



**THE KOSOVO
TEMPORARY MEDIA COMMISSIONER**

**ANNUAL REPORT
2002**

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SOURCE OF AUTHORITY OF THE TEMPORARY MEDIA COMMISSIONER

On 17 June 2000, the Special Representative promulgated two regulations: UNMiK Regulation No. 2000/36 on the Licensing and Regulation of the Broadcast Media in Kosovo, and UNMiK Regulation No. 2000/37 on the Conduct of the Print Media in Kosovo.

UNMiK Regulation No. 2000/36 provides the basis for the authority and the responsibility of the Temporary Media Commissioner, described in Section 1.1 as follows:

“The Temporary Media Commissioner is responsible for the development and promotion of an independent and professional media in Kosovo and the implementation of a temporary regulatory regime for all media in Kosovo, pending the establishment of an Interim Media Commission, and shall be independent in the performance of these responsibilities.”

UNMiK Regulation No. 2000/37 provides the following:

“The Temporary Media Commissioner, in special circumstances, may issue temporary codes of conduct “ (section 1.1)

“The TMC may impose [...] sanctions on owners, operators, publishers, editors-in-chief, and/or those with ultimate final editorial control of publications published and/or distributed within Kosovo, who operate in violation of the applicable law, or such code or codes of conduct as may be promulgated . . .” (section 2.1)

It confirms the right of appeal to a Media Appeals Board of any person affected by sanctions (section 3), and with section 4 it establishes special provisions to protect life or maintain civil law and order.

Both regulations are described as temporary. Regulation No. 2000/36 is issued ‘for the purpose of licensing and regulating the broadcast media... pending the establishment of a regulatory regime for broadcasting’. Regulation No. 2000/37 includes the purpose of addressing the conduct of the print media in special circumstances, “pending the establishment of an effective professional self-regulation by the print media in Kosovo.”

INTRODUCTION, EXECUTIVE SUMMARY AND OUTLOOK

by Anna Di Lellio (TMC)

In the two years of its life, the Temporary Media Commissioner (TMC) has brought a fair degree of order to the chaos of publications and broadcast outlets emerging since the summer of 1999, institutionalising transparent procedures for regulating all media. During 2002, the office of the TMC has continued to implement the UNMiK Regulations on which its authority is based, consolidating the experience garnered over the past two years in order to set the foundation for a more permanent management of media policy.

This was not routine work. The TMC was established by the United Nations Interim Administration in Kosovo (UNMiK) and the OSCE Mission in Kosovo (OMiK) for the temporary implementation of media policy in Kosovo after the conflict. Its existence reflects a conviction that a specific body of rules and procedures is necessary in a transitional society – namely in a post-conflict environment, where enmities are easily inflamed, security and the rule of law are fragile or altogether lacking, and the court system is still in its infancy. The TMC was to ensure the protection of freedom of speech, while also curbing the use of media to diffuse hateful content, with potentially dangerous consequences for the safety and lives of citizens.

But the TMC was also intended to ensure an easier passage from international to domestic governance once the Provisional Institutions for Self-Government (PISG) had been put in place. Yet, after the first Kosovo-wide democratic election took place in November 2001 and the Assembly was constituted, the lack of legislation on the Independent Media Commission (IMC) has not allowed the transition from the small “international” office created during the emergency to the fully-fledged Kosovo institution envisaged by the Constitutional Framework.

In this context, the TMC had to work in very difficult circumstances, relying on limited staff and resources planned for the emergency. An illustrative example of the problem: only in December, after the release of funds destined to the future IMC in the Kosovo Consolidated Budget, the TMC office has been able to find a permanent accommodation and start planning for the expansion of its staff. During 2002 the TMC was fully supported, administratively and financially, by the OSCE, whose role remains pivotal in the transitional period.

In 2002 the TMC has produced a substantive body of work in the field of media regulation and development, strong in its mandate and independence, and shaping its rulings to conform to European norms and best practice.

First, the TMC has played a crucial role in the local debate on advertising in broadcasting, by leading a Task Force that rejected the idea of a public broadcaster completely deprived of commercial revenue. The Task Force obtained instead the establishment of a license fee collected monthly by the Kosovo Electric Company KEK and paid to the Radio Television Kosovo (RTK). The aim of Regulation 2003/5 is to guarantee the independence of the broadcaster from government but also, once the system of public financing is fully in place, to set a cap on advertising revenue, in line with European practices.

Second, the TMC has built a material body of case law in the field of press regulation.

