

Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Ref.: AL OTH 137/2023
(Please use this reference in your reply)

25 October 2023

Dear Mr. Kurti,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolution 52/9.

In this connection, I would like to bring to your attention information I have received concerning **alleged attacks against journalists and the fate of independent media in Kosovo**.¹ I take this opportunity to highlight these concerns following my official visit to Kosovo in April 2023, in my capacity as the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

Since my visit I have received the following information, on which I would welcome your comments and response:

Suspension of Klan Kosova's business license

Klan Kosova is a private media outlet that belongs to the Devolli Corporation.

On 14 June 2023, the Ministry of Industry, Entrepreneurship and Trade (MIET) announced in a press release that it filed a criminal report with the Department of Serious Crimes of the Kosovo Police against KLAN KOSOVA SH.P.K Trading Company, under the suspicion of abuse of official positions and economic authorizations. Through the criminal report, the Ministry and the Commission for the Review of Complaints for Business Registration (ARBK) has suspended the business license of the private outlet.

The MIET's criminal report and the ARBK's decision to suspend Klan Kosova's business license came following an article that was published by a media outlet about Klan Kosova on 13 June 2023, which alleges to be an investigation into the private media outlet's ownership history. The article alleges that KLAN KOSOVA SH.P.K Trading Company was registered in Serbia.

The official text of the decision, dated 14 June 2023, stated that the registration of a business is not permitted where the location is in opposition with the basic principles of the Kosovo Constitution.

Klan Kosova was informally notified by the MIET of the decision, however, no official decision has been received from the Ministry in writing. Furthermore, our sources report that the outlet never had any previous contact or action from any institution of Kosovo regarding the issues, which the

¹ All references to Kosovo should be understood to be in the context of United Nations Security Council Resolution 1244 (1999)

Mr. Kurti

Ministry has raised doubts about. It is also alleged that Klan Kosova was not given the opportunity to provide any explanations to the state institutions regarding the Ministry's claims, which are believed to have stemmed from the afore-mentioned article.

I note that the news triggered numerous reactions. The ARBK's decision to suspend the business license of Klan Kosova was criticized by local legal experts who asserted that it has no competence to do so, as this is the responsibility of the Independent Media Commission (IMC), and that Law No. 06/L-116 and the articles the Ministry referred to are irrelevant to the accusations.

On 15 June 2023, the Deputy General Director of the ARBK corrected the law referenced in the MIET's decision to suspend the business license of Klan Kosova to Law No. 06/L – 016 for Commercial Companies.

On 17 June 2023, the IMC discussed the decision of the ARBK to suspend the business certificate of the company KLAN KOSOVA SH.P.K. According to the information received, only the IMC has the power to revoke Klan Kosova's license. The IMC, based on the recommendation of the Executive Office, decided that Klan Kosova must complete the necessary documentation for holding a business license within 30 days, in accordance with Regulation IMC-2021/01 for Audio and Audiovisual Media Service Providers.

On 21 June 2023, the ARBK issued an official decision revoking its decision to suspend the business license of KLAN KOSOVA SH.P.K, upon the completion of the requested documentation by Klan Kosova representatives. However, on 22 June 2023, the ARBK revoked this decision, reinstating the measure of suspending the business license of the private media outlet.

On 29 June 2023, the media outlet appealed the suspension decision before the Committee of the ARBK. This Committee, the composition of which is decided by the MIET, had until 14 July 2023 to reach a decision on the appeal. According to reports, should the Committee of the ARBK reject Klan Kosova's complaint, there is a risk that the private media outlet may close.

On 4 July 2023, Klan Kosova submitted a complaint to the ARBK with the aim of cancelling the decision to suspend the business certificate, having completed the necessary documentation within the designated timeframe.

On 28 July 2023, the MIET announced that the ARBK decided to reject the Klan Kosova's complaint. This decision closed the case in the MIET, though Klan Kosova have the right to appeal before a competent court. The ARBK's decision states that it, in the first instance, decided to suspend the business certificate of Klan Kosova in accordance with the law.

