

# *The right to free expression in Kosovo rate*

*Ibrahim Berisha\**

## **Abstract**

The paper work focuses to analyze the regulated rate of media during the media transition period, into a specified context of public relations, as well as ethical and professional impact of this norm that has to do with the freedom to speak, to distribute and get information. The approach will focus on public media report, the audience, ethical obligation and legal rights in the society of Kosovo after 1999. The regulatory rate is being analyzed divided into two periods: the first, period after the war, from 1999 to 2006, when the Kosovo society was administered by UNMIK (the Constitutional Framework, media regulations and administrative decisions) and the second period before and after the recognition of the state of Kosovo by the international community, from 2006 to 2014, when the rate is approved by the legislature of the Republic of Kosovo.

**Key words:** *Electronic media, the right, regulative norm, freedom of speech, Kosovo*

Until 1989, when the collapse of the communist system began in Kosovo, though, and in the former Yugoslavia, we had to do only with state media. It was exercised the direct ideological-political control on the nomination of the leader, then in determining the editorial policy and the number of electronic and print media. In Kosovo Radio and Television of Pristina<sup>1</sup> network of local radios in Pristina, then newspapers "Rilindja"<sup>2</sup>, informational and cultural

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\* Prof. asoc. Dr. Ibrahim Berisha, AAB College, University of Pristina. Email: iberisha5@hotmail.com

<sup>1</sup> In Kosovo, The *Television of Pristina* broadcast since November 1975, at the beginning with only three hours of daily program.

<sup>2</sup> The institutional journalism started with the newspaper *Rilindja*. On 12<sup>th</sup> February 1945, was published the first number of the four page flyer *Rilindja* in 1000 printed copies. *Rilindja* started work with an editor and three journalists. From 1948, up to 1957, this was the only newspaper printed in Albanian language, firstly twice a week, while from November 1958, became a daily newspaper.

magazines, newspapers in Serbian and Turkish language present information to the public system. Information held in three languages: English, RTP and newspaper "Renaissance" Serbian RTP and RTP Turkish newspapers and Jedinstvo and Tan newspapers. Electronic information formally constructed based on the laws on information and network utilization diffusive, approved by the Assembly, as the highest legislative body of the Autonomous Province. There were two separate laws for regulating, organizing and directing the activities of RTP: "The law on mass media" and "Law on RTP." According to these laws, since the Parliament was the founder and it appointed the general director of RTP, director and editor in chief of Radio Pristina with a 4-year term. It should formally request the opinion of the employees of these institutions through workers' councils.

Kosovo Assembly reviewed and approved the five-year plans. As a public board, the Assembly appointed the Presbytery Program, the body that should ensure "the protection of special social interest". Two-thirds of Presbytery were representatives of institutions and various social, political and professional organizations, and one third represents the group of employees of the relevant media. This was true for all electronic media, both local as central.

Radio Television of Prishtina, simultaneously represents a broadcasting institution in Kosovo,<sup>3</sup> from which the issuer provided conventional network throughout Kosovo. This institution possessed with television frequencies for electronic media in Kosovo. The RTP founder was the Assembly of Kosovo, it had a limited legal independence in the sphere of information from the former Yugoslav federation, but politically it was dependent on ideological LKJ directives, not only informative, but also cultural and documentary. The Assembly of Kosovo observes and was responsible for the development of electronic media, unlike print media, where this responsibility had LSPPK (Working People's Socialist League of Kosovo), a similar organization to the popular front in other socialist

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<sup>3</sup> Established in 2005, The Independent Media Committee (IMC) is a competent organ for regulation, managing and observing of frequency range in the Republic of Kosovo. Pursuant article 141 of the Constitution of the Republic of Kosovo, IMC is proclaimed as independent organ.

countries. Even though it is not on the forefront the Communist league authority, its structures completely control and direct media policy. In seven regional centers of Kosovo were local electronic media, municipality radios that were established and funded by Municipal assemblies.

The newspaper "Rilindja" represented the only daily life in Albanian language in Kosovo since the end of World War II. Its founder was LSP, <sup>4</sup> it has the Presbytery appointed by organization considered as its founder and forms of control are carried out the same as in the case of RTP, through establishing executive leaderships with previous political consents. To achieve internal governance in the media, there were Councils of Workers. RTP was never able to secure the financial expenses coverage. From advertisements and propaganda programs were provided 25-35 percent of assets, while 65-75 percent is provided by the Parliament, namely by the budget of Kosovo.