When the TMC was established in June 2000 the main concern of the international administration was to curb "vigilante journalism" - the calls for inter ethnic killings inspired and instigated by inflammatory and libelous article. There has been some improvement since then. Yet, violence remains a factor, not dissimilarly from what happened in other countries emerging from "wars of resistance" and "liberation." Rival political or interest groups use the press to settle old scores. They use the patriotic rhetoric of wartime martyrs (the heroes) and collaborators (the villains) to attack, discredit and marginalize

individuals. Also prevalent are largely unsubstantiated accusations of involvement in organized crime - an area where little has been effectively investigated or proven by the media.

This use of the press violates the public trust. In fact, all the premises lying at the foundation of Regulation 2000/37 and the Temporary Code of Conduct for the Print Media are still valid, three years after their promulgation as extraordinary and temporary measures:

- Kosovo press is extremely politicized, and does not hesitate to target individuals with violent campaigns, oblivious of their rights to privacy and safety;
- violence continues to afflict the society, in a post-conflict climate of reprisal and settling of old scores;
- the court system has not matured as fast as hoped and there is no civil law on defamation;
- self-regulation of the press does not exist, despite the recent formation of a Professional Association of Journalists: the Association has not adopted its own Code of Ethics yet.

As an increasing number of citizens have addressed their grievances against newspapers to the TMC, the TMC has not just applied the law. It has played a role of mediator in disputes of different nature. When a struggle has developed between the staff of radio stations and the Municipal Assemblies over the control of those broadcasters' property and management, the TMC has intervened and contributed to the successful defence of independent media. In contentious defamation cases beyond the grasp of a still struggling judicial system, the TMC has become a public advocate for a more responsible press and arbitrator of amicable solutions. These solutions are as important as the negotiating process -- a process that tries to educate the press about its responsibility and the public about its rights.

Finally, the TMC has kept the house of Kosovo broadcasting system fairly in order. All the remaining spare frequencies have been assigned with the third round of licensing in March 2002. All media are able to work without interference in their area of coverage and can count on a high quality signal. The Kosovo Frequency Plan, completed by October 2001, has become, in fact, a model for neighbouring countries. In the summer of 2002, the TMC technical advisor Emil Blakaj has created the frequency map for Albania.

Much remains to be done.

Most importantly, the year 2003 should see the establishment of the Independent Media Commission (IMC). Three years after the conflict, Kosovo needs an independent media authority with all the rights, the competence and the technical and human resources to meet its comprehensive tasks.

Because market forces alone cannot be trusted to ensure the development of free and responsible media, which are the foundation of a meaningful transition to democratic institutions, the IMC will play a crucial role in creating an open society. Its strength lies in its independent character, which is clearly defined both by the Constitutional Framework and the Commission's statute, which protects the institution from direct political influence. Legal provisions will ensure its financial independence.

One of the most important powers of the IMC is the authority to define the Broadcasting Policy. The IMC statute directs the Broadcasting Policy towards promoting diversity and pluralism, not only in order to meet the demands of a multiethnic society recently emerging from conflict, but also to reflect the variety of ideas and opinions of a public accustomed to decades of state monopoly over information. The IMC will use key policy instruments to guarantee diversity and pluralism in the media market by regulating the licensing process; adopting clear-cut provisions to prevent the concentration of ownership; promoting fair competition among commercial outlets and between private and public broadcasters as well; and ensuring the transparency and accountability of its activity to the public.

The IMC will also enhance the quality of programming, while protecting the citizens from dishonest or inaccurate reporting, by adopting broadcasting standards, monitoring programs, and responding to complaints from the public.

The IMC will issue and renew licenses, determine the process for assessing license applications, set technical conditions, monitor broadcasters, initiate and receive complaints, investigate complaints and issue sanctions.

A serious drawback to the work of the TMC has been the lack of enforcement mechanism for the sanctioning decisions made throughout the year. Without the possibility of enforcing decisions, the law is ineffective and the institution loses credibility. One of the main goals of 2003 should be the solution of this problem.

A final, more personal word: as the outgoing Commissioner, I want to thank the TMC staff who has worked with stubbornness and passion in very difficult circumstances. Without them the office would not have been able to achieve the results I am presenting to the public with this report.

The staff coming from abroad has brought skills and patience to an often perplexing job, in a context where the unfamiliarity of language and culture has not helped sort out the intricacies of a society traumatised by war and violence.

The Kosovo residents deserve the highest recognition for patience and dedication. They have seen their English speaking supervisors come and go many times, and have learned from their experience and skills, all the time struggling to comprehend and adapt to different cultures and work ethics. They will have to be prepared to take very soon this institution, like all the others, into their own hands and to ensure that the future of the Kosovo media meets the standards that the TMC has tried to establish.

To them, to the international advisors whose contribution is still crucial, and to my successor, I wish a productive year. To all the media professionals of Kosovo I send an appeal: strengthen your independence and go out to find the hundreds of news stories which tell of courage and violence, goodness and corruption, love and hatred -- all the stories which make Kosovo society so compelling.

