



RESILIENCE:
For Media Free of Hate and Disinformation

NATIONAL REGULATORY AND SELF-REGULATORY FRAMEWORK AGAINST HATE SPEECH AND DISINFORMATION

FACTSHEET

Jeton Mehmeti

KOSOVO

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1. INTRODUCTION

Freedom of speech is firmly guaranteed by the Constitution of the Republic of Kosovo. However, given the violent political history of the past and the multi-ethnic composition of Kosovo's society, a number of legal documents were put in place to put certain limits in freedom of speech. Therefore, defamation, insult and hate speech were all banned with special laws.

The publication of an untrue fact or statement when the publisher knows or should know that the fact or the statement is untrue, the meaning of which injures the reputation of another person (defamation), or a statement, behaviour, or publication of a statement directed at another person that is humiliating (insult) is prohibited by the Civil Law against Defamation and Insult. Furthermore, anyone who publicly incites or publicly spreads hatred, discord and intolerance between national, racial, religious, ethnic and other groups or based on sexual orientation, gender identity and other personal characteristics in a manner which is likely to disturb the public order is punishable by fine or imprisonment of up to five years according to the Criminal Code of Kosovo.

In addition to the legal framework, media regulatory bodies have further developed internal regulations to restrict and punish hate speech and disinformation. The Code of Ethics of the Independent Media Commission and the Code of Print Media of the Kosovo Press Council contain guidelines on fair and objective reporting.

Despite the decent legal framework, hate speech is present across information channels in Kosovo. An ex-officio report of the Ombudsperson shows how disinformation and hate speech can lead to violence against a targeted person. A number of court rulings show how citizens use media platforms to incite hatred and prejudice against a person or a group of people based on ethnic, religious or racial backgrounds. Intentionally or not, the media have

often published materials containing derogatory language that is prohibited by the Code of Ethics imposed by media regulatory bodies. Furthermore, civil society organizations and fact-checking platforms provide evidence of the use of hate speech in Kosovo media against the communities in Kosovo which are most exposed to vulnerability and verbal discrimination.

This research aims to analyze the national regulatory and self-regulatory framework against disinformation and hate speech. This is the fourth research study in the Resilience project series.¹ The first study covered hate and propaganda media models², the second examined hate narratives in the media and communication in Kosovo³, and the third research analyzed the main factors related to media trust and media-gender issues in Kosovo⁴.

2. HATE SPEECH REGULATION

The Constitution of the Republic of Kosovo guarantees freedom of expression as long as it does not encourage violence and hostility towards other people based on nationality and religion. Article 40 of the Constitution maintains that:

Freedom of expression is guaranteed. Freedom of expression includes the right to express oneself, to disseminate and receive information, opinions and other messages without impediment. The freedom of expression can be limited by law in cases when it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity or religion.⁵

Although hate speech is not directly mentioned in the Constitution, it is, however, one of the main elements of the Criminal Code. Article 141 of the Criminal Code of the Republic of Kosovo, adopted in January 2019, regulates hate speech that invites discord and intolerance.

Whoever publicly incites or publicly spreads hatred, discord and intolerance between national, racial, religious, ethnic and other groups or based on sexual orientation, gender identity and other personal characteristics, in a manner which is likely to disturb the public order shall be punished by a fine or imprisonment of up to five (5) years.⁶

1 "Resilience: civil society action to reaffirm media freedom and counter disinformation and hateful propaganda in the Western Balkans and Turkey" is an EU-funded project implemented by nine media development organizations.

2 <https://seenpm.org/research-hate-and-propaganda-in-kosovo-media/>

3 <https://seenpm.org/research-hate-narratives-in-online-media-and-communication-in-kosovo/>

4 <https://seenpm.org/research-mapping-citizens-concerns-over-media-in-kosovo/>

5 Article 40, Constitution of the Republic of Kosovo, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>.

6 Article 141, Criminal Code of the Republic of Kosovo, <https://md.rks-gov.net/desk/inc/media/A5713395-507E-4538-BED6-2FA2510F3FCD.pdf>.

The legal framework is further extended into specific laws related to media regulatory bodies, such as the Law on the Independent Media Commission and other bylaws that derive from it. One of the most important bylaws is the Code of Ethics for Media Service Providers in Kosovo adopted in 2016 by the Independent Media Commission (IMC). Article 5 is dedicated to incitement to hatred:

Media Service Providers (MSP) should not encourage or promote, intentionally or indirectly, any form of discrimination and intolerance and must not broadcast any material that denigrates an ethnic or religious group or implies that an ethnic or religious group is responsible for criminal activity.

