Pristina, January 2011

for being excessively generous in the purchase of programming from outside productions and for some of its selected in-house productions – often of questionable quality - paying large sums of money to the hosts of such programs to keep them on air. A number of investigative articles and documents have surfaced in recent times and talk about such problems. RTK in recent period has taken some steps to diminish the potential for mismanagement. It published an open bid in its website for the purchase of outside productions. It also keeps annual reports and other relevant documents accessible on its website, a sign of a contextual effort to being more transparent. But much more remains to be done to ensure the full transparency in this institution down the road.

On a functional level, the issue of succession over the rights and obligations over the former state broadcaster (RTP) is also an important challenge that affects the growth of RTK (since it is not considered de facto or de jure a successor of RTP it cannot make permanent use of the premises in which it is located. In other words, RTK considers itself a tenant in what was supposed to be its own house. This fact, has implications with regards to hiring policies and its operational capacities are somewhat left pending on a permanent decision which will have to be made by the Kosovo Assembly. This has direct implications with regards to handling the issue of some 1,200 former employees of RTP, expelled during the 1990s, who advocate for their right to return to their jobs and receive the benefits as ex-employees. In 2006 Kosovo government prepared a draft-law to transfer the ownership of RTP to RTK but the strategy was abandoned following a refusal from the Union of the ex-RTP employees and the issue remains pending. Under such circumstances, RTK has been pressed to introduce something akin to affirmative action in its hiring policies and the result has been the increase of the staff of questionable quality.

Finally, there is the legitimate concern of the politicization of the broadcaster. After the funding shifted from subscription fee to Kosovo Assembly the process has been characterized with numerous changes in its management. First its general director resigned in 2011, due to political pressure¹³ and the Board appointed its successor – a former editor in chief of RTK as an interim director.¹⁴ In 2013 the departing Board members of RTK appointed a new Director General, while the nomination of the new RTK Board was still taking place at the Kosovo Assembly. A number of interviewees reflecting on the fact that the outgoing Board has elected the new Director General understood the outcome as another sign of politicization of the broadcaster and the continued informality in the functioning of RTK.

PCK - The Press Council of Kosovo (*PCK*) was established in June 2005 as a self-regulatory mechanism for Kosovo press.¹⁵ The establishment of *PCK* was one of the 'standards' Kosovo had to meet for the status talks to resume and a precondition for the TMC to revoke control over the print media. Prior to the establishment of the *PCK*, there was no self-regulating mechanism for print in Kosovo.

Since its establishment *PCK* has been operating primarily based on foreign donations as well as on member dues to cover for the operational costs. Albeit its operational costs are small (ranging between €40,000-50,000 annually) *PCK* doesn't seem to be close to finding a solution that would make it self-sustainable and economically independent in the true sense in the future. Member dues are inconsistent and even in the ideal case of all paying members, the

¹³ Monitorimi i Programit Informativ të Radio Televizionit të Kosovës, [Monitoring of the Informative Program of RTK] 2011/01, KIPRED, January 2011

¹⁴ *Ibid.*

¹⁵ Filip Stiglmayer, OSCE-supported Press Council helps improve Kosovo's media landscape, March 2007

amount collected falls short of being sufficient to cover its annual operations. According to some earlier estimates, 95% of PCK budget depend on foreign aid and only 5% is member dues. In its annual report 2012 it was noted that only three media outlets have paid their annual dues.

While the donor assistance in the case of PCK has been coordinated the inability of PCK to pass the sustainability threshold eight years after its establishment remains a serious problem. To a certain degree, of the three institutions established in Kosovo in the aftermath of the conflict the PCK reflects more closely the so-called “transplant effect”¹⁶ since its strength lies on the belief that the ethical principles of the media and journalists will prevail and in states in flux such as Kosovo such a belief might be too ambitious. Furthermore, the dire condition in which the press operates in Kosovo, make it unlikely that a suitable financing mechanism could emerge soon, unless government would allocate such funds perhaps in line with some of the Scandinavian models that are widely applied and directly or indirectly enable the financial support for such an institution, whose importance cannot yet be disregarded.