Prishtinë/Priština, February 2003

A BRIEF HISTORY OF THE TMC

While the need for media policy was widely felt in Kosovo in the immediate aftermath of the conflict, there were no guidelines for media in the "interim agreement", let alone a comprehensive plan. At this point, both the United Nations Interim Administration Mission in Kosovo (UNMIK), entrusted with the administration of the province, and the Organization for Security and Co-operation in Europe (OSCE)¹, whose task it is to build democratic institutions, had the authority to establish some form of media guidelines. There was also a general awareness of the cautionary lesson learned in Bosnia-Herzegovina, where official hesitation following the signing of the Dayton Peace Accords slowed the process of reforming media regulation.

Following the recommendation of a feasibility report commissioned by the OSCE Mission in Kosovo and accepted by the OSCE Secretariat, as well as the UN in New York and Kosovo, the OSCE created the Department of Media Affairs. The Department obtained a broad mandate, including the development of local media, the establishment and monitoring of standards, the provision of a regulatory context, and the promulgation of the necessary laws. However, for a variety of reasons concerning the specific conditions of local society and politics, the OSCE media policy did not gain traction at the outset.²

On media regulation, the OSCE had to change course twice, under the critical scrutiny of journalists associations world-wide, NGOs as well as the world press.³ When the UNMIK Media Regulations were promulgated in June 2000, the OSCE had already abandoned two previous attempts at regulation. A first effort, the Media Policy Board, was modeled on the Bosnian example, and composed of influential citizens. It met with almost instantaneous, widespread criticism in the world press because it was perceived as censorship by another name. The second was the attempt to formulate a code of conduct for journalists by the local professional association. This failed to take off, due to lack of professional solidarity and consensus among local journalists.

In the absence of coherent regulation, the Kosovo media scene grew energetically. The speed of growth was such that problems quickly stacked up and many of these difficulties remain to be addressed. Licensing of broadcast media was ad hoc and uncoordinated. Ownership of stations often remained unresolved.

Co-ordination among the international agencies was finally achieved only in the Technical Agreement of December 2000. The OSCE Department of Media Affairs assumed the task of reviewing applications and issuing licenses⁴, while KFOR assigned frequencies. At first, temporary licenses were granted in a liberal manner. The TMC later made the effort to issue licenses only on the basis of public tenders, reducing to a minimum the practice of *ad hoc* licensing. The Kosovo Frequency Plan elaborated by the TMC's Technical Officer is the framework for civilian broadcasting in the province.

¹ Under the terms of UN Security Council Resolution 1244 (199), the OSCE, within the overall framework of UNMIK, would "take the lead role in matters relating to institution- and democracy-building and human rights."

² Sullivan, Stacy "Kosovo" in Monroe Price, *Restructuring the Media in Post-Conflict Societies: Four Perspectives*, Background Paper for the UNESCO World Press Day Conference in Geneva, May 2000, especially pp. 30 and 35. Overall the best report on media policy in Kosovo is Mark Thompson, *Slovenia, Croatia, Bosnia and Herzegovina, Macedonia (FYROM) and Kosovo. International Assistance to Media*, report for the OSCE Representative on the Freedom of Media, Vienna 2000.

³ Sullivan, p. 36; Steven Erlanger, "NATO Peacekeepers Plan a System of Controls for the News Media in Kosovo," *The New York Times*, August 16, 1999; "Kosovo's Incipient Media Ministry," *The New York Times*, August 30, 1999; and Garentina Kraja, "Kosovo Journalists' Deep Suspicion of OSCE Media Controls," *Balkan Crisis Report*, September 6, 1999.

⁴ The division of Media Regulation, Laws and Standards within DMA was given this responsibility, to support the work of the TMC.

It quickly became apparent that a single public service broadcaster serving all communities be re-instituted. The first constituent part of this, Radio Priština (later Radio Kosova), began broadcasting on 28 July 1999. The television component, Television Kosova, began broadcasting in September 1999. The two parts were soon incorporated should into Radio Television Kosovo, or RTK.

Regulation of the print media has been more problematic. The TMC relationship with print media is the area of work for which it is best known, through the controversy generated by the regulating of material published by newspapers. This should not be surprising. While statutory regulation of broadcast media is a normal undertaking in any democratic government seeking to optimize the use of the broadcast spectrum – a public good -⁵ the print media are subject only to self-regulation. In Kosovo, however, the lack of professional solidarity has thus far impeded the formulation of industry standards and a Code of Ethics for journalists.