Race, colour, sex, language, religion, political or other opinion; national or social origin; association with a community; property; sexual, economic and social orientation; birth, disability or any other personal status should not be used in such a way that individuals will be in a denigrating position, unfavourable position, to be ridiculed or mocked.

During broadcast of the content MSPs will not allow the use of denigrating language expressions, intended to harm and threaten an individual or a group on the basis of ethnicity, religion, gender, race, marital status, age or physical disability or mental disability.⁷

The other media regulatory body that monitors hate speech is the Kosovo Press Council, a self-regulatory body whose members are print and online media. One of key documents adopted by the Press Council is the Code of Print Media. Article 3 of the Code speaks about hate speech. According to it: "Newspapers, online media and news agencies will not incite and promote any criminal and violent acts...(they) will not incite or encourage hatred or inequality by: treating an individual with prejudice due to his/her ethnic, religious, gender, racial origin..."⁸

In addition to media regulatory bodies, the Ombudsperson institution provides guidelines that regulate hate speech. Its mission is to promote freedom rights, including protection from hate speech.

⁷ Article 5, Code of Ethics for Media Service Providers in the Republic of Kosovo, IMC, <https://www.kpm-ks.org/en/legislacioni/299/aktet-nenligjore-ne-fuqi/299>.

⁸ http://presscouncil-ks.org/wp-content/uploads/2019/11/Kodi-i-Mediave-te%CC%88-Shkruarate%CC%88-Kosove%CC%88s_2019.pdf

3. IMPLEMENTATION OF HATE SPEECH REGULATION

Prosecutors and courts are one of the main legal bodies that deal with the cases related to hate speech. Citizens and organizations have addressed their cases in the court on matters of hate speech. For instance, in August 2021, the Basic Court in Prizren found one citizen guilty on the basis of incitement to hate against the Muslim community in Prizren through his Facebook posts and photos as well as due to the comments made by others on his Facebook posts, which contain hate speech too. The court found him guilty and issued him a fine of 400 euros.⁹

On the same basis, for violating Article 141 of the Criminal Code, a month later another citizen was found guilty in Gjakova of publishing a book and organizing a promotional event where the author read some of the book's content that contains poems that incite hatred against different religious groups in Kosovo. The judge sentenced the person to a custodial sentence of 150 days which was later replaced with 2,000 euros fine.¹⁰

One of the high-profile cases related to the violation of Article 141 of the Criminal Code is related to a former minister who was found guilty for his hate speech at a public gathering in 2019 where he called the Recak massacre 'fiction'. The judge sentenced him to a custodial sentence of two and a half years.¹¹

In addition to prosecutors and courts, **media regulatory bodies** have dealt with cases involving hate speech. There are two main bodies that serve as an address for citizens' complaints regarding disinformation and hate speech, namely the Independent Media Commission (IMC) and the Kosovo Press Council (KPC).

The IMC is a constitutional body whose mission is to license broadcast media in Kosovo. Given the legal authority, the IMC has the right to issue fines as well as revoke the licences of television stations, radio stations and cable providers in case they fail to adhere to its broadcasting standards. Incitement to hatred is prohibited by the Code of Ethics implemented by the IMC. According to this regulation, media service providers licensed by the IMC should not broadcast programme content that incites hatred and inequality and that may result in criminal or violent actions against an individual or a group. Further, the article prohibits the media from broadcasting programme content that incites hatred on the basis of ethnicity, religion, gender, race, marital status, sexual orientation, age, and mental or physical disability.¹²

9 https://www.gjyqesori-rks.org/wp-content/uploads/verdicts/PZ_P_160_20_SQ.pdf

10 https://www.gjyqesori-rks.org/wp-content/uploads/verdicts/GJK_P_2021-192904_SQ.pdf

11 https://www.gjyqesori-rks.org/wp-content/uploads/verdicts/PR_PKR_20_19_SQ.pdf

12 *Independent Media Commission, Code of Ethics for Media Service Providers, 2016.*

There are several cases where the IMC has found violation of the Code, including Article 5 on incitement to hatred. In one case in 2017, the IMC found that RTK 1 (public television) violated the Code of Ethics when in one of the shows it mentioned the names of several Serb citizens and called them Russian spies. In the complaint made by the Union of Serbian Journalists it is suggested that such language may lead to interethnic tensions.¹³