On a practical side, ever since its establishment PCK has made sure to publish all its rulings on the website and has been consistent. Yet, it is not clear how often the requests made by the PCK to its member and non-member media to issue public apologies or corrections, have been taken into account or disregarded. Ever since its establishment PCK has resolved 162 complaints, (about 20 complaints per year on average.)

Just like the other two institutions, PCK, has had a similar

¹⁶ Daniel Berkowitz, Katharina Pistor and Jean-Francois Richard (2003), ‘The Transplant Effect’, *The American Journal of Comparative Law*, Vol. 51, pp. 163-187.

institutional challenge in regards to exercising its role in a fair manner when confronted with issues that were likely to cause political interference towards the institution. When it did, its reputation suffered. It would have been in a much better position if it made a commitment to avoiding to handle issues that have political implications altogether and refer them to the courts than to attempt to deal with them and end up with its reputation questioned.

Furthermore, the fact that following its inability to collect penalties twice, it has given up on its right to collect fees from penalties make it even harder to figure out the avenues towards self-reliance in the future. The independence of PCK is not affected from political but there remains a question about how much the print media (members and non-members alike) will continue to adhere to its non-binding decisions and if and to what extent its reputation might be diminished if the Kosovo courts increase their efficiency down the road.

Conclusions and recommendations

The findings of the research report upon which the policy brief has been based suggest that the role of foreign assistance and international funding in the development of the Kosovo media system has been crucial. Such findings were further confirmed from a range of interviews (16 interviews) with representatives of media institutions, journalists, civil society activists and academics from Kosovo in the period between (December 2012-March 2013).

What the analysis section of the research has helped re-emphasize, is that overall, the issue of political interference on media institutions has intensified following the “Kosovarization” and the institutions after their hand-over transformed into the “Balkan context.”

What seems to be outside of the donors control nonetheless were the environmental conditions in which Kosovo media institutions were set up and the lack of better insight with regards to ensuring their sustainability once the institutions were established.

A closer examination on the conditions of RTK, IMC and PCK points to a number of challenges faced by these media institutions in their path to consolidation. Funding remains a key issue for all three institutions. The politicization of the state with its different shades has played against the odds for a greater independence in the cases of IMC and RTK and is reflected in the politicization of appointments, informality and floating laws that inhibit the proper functioning of both institutions. In the case of PCK the politicization seems to have influenced indirectly the work of the institution.

All three institutions remain either donor dependent or heavily reliant on the Kosovo budget, despite the fact that little insight or incentive is required for them to pass the

self-sustainability threshold or ensure otherwise the potential for greater autonomy. In particular, the financial dependence and the conditionality that goes with it, keeps them captured when it comes to projecting a formal and/or a functional independence in the long run.

In the case of Kosovo, it can be observed that all three media institutions under consideration have undergone important processes of change during which the laws that guide their work have been amended, to increase political control over them. Or as in the case of PCK statutes have changed to give up certain competences voluntarily. The long delayed processes through which such changes in laws that guide the work of both IMC and RTK were introduced and the fact that once introduced the amendments have curtailed certain dimensions of the independence of both institutions are signs of concern. The amendments in the RTK and IMC laws as well as the changes in the statute that guides the work of PCK in recent years, have diminished the independence of all three institutions, respectively the importance of all three institutions and a number of interviewees consulted for this research have drawn similar conclusions.

When it comes to preserving either their formal or even their de facto independence institutions such as IMC and RTK seem to be in better position since both of them can partially subsidize their operations based on the incomes they generate. IMC is able to generate between 1/4 or more of its current budget requirements from license fees. If we disregard its occasional needs for capital investments that IMC has, it appears that IMC would be closer to becoming financially self-sufficient, if additional insight on increasing its revenues from license is explored.

RTK still generates about 1/7th of its budget through advertising and other revenue sources. However, its financial independence will be closely linked to its decision to introduce the license fee.