On 29 July 2023, Klan Kosova addressed the Commercial Court with a lawsuit for administrative conflict and a proposal to postpone the execution of the MIET's decision, deemed a security measure.

From my interaction with various sources, I understand some believe that the suspension of the business license is part of the Government's pressure on

Klan Kosova, and is an attempt to silence one of the largest media outlets in Kosovo and in the region. The suspension and subsequent closure of Klan Kosova creates a chilling effect on independent media in Kosovo.

I would like to express my concerns regarding the decision taken by the MIET, supported by the ARBK, to suspend the business license of KLAN KOSOVA SH.P.K. Given Klan Kosova's reported adherence to the process and its complaint regarding the suspension of their business license, I urge all relevant bodies, including the ARBK and the IMC, to ensure KLAN KOSOVA SH.P.K can continue to pursue its journalistic activities.

Attacks against owner of Gazeta Metro

Gazeta Metro is a news portal.

On 11 April 2023, the owner of Gazeta Metro was followed and attacked by three individuals, as he was returning home from a televised debate with Televizioni 7 or T7.

The owner of Gazeta Metro received medical attention following the attack at the University Clinical Centre of Kosovo and sustained some head injuries. He reported the attack to the Kosovo Police.

According to reports, three individuals were arrested in connection with the attack and are currently under house arrest, though there has been no indictment filed on the case to date. The prosecution is reportedly still investigating the attack.

It is believed that the attack is in retaliation for the owner of Gazeta Metro's posts on social media, where he criticized the Kosovo Islamic Community and Grand Mufti of Kosovo for allegedly not reporting financial expenses.

This is not the first time that the owner of Gazeta Metro has been attacked. In October 2020, his vehicle was shot several times in Mitrovica. It was believed that the reason for the attack was his criticism of the Kosovo-Albanian diaspora. The suspect of the attack was fined 4,000 EUR. A few months later, the owner of Gazeta Metro was reportedly attacked again on the street in Pristina.

The recent attacks on the owner of Gazeta Metro underscore the importance of ensuring the physical and psychological integrity of journalists and media workers in Kosovo. Such attacks create a chilling effect on journalists and media workers carrying out their work in Kosovo, exercising their right to freedom of opinion and expression. I urge relevant authorities to thoroughly and independently investigate the attack faced by the owner of Gazeta Metro and to take measures to ensure the physical and psychological integrity of journalists and media workers in Kosovo.

Developments in the Independent Media Commission

Since my visit, I received some concerns regarding the appointment of Ms. Luljeta Aliu as a member of the Independent Media Commission (IMC). The appointment has been criticized as a political decision, as Ms. Luljeta Aliu

has reportedly publicly supported Lëvizja Vetëvendosje (VV) and their politics.

I would like to express my concerns in this regard concerning the importance of independent and unbiased voices in media regulatory bodies, such as the IMC. According to the *Law on the Independent Media Commission*, the IMC is an ‘independent body for regulation, management, and oversight of the broadcasting frequency spectrum.’ In order to safeguard the independence of such a regulatory body, I urge the IMC to ensure that members remain politically independent and unbiased, safeguarding media pluralism in Kosovo.

Recent attacks on journalists in the north of Kosovo

There were approximately 40 cases of attacks on journalists in the north of Kosovo reported to the Police since June 2023. These include cases where the lives and health of journalists have been endangered, and material damage was caused to equipment and vehicles. It has been reported that journalists reporting from the north had not been guaranteed security for their work, neither by local bodies nor by the international presence. This allegedly included journalists not being warned and informed by the security services about the dangers they may face while reporting from the municipalities located in north of Kosovo.

The Chief Prosecutor of the Mitrovica Prosecution Office said that the institution is working to identify individuals suspected of attacks on journalists in the north.