Kosovo media system that was built during 1970-1980's, central and local radio broadcaster, the daily press "Rilindja" and magazines were banned in the early 90s, after the installation of apartheid and Serbian political crimes in Kosovo by the regime of Belgrade. Televisions and radios were not technically possible to continue their work, which, in particular radio, had a tradition started in the 40s century, in the time of World War II.

By the end of 1941 it starts the broadcasting of program from Prizren. *Radio Prizren* had the transmission power of 200 watts. The program was mainly broadcasted in Albanian and time after time in Turkish. The high school students of *Sami Frasheri* in Pristina have expanded the broadcasting network in 1942 with *Radio Kosova*, which had a transmission capacity of 500 watts. A Newspaper with a tradition of 50 years "Rilindja" continued to emerge as the newspaper "Bujku"<sup>5</sup> and after 1990, but without the right to have its network of

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<sup>4</sup> Working people's Socialist League was the "the most massive socio-political" organization in Former-Yugoslavia up to 1990.

<sup>5</sup> After stopping the Newspaper Rilindja by the Belgrade's regime in 1990, it started with the publishing the daily newspaper Bujku. Bujku was the name

distribution, then the press print with two systems roto and *offset system* of the most modern in technological and technical point of time, while on its premises, for which has allocated money to build, was forced to pay the rent. Blackmails to stop publishing the newspaper were permanently through financial pressure, as it was not allowed to open the account and receipt of proceeds from the sale of newspapers. Meanwhile, in Pristina was launched, another daily newspaper, as a continuation of the magazine "Koha"<sup>6</sup> with the status of private paper, but supported by international foundations. These two papers were joined by the "Kosova Sot",<sup>7</sup> which was partly funded by international donations. Status of the newspaper "Bujku" was undefined, as it was not registered and had no private title, so its journalists and employees have created the Statute with the quality of shareholder of all employees. In Switzerland, since 1992, was issued the newspaper "Rilindja" that was the newspaper "Bujku" in Pristina.

After 1999, "Rilindja" failed to define the owner, while it was eventually closed after taking the Media House for UNMIK needs, while Radio Television of Pristina was not allowed to work at all, nor its employees to return to their work.

Special Representative of the Secretary-General of the UN, dr. Bernard Kouchner, in a separate decision, opened the way to the work of a Radio and Television, which then by decision 2001/13, signed by Hans Haekkerup, Kouchner's successor to the post of Special Representative, has established Radio Television of Kosovo as the Public Broadcasting service of Kosovo. Radio Television of Kosovo is not a continuation of the earlier electronic institution. It was created

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of the magazine for Agriculture and Village and it was published in Pristina.

<sup>6</sup> The first number of *Koha ditore* was issued on 3rd April 1997, and it was published every day, except Sundays. Since 10th march 1998, the newspaper was published every day. The newspaper *Koha ditore* with the private owner, was preceded by magazine *Koha* that at the beginning was published twice a week and later on every week, and it was published with this dynamic, starting from September 1990 up to march 1991

<sup>7</sup>Newspaper *Kosova sot*, by Private Publisher, begins with publishing in Pristina, starting on 12th September 1998.

by the Special Representative, more exactly UNMIK, and indirectly, is managed and controlled by the referential structures of the UNMIK, OSCE. Public institution of RTK is governed by two boards.<sup>8</sup>

According to a report of TMC<sup>9</sup> it can be defined some of the key elements of the development of electronic media and the press in Kosovo. In late 2001, in Kosovo for radio broadcast have applied 48 radio stations in Albanian language, 22 radio stations in Serbian language, of which 2 radios in Turkish and Bosnian and three radios in Roma language. Beside licensed radios to broadcast programs in languages in Kosovo, especially in mixed municipalities where alongside Albanians live the minorities, are working radios in two of three languages: 2 radios in Albanian and Serbian languages, 2 radios in Albanian language, Serbian and Turkish, 2 radios in Albanian and Bosnian 1 radio in Albanian, Serbian and Roma language, 1 radio in Albanian and Gorani, 1 radio in Albanian and Turkish, 2 radios in Serbian and Roma language. Report: Report of TMC, Pristina, 2002, at the end of 2001, in Kosovo were to issue programs 15 TV stations in Albanian, 6 in Serbian, one in Albanian, Serbian and Turkish and 1 in Albanian, Bosnian and Turkish language.<sup>10</sup>