PCK remains the most problematic institution with regards to funding albeit it requires much less funds for operation than the other two institutions. According to some earlier estimates, 95% of PCK budget (approximately € 50,000) depends on foreign aid and only 5% is member dues. In its annual report 2012 it was noted that only three media outlets have paid their annual dues, out of 18 + members.

Otherwise, it seems to be re-confirmed that the absence of coordination among the donors below the general level (and sometimes even this was not the case) as well as the failure of donors to agree on how best to determine the strategic goals and orientations of the projects supported from them has caused confusion and polarization in the media sector, resulting in an overall decline of quality journalism and weakening of the Kosovo's media potential. This in turn, has served politicians as a lead to attempt to influence the media. It appears that the quick donor withdrawal and failure to leave behind appropriate mechanisms to monitor more closely the content produced and the processes of appointments (the case of RTK); as well as the quality of decision-making and the internal and external barriers to sustaining independence in longer term (the cases of IMC and PCK) have taken their toll. In addition, the fact that media assistance programs have taken a copy-paste approach from other similar cases, notably Bosnia, is worrisome having in mind the limited success of the international assistance in reforming the media sector in Bosnia and Herzegovina.

In summary, it should be noted that the challenges that the three institutions have had to face in the process of consolidation are related strongly to the goals and objectives that the donors have put when they set out to establish the media outlets and institutions in Kosovo. As noted in Rhodes (2007) two interrelated categories of goals and

objectives have guided the media support in Western Balkans 1) political and social goals, and 2) media-specific objectives.¹⁷ The insight that emerges from closer look into their performance is that in cases when social and political goals have overlapped with media-specific goals the results were questionable or negative. It appears that following Kosovarization all three media institutions at different points in time, have been left to handle “hot potatoes”, in other words, meet objectives that are outside of their potential or capacities to address, and this in turn has tarnished their reputation. Hence, all three institutions have faced serious drawbacks in their functioning. Introduction of mechanisms that would spare the aforementioned media outlets and institutions from being pressed to handle such issues in the future and of ways to increase their financial self-reliance might be the most appropriate way to ensure their increased autonomy and functionality in the future.

¹⁷ Aaron Rhodes, *Ten Years of Media Support to the Balkans: An Assessment*, Media Task Force (Amsterdam: the Stability Pact for South Eastern Europe, 2007) p.11

List of Publications

Elections:

#1: D4D Institute. September 2011. Deconstructing Election Trends 2000-2010.

#2: D4D Institute. March 2012. An Impression of Reform: How to Restore Trust on Elections?

#3: Malazogu, Leon, Visar Sutaj and Drilon Gashi. November 2012. Kaçanik Voters' List Audit: A Sample for Kosovo.

#4: Malazogu, Leon and Selatin Klllokoqi. February 2013. Lessons learned for Future Elections: An Analysis of the Mayoral By-Elections in Ferizaj and Kaçanik.

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#1: Malazogu, Leon and Vladimir Todorić. November 2011. Belgrade-Pristina Dialogue: Transformation of Self-Interest Required. PER-K/D4D Institute and NPC-Belgrade

#2 & #3: Malazogu, Leon, Viktor Popović and Shpend Emini. March 2012. Boosting Prospects for Young Kosovo Serbs. Urban Life in Kosovo Serb Communities. PER-K/D4D Institute.

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#5: Malazogu, Leon and Alex Grigorev. September 2012. From Creative Ambiguity to a Constructive Process: How to Approach Northern Kosovo? PER-K/D4D Institute.

Public Interest:

#1: Sejdiu, Dardan and Kastriot Jahaj. January 2013. The Hidden Tax: Why do Kosovars Pay More?

#2: Gashi, Drilon and Shoghi Emerson. May 2013. A Class of Its Own: Patronage and its impact on Social Mobility in Kosovo.

Memos:

#1: D4D. November 2012. Reaction Memo Nr. 1. Police Overreaction.

#2: D4D. December 2012. Reaction Memo Nr. 2. The two Germanies model

Indicators:

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D4D's mission is to influence the development of public policy to accelerate the socio-economic development of Kosovo, improve governance, and strengthen democratic culture in the country.

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