The Kosovo Press Council, on the other hand, deals with complaints related to violations of its Code of Ethics for Print Media. Among many complaints where the Press Council found violations are those that have violated Article 3 of the Code, which prohibits incitement to hatred. In the case of Gramos Agusholli vs Express and Infokus, whereby the two media outlets published an article with the title “Islamist MPs of LVV pay a visit to the Khalif”, the Press Council found that the article published in July 2021 contains elements of incitement to hatred and violates Article 3 of the Code of Ethics.¹⁴

In another case, the violation of Article 3 was committed by Gazeta Metro which published an article containing elements of racial prejudice and hatred. The article, titled “Kurti’s kung fu is back in Prishtina”, speaks about a Chinese-American citizen who served as an advisor to the Prime Minister of Kosovo. The article carries a picture of Tienmu Ma sitting in a café. In the ruling of the Press Council made in September 2021 it is stated that the article violated the Code of Ethics by inciting to hatred based on racial elements.¹⁵

In addition to language inciting to racial hatred, the Press Council has found violations related to gender prejudice. In one article, the online newspaper Gazeta Express wrote: “Despite number 69, Besa Luzha was not even voted for by her husband”. The complaint states that the article contains disinformation and incitement to hatred on the basis of gender. The Press Council ruled in November 2019 that the newspaper had violated Article 2 of the Code of Ethics by publishing false information related to who voted for Ms Luzha as well as Article 3 of the Code of Ethics by using derogatory and sexist language. By using the sexual meaning of the number 69, the media intentionally sought to harm her and her family.¹⁶

Another institution dealing with hate speech and human rights is Kosovo’s **Ombudsperson**. One of the most spectacular cases that led from hate speech to violence happened in 2019 when broadcast and online media published information about a woman who was allegedly kidnapping children in the streets. Back then, online media published a picture of a woman sitting in the bus station in Malisheva with the title “Be careful, this woman is kidnaping children”. After the news went viral in the online media and social networks, the woman was beaten by a group of young people in an assault that was recorded with a mobile phone and went viral too.¹⁷

13 <https://www.kpm-ks.org/assets/cms/uploads/files/Publikime/Dokumente/1545987337.8987.pdf>

14 http://presscouncil-ks.org/wp-content/uploads/2021/10/vendim_KMSHK_1168-2021.pdf

15 http://presscouncil-ks.org/wp-content/uploads/2021/10/vendim_KMSHK_1180-2021.pdf

16 http://presscouncil-ks.org/wp-content/uploads/2019/11/vendim_KMSHK_852-2019-.pdf

17 <https://indeksonline.net/goditet-ne-lipjan-gruaja-e-dyshimte-qe-u-be-e-famshme-ne-rretjet-sociale/>

In an ex-officio report, the Ombudsperson institution found multiple violations of human rights in this case,¹⁸ including the violation of the IMC's Code of Ethics as well as of Article 202 of the Criminal Code on unauthorised photographing and other recording, which states:

*Whoever, without authorisation, photographs, films, or videos or in any other way records another person on his or her personal premises or in any other place where a person has a reasonable expectation of privacy, and in that way fundamentally violates another's privacy, shall be punished by a fine or by imprisonment of one to three years.*¹⁹

4. REGULATION OF DISINFORMATION

In today's complex information systems, it is important to understand the terminology used for information and hate speech. To begin with, misinformation and disinformation are often mistakenly used interchangeably. While both pose certain risks to our rights and society, the difference between the two is intent. Misinformation is misleading, inaccurate or completely false information that is communicated without the explicit intent to deceive. Nevertheless, it is intended to be perceived as serious, factual information by the audience. Disinformation is false information that is shared with the intention of misleading people. The sharer of the "news" knows that it is false and wishes to deceive their audience. Unlike misinformation, the purpose of disinformation is not a good-faith attempt to enlighten, but a bad-faith attempt to create division and stir up fear.²⁰ A study of the European Parliament refers to disinformation as "false, inaccurate, or misleading information designed, presented and promoted intentionally to cause public harm or make a profit."²¹ It warns that disinformation can confuse and manipulate citizens; create distrust in international norms, institutions or democratically agreed strategies; disrupt elections; or feed disbelief in key challenges such as climate change.

According to the IREX definition, **information** includes any materials used to communicate knowledge or facts, such as newspaper or magazine articles, radio or television broadcasts, podcasts, blogs, or social media posts. It includes any information available within the country, regardless of whether it was produced in the country. **Misinformation**, as defined by IREX, is information that is not factual. It includes false or inaccurate information that is created with the intention of deceiving or misleading (i.e. disinformation), as well as false information that is created or spread unknowingly. Another category of information defined by IREX is **mal-information**, information that is based in fact but used intentionally and maliciously to harm individuals,

¹⁸ <https://www.oik-rks.org/wp-content/uploads/2019/12/Ex-Officio-Raporti-me-rekomandime-468-2019-compressed.pdf>

¹⁹ Article 202, Criminal Code of the Republic of Kosovo.