On 19 June 2023, the Ombudsperson of Kosovo expressed his concern about the attacks and threats against journalists, describing them as attacks on freedom of expression and freedom of the media, before adding that any attack or threat against journalists is unacceptable and violates basic human rights and freedoms.

On 21 June 2023, the Assembly of Kosovo (AoK) Committee on Local Governance, Public Administration, Regional Development, and Media met with journalists alleged to have been assaulted while working in northern Kosovo during the last month. The Chair of the Committee expressed the full support of the Committee in defense of the freedom of speech.

I wish to express my deep concerns regarding the sustained attacks against journalists carrying out their work, particularly in the north of Kosovo. I urge the relevant authorities to provide efficient and adequate protection and timely assistance to such journalists, given the high prevalence of attacks against them.

Without prejudging the accuracy of the above information, I wish to express my concerns regarding the above allegations and information received, which seems to indicate an escalation of attacks on journalists and media freedoms, particularly in the north of Kosovo.

I urge the relevant authorities and officials in Kosovo to adopt without delay the legislation to strengthen the Independent Media Commission and for all those in

prominent public roles in Kosovo to create a safe and enabling environment for journalists and those exercising their right to freedom of expression, as also highlighted in my preliminary observations at the end of my visit to Kosovo in April 2023.

I would also like to urge you to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the UDHR, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) that you may have on the above-mentioned allegations.
2. Please provide information on the factual and legal grounds for the suspension of KLAN KOSOVA SH.P.K Trading Company’s business license, and how these measures are compatible with international norms and standards as stated.
3. Please indicate what action is underway, if any, to conduct a full and impartial investigation into the attacks against journalists, including against owner of Gazeta Metro and those in the north of Kosovo. If the alleged perpetrator(s) has or have been identified, please also indicate if any criminal sanctions or disciplinary measures have been imposed on them.
4. Please provide information about measures taken to ensure that journalists and media workers in Kosovo can carry out their professional activities in line with international human rights standards and in a safe and enabling environment without fear of harassment, criminalisation, or acts of intimidation of any kind, including threats to their life.

I would appreciate receiving a response within 60 days. Past this delay, this communication and any response received will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of my highest consideration.

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, and without prejudging the accuracy of these allegations, I would like to draw your attention to the relevant international norms and standards.

Though Kosovo is not a party to any of the international human rights conventions, Article 22 of its Constitution foresees the direct applicability of international human rights conventions. By incorporating these instruments into the Constitution, the legal system and the authorities of Kosovo shall be obliged to adhere to them.

I would like to remind you that the right to freedom of expression protects the right to seek, receive and impart information and ideas of all kinds regardless of frontiers. Any limitation to the right to freedom of expression must meet the criteria established by the International Covenant for Civil and Political Rights (ICCPR), in particular under article 19(3). Any restrictions must be provided by law, they must be necessary and proportionate, and must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant.

The article 19(3) requirement of necessity implies an assessment of the proportionality of restrictions, with the aim of ensuring that restrictions “target a specific objective and do not unduly intrude upon the rights of targeted persons.” The ensuing interference with third parties’ rights must also be limited and “justified in light of the interest supported by the intrusion.” The restrictions must be “the least intrusive instrument among those which might achieve the desired result.”

I would like to emphasize, in this regard, that journalism provides an essential service for any society, as it equips individuals and society as a whole with the necessary information to allow them to develop their own thoughts and to freely draw their own conclusions and opinions (A/HRC/20/17 para. 3). We also recall that a free, uncensored, and unhindered press constitutes one of the cornerstones of a democratic society (CCPR/C/GC/34 para. 13).

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including inter alia ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’. Further, the Human Rights Committee made clear that “It is not compatible with article 19 paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information”. Article 19 requires the States to guarantee the right to freedom of expression (Id.). It is the States’ duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (paragraph 23). In our view such attacks also include the use of the legal and judicial system to instigate and prolong frivolous charges against those

who discuss human rights, both online and offline.