This large number of electronic media can be justified by the donations that are given separately for certain media, radio and television, of foreign foundations. Funding is provided to the media in Albanian and minority languages. A part of the media is funded by private businessmen. In Serbian language, financing of some of the media is done directly by the Serbian government and the Serbian nationalist organizations, as well as other certain activities in enclaves such as: health, education, security, etc.

The press was in an unfavorable position, since the newspaper manufacturing costs were quite high. Taxes on imports of paper and increased costs of printing and distribution, have slashed the circulation of newspapers because of their price increase, publishers

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<sup>8</sup> Pursuant to Regulation 2001/13, RTK consists of Board of Directors and Transmission Board" (Art.2).

<sup>9</sup> Doc, The Kosovo temporary media commissioner, report 2000-2001, Pristina, 2002.

<sup>10</sup> Ibid

are required not to work at a loss. The newspapers were partially funded by international foundations, but not in a transparent and equitable. Criticism of some publishers to foundations funding certain newspapers based on favoritism and created the pretext to create monopolies in the Kosovo Albanian press. It is not balanced, neither the percentage of advertisements sent by UNMIK and other print foundations to the press. The Daily newspapers that were published in Albanian language in Pristina, in early 2002, are: "Bota sot", "Koha ditore", "Zëri ditor", "Epoka e re", "Kosova sot" and "24 orë" (is not published in 2003). Also "Rilindja" and "Gazeta e Re", ceased to emerge due to financial reasons.

The UNMIK Administration, after 1999 has promulgated regulations, which defined the obligations of the media and a strict code of conduct of media and journalists in Kosovo. Special Representative of the UN Secretary in Kosovo, Bernard Kouchner, signed the Regulation no. 2000/37, which regulates the licensing and regulation of media in Kosovo. Alongside the Regulation on licensing and regulation of the media in Kosovo, Bernard Kouchner, signed the Regulation on print 2000/36. Regarding these regulations, there was a range of reactions, especially by representatives of the media itself, which have described this document as restrictive and censorship. The powers of the Special Representative have made him to create this drastic regulation. Article 1 \ 1 of the Regulation defines the power of the Commissioner of Temporary Media, the final international administrator: "The temporary Media Commissioner is responsible for the development and advancement of independent media professional and the implementation of a receiver for all media until Kosovo established a Temporary Media Commission, which is independent in carrying out these tasks. " Article 1 \ 2, strengthens the role of the Commissioner, since the "Temporary Media Commissioner is appointed by the Special Representative of the Secretary General of the UN in Kosovo." <sup>11</sup> So, the procedure of establishing responsible media in Kosovo had not to do with respect for democratic procedures. The least that could be said was the fact

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<sup>11</sup> Regulation no. 2000/37, UNMIK, Pristina, Article ½.

that ways of establishing and the available means possessed by Special Commissioner were authoritarian and threatening.

Obviously to strengthen the position of the international community, by this Regulation were planned also drastic penalties for all media, which could come into conflict with its provisions. In article 3, it is stated that against those who do not comply with the code of transmission can be taken several measures, among which should specify: penalty up to 100 thousand German deutsche marks; Prohibition of the broadcast license; Taking of the equipment; Interruption of transmission.<sup>12</sup> According to Article 3 \ 1: "Temporary Media Commissioner may request assistance from the relevant legal authorities of Kosovo and appropriate public officials to implement a penalty."