²⁰ <https://www.liberties.eu/en/stories/misinformation-vs-disinformation/43752>

²¹ [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/653635/EXPO_STU\(2021\)653635_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/653635/EXPO_STU(2021)653635_EN.pdf)

organizations, or groups of people. Lastly, the definition of **hate speech** used by IREX is the use of speech to make direct attacks against an individual or a group of people based on a series of protected characteristics, such as race, ethnicity, nationality, religion, sex, sexual orientation, gender identity, and physical or mental ability. Both are created with the intent to harm individuals, groups of people, or the public interest.²²

Despite the advancement of terminology, Kosovo's legal framework on disinformation is rather general. Nevertheless, there are certain legal documents that tend to regulate disinformation in Kosovo.

To begin with, the Law against Defamation and Insults, adopted in 2008, while ensuring the right to freedom of expression, sets certain standards on compensation of persons whose reputation is harmed by defamation and insults. According to the Law, defamation means the publication of an untrue fact or statement that the publisher knows or should know is untrue, the meaning of which injures the reputation of another person, whereas insult means a statement, behaviour, or publication of a statement directed at another person that is humiliating. Furthermore, publication means disseminating an expression, whether in written or spoken form, whether in print or broadcast media or by other means, which is heard or read by at least one third person.²³ According to the same Law, a person has the right to demand to stop the defamation and insult and to demand that it will not be repeated in the future, or the refutation of defamatory or insulting information and compensation for moral and material damage caused by the defamation and insult through a court proceeding. Moreover, the Law maintains that if defamation and insult is performed through a mass medium, it shall be refuted in the same mass medium and be given the same prominence. The refutation shall be published within eight days of receipt of the relevant demand in the case of daily newspapers on the same page where the defamation and insult were published, in the next issue of a periodical or a telegraph agency and within eight days in the same manner or at the same time of day in case of broadcast information.²⁴

In addition, the IMC's Code of Ethics provides further guidance when it comes to accuracy of the news published by its members. Article 6 of the Code of Ethics maintains that

*Media Service Providers (MSP) have to report the news accurately and present it in an impartial manner. They must not broadcast material that they know or should know is false or misleading... MSPs have a professional obligation to immediately correct any published information that is found to be incorrect and acknowledge their mistake. Corrections should be appropriately scheduled.*²⁵

22 Vibrant Information Barometer, IREX.

23 Law against Defamation and Insults, No.02/L-65.

24 Ibid.

25 Independent Media Commission, Code of Ethics for Media Service Providers, 2016.

According to the IMC's standards, while MSPs are free to express their opinions, they should make a clear distinction between news and opinion. News is information consisting of facts and data, while opinion carries thoughts, ideas, beliefs, assumptions, comments or value judgements. However, in many disciplinary rulings of the IMC and the Press Council some media outlets fail to make a clear distinction between news and opinion, whether intentionally or not. The Press Council also addresses the accuracy of reporting in its Code of Print Media. Article 2 of the Code says that: "In their work, reporters and editors should respect the factual truth and the right of the public to know the truth."²⁶

5. PLATFORMS FOR REPORTING HATE SPEECH AND DEBUNKING DISINFORMATION

In addition to the legal framework that guarantees freedom of speech while protecting citizens from hate speech and disinformation, Kosovo has institutional and self-regulatory bodies that deal with hate speech. The Parliamentary Committee on Human Rights provides a legislative platform for regulating hate speech. This committee works closely with the Ombudsperson Institution of Kosovo, which is yet another important platform for addressing hate speech and violation of human rights. At a lower level, Kosovo citizens use the Basic Courts as a platform for seeking justice when targeted by hate speech. Furthermore, the Court of Appeal and the Supreme Court have also dealt with cases involving hate speech. Ruling and interpretation related to hate speech have also been provided by media regulatory bodies, such as the Independent Media Commission and the Kosovo Press Council, who deal on a monthly basis with complaints against media service providers on matters related to violation of journalism standards, including incitement to hatred.

The civil society organizations (CSO) in Kosovo provide another platform for reporting hate speech and debunking disinformation. The contribution of local CSOs to curbing hate speech and fighting disinformation comes in the form of research and publication or in the form of advocacy. One project called "Combat hate in Kosovo", which was implemented by two local CSOs, ATRC and RADC, published a series of reports regarding the use of hate speech in Kosovo media against the communities in Kosovo which are most exposed to vulnerability and verbal discrimination.²⁷

Internews Kosova is another organization that has created a fact-checking platform that aims to debunk fake news. Since 2016, this organization has implemented a project called "Krypometer", that specializes in fact-checking public claims and media reporting.²⁸ A special team of journalists is engaged on a weekly basis to identify claims that appear to be false or misleading

²⁶ Kosovo Press Council, *Code of Print Media*, 2019.

²⁷ ATRC, "Hate-o-meter", 2021, <https://advocacy-center.org/wp-content/uploads/2021/06/Hate-0-Meter-Research.pdf>.

²⁸ <https://kallxo.com/krypometer/>

and then provide evidence that undermines such claims. At a time when disinformation, misinformation and fake news is on the rise, this platform appears to contribute in identifying false information that would otherwise mislead Kosovo citizens.

Lastly, Action for Democratic Society (ADC) is another CSO that specializes in debunking disinformation. ADC runs a specific project on fact-checking called “hybrid.info”, which not only provides evidence-based analysis of fake news, but also identifies suspicious fake media in the local language. There are other CSOs in Kosovo that run short-term projects that aim to increase media literacy in Kosovo.

6. POLICY RECOMMENDATIONS

- Regarding media and information literacy, the Kosovo Government and relevant education institutions, such as the Ministry of Education, should urgently introduce subjects that will be taught in school to provide a better understanding of the media and information literacy.
- Kosovo’s educational institutions should increase the teaching of critical thinking and the online sphere to improve inflammatory language and inappropriate ethnic slurs in the online space.
- Self-regulation bodies should hold discussions with their members and urge them to take action in the comments sections of their online media, social media and networks when it appears.
- Media organizations should increase their fact-checking mechanisms / newsrooms and remind journalists of the Code of Ethics more often.
- The media should have regular sessions with journalists to speak about and discuss hate speech, inappropriate language and ethnic slurs in order to prevent them appearing in content, comments and other communication.
- The media should collaborate more with the fact-checking institutions and non-governmental organizations in countering hate speech.
- The media should create anti-hate, anti-propaganda coalitions to fight inflammatory language in political communication.
- Increase the collaboration of CSOs and fact-checking section of CSOs and the media with global social networks to report/flag hate speech and disinformation in the local language in order to contribute to the removal of such content by the networks.

Literature and sources

The Constitution of the Republic of Kosovo

The Criminal Code of the Republic of Kosovo

Law against Defamation and Insults, No.02/L-65

Independent Media Commission, Code of Ethics for Media Service Providers, 2016

Kosovo Press Council, Code of Print Media, 2019

Kosovo Judicial Council, Judgements 2019–2021

Kosovo Ombudsperson Institution, Annual Reports 2017–2020 and Ex-Officio Reports 2017-2021

ATRC, “Hate-o-meter”, 2021

The European Parliament, “The Impact of Disinformation on democratic processes and human rights in the World”, 2021

Civil Liberties Union for Europe, “Misinformation vs. Disinformation”, 2021

IREX, “Vibrant Information Barometer”, 2021

Kallxo.com. “Krypometer”, 2021

ADC, “hibrid.info”, 2021

About the author

Jeton Mehmeti is a media professional, consultant and research expert with more than a decade of experience in supporting media business, innovative media ideas, and media capacity assessment. He has worked with numerous media organizations in Kosovo and the Western Balkans region, supporting them in strategic planning, management transformation and community building.

This publication is a part of the RESILIENCE project research and advocacy component. It includes a series of factsheets on NATIONAL REGULATORY AND SELF-REGULATORY FRAMEWORKS AGAINST HATE SPEECH AND DISINFORMATION in Albania, Bosnia and Hercegovina, Kosovo, Montenegro, North Macedonia, Serbia and Turkey. The series also includes a factsheet with examples of regulatory and self-regulatory mechanisms on the EU level and in the EU member states.

Nine media development organizations in the Western Balkans and Turkey have joined forces under an EU-funded project 'RESILIENCE: Civil society action to reaffirm media freedom and counter disinformation and hateful propaganda in the Western Balkans and Turkey'. The three-year project is coordinated by the South East European Network for Professionalization of Media (SEENPM), a network of media development organizations in Central and South East Europe, and implemented in partnership with: the Albanian Media Institute in Tirana, the Foundation Mediacentar Sarajevo, Kosovo 2.0 in Pristina, the Montenegro Media Institute in Podgorica, the Macedonian Institute for Media in Skopje, the Novi Sad School of Journalism in Novi Sad, the Peace Institute in Ljubljana, and Bianet in Istanbul.