A separate problem posed the Article 5 \ 1, which aimed to fix a very wide and vague field: "Radio and television operators shall refrain from issuing personal details of any individual, including name, address or workplace when issuing such details would pose a danger to the life of that individual, or safety of any individual, from people who take the law into their own hands." These articles openly reduced the ability of the journalist to write the truth, in order to preserve the public peace. Likewise, press regulation concentrated more power to the Commissioner for Media. Article 2/1 defines his punitive powers: To fine those who breach the code or rules of conduct up to 100.000 German Deutsche Marks; May confiscate equipment and material and may eventually even stop the work. Even in press regulation the same penalties are applied as for electronic media. This Regulation "bans publication of details of individuals whose life is assumed to be in danger, similar to electronic media". Issuing restrictive regulations for the media is also anticipated in the Constitutional Framework, Chapter 8 (Powers and Responsibilities reserved to the SRSG, part (Y), that specifies the method of appointment of boards formally preserving most of Kosovo, but practically decisions were influenced by international members. Quoting articles of the regulation: "Appoint international experts in

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<sup>12</sup> Ibid

administrative boards or in public broadcasters committees, independent organ for regulating media and other institutions that deal with the regulation of public media, provided that the numbers of candidates by the SRSG does not constitute the majority of any administrative board " Procedures and method of appointment of boards and local representatives on these boards over the past three years has been unclear and non-transparent, and practically, has often had feedback from journalists and their associations for the members appointed, that a number of them have never dealt with journalism or media.

Rules adopted by international institutions in Kosovo sacrificed the freedom of the media, especially the truth on behalf of peace, which was a priority of the international administration, but it is also seen as a priority and the prospect of Kosovo's population. Regulations limited the investigative journalism in addition to the extent of censorship, they contributed to the increase of self-censorship among journalists that increased pressure from media owners<sup>13</sup> to be very careful with the topics they deal. In Kosovo, 14 percent of journalists are skeptical about the implementation of the legal guarantees due to the interference of media owners.

After the declaration of independence, the Kosovo Assembly adopted the Constitution of Kosovo. 14 In this document these rights fall under the group of human rights and fundamental freedom classified as rights for civil and political freedom, defined as freedom of expression, the right of access to public documents and media freedom. Besides these rights, the freedom of expression is also classified with its constitutional and guaranteed elements, including the freedom of speech and public appearance and public information; right of establishment of institutions for public information, as prescribed by law; Free access to information, freedom of reception and transmission of information; the right to reply to mass media; The right of improvement in the public media; the right to protect a source of information in the mass media; Censorship is prohibited.

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<sup>13</sup> Media Indicators 2015, Pristina, pg.10.

<sup>14</sup> Doc. The Constitution of the Republic of Kosovo, (2008), Pristina.

Laws which are directly linked to the freedom of expression and media have derived from the principles of the constitution. The field of freedom of expression and media functioning in Kosovo is supported by laws which are harmonized with legal-political and professional principles of the European Union. Based on the numerous researches conducted in Kosovo recently, the execution of laws on media is very low, thus journalists and professional journalism are found to be in a very bad position. The information that only 52% of journalists believe that the Constitution of Kosovo guarantees the freedom of expression,<sup>15</sup> shows their uncertainty for professional work, and that they are free and protected to conduct research and publish the truth in which the public is interested.

### ***Conclusions***

Media, regulatory norm and freedom of expression constrained by political systems in Kosovo went through four periods: communist regime (1945-1990), segregation and regime of Milosheviq (1990-1999), International administration (UNMIK) (1999-2008) and independence of Kosovo (2008-2014). During the communist era there was no freedom of expression, because touching the "values of self-governing socialism" was sanctioned drastically. It was a period of full control over the media policies and appointments of the key leaders and restrains on professional perspective with "idea-political expediency".

The period of segregation after 1990 is known for banning the work of the media in Albanian language. After 1999, the international civil administration of the UN (UNMIK), started to control over the multiplied media through regulations on electronic media and press, by not leaving the required space for a professional journalism and complete freedom of expression. The truth, as the main purpose of freedom of expression was sacrificed for the post-conflict peace of society. Alongside the censorship conditioned by the regulatory norms, the auto censorship from the journalists itself is highlighted which is added by the pressure of the owners who do not want to lose

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<sup>15</sup> Media Indicators 2015, (2015), Pristina, pg.10

their international donations addressed to “support democracy and media”.

After 2008, the constitution of Kosovo and all the laws which regulate the public communication field were approved with principles and values compliant to the democratic principles and values of the European Union. Nowadays, even though there is a functional regulatory norm in place, its lack of execution, threat towards the journalists and closure of information sources, the impact of politics and owners reflect the freedom of expression and the achievement of professional and ethical standards present in public communication of democratic societies.

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