In the tense atmosphere of late 1999 and early 2000, it was a single newspaper article that gave a sense of urgency to the establishment of the TMC and the Print Code of Conduct. This article threw a dramatic spotlight on “vigilante journalism.”

During this period, Albanian and Serb-language print and broadcast media had been prone to issuing threats of violence against groups and individuals, spreading misinformation, and otherwise inciting unrest. But there had been no known consequences for the targets of those accusations until Petar Topoljski was “outed” in the newspaper *Dita*.

On 27 April 2000, *Dita* published an article along with a photograph of Topoljski, a Serb employee of UNMIK, accusing him of criminal activities against Albanians during the NATO action. On 15 May, Topoljski was found dead. The Special Representative of the Secretary General (SRSG) Bernard Kouchner passed an executive order on 3 June 2000, closing the newspaper’s offices, and effectively shutting it down for 8 days. Immediately afterwards UNMIK established the TMC and promulgated the Media Regulations.

The handling of the *Dita* case by the UN catalyzed local journalists and editors against the international administration. For the emerging institution of the TMC it was a defining moment and forced an abrupt halt to the debate on media regulation – a debate begun in October 1999 and still in search of conclusions by the summer of 2000. The TMC was first appointed by the SRSG in October 1999, and was subsequently “given teeth” by the promulgation of Regulations 2000/36 and 2000/37 on 17 June 2000.

A further achievement was the refinement of the rules of procedure for the regulation of the press, after the first important case (1/2000) brought up against the newspaper *Dita* (separate to the case mentioned above). The Media Appeals Board (MAB) reassured the TMC that its actions complied with the European Convention on Human Rights. Indeed, the OSCE and the UN had paid scrupulous attention to the drafting of the Codes of Conduct for Kosovo media.⁶ But, more importantly for the longer term, the MAB instructed the TMC to pay scrupulous attention to due process.

⁵ Attempts to regulate the press are met everywhere with the strongest resistance among publishers and editors, as is amply demonstrated by the case of the British Press Council: see Shannon Richard, *A Press Free and Responsible. Self-Regulation and the Press Complaints Commission 1991-2001*, John Murray Publisher, 2001.

⁶ The Codes of Conduct were drafted in consultation with several international watch-dog groups for the press. Both refer explicitly to the Universal Declaration of Human Rights (Article 19, freedom of opinion and expression, and Article 29, exercise of rights is subject to the limitations of law needed to secure recognition and respect for the rights of others). The Codes also refer to the European Convention on Human Rights, including Article 2 (right to life to be protected by law), Article 5 (right to liberty and security of the person), Article 6 (those accused of a crime are innocent until proven guilty), and Article 10 (right to freedom of expression, subject to restrictions of law necessary in the interests of society).

The Board referred to the procedural guarantees established by Article 6 of the European Convention on Human Rights and noted that the principle of “*equal arms*” required not only that decisions be taken by an impartial and independent tribunal, but also that parties to proceedings be given an opportunity to present their case, and to know and comment on the evidence and observations that might be brought before a decision maker.

The Board observed the Regulation No. 2000/37 makes very little provision on the procedure to be followed by the Temporary Media Commissioner in determining the existence of a violation and imposing a sanction, providing merely for “*a reasonable opportunity for reply prior to the imposition of any sanction... The terms of the Regulation therefore present the Temporary Media Commissioner with a predicament, effectively making him judge in his own cause.*”

Since then, the independent panel of the Media Hearing Board exercises a review of every case before a sanctioning decision is formalized.

Three years later, Kosovo is considered a model to reckon in the debate on media policy in transitional, post-conflict societies.⁷

THE OFFICE OF THE TEMPORARY MEDIA COMMISSIONER

⁷ See Monroe E. Price and Mark Thompson, Forging Peace. Intervention, Human Rights and the Management of Media Space, Edinburgh University Press, 2002, especially ch. 9. “The Learning Curve: Media Development in Kosovo,” by Julie Mertus and Mark Thompson, pp.259-286 and ch. 5, A Module for Media Intervention: Content Regulation in Post-Conflict Zones, by Peter Krug and Monroe E. Price, pp. 148-176.

THE COMMISSIONER

Anna Di Lellio was appointed TMC by the SRSB on 3 September 2001. She taught Sociology and American Politics in the US before becoming the New York correspondent for several Italian media, producing two TV documentaries on post war Kosovo. Before joining the OSCE in Kosovo, she worked as Public Information Officer for the UN World Food Program in Albania, Kosovo and East Timor.

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THE TMC MEDIA MONITORING SECTION

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THE INDEPENDENT MEDIA COMMISSION (IMC)

In the year 2002, the TMC has remained the sole regulator of the civilian broadcasting system and the press, despite growing expectations of its replacement by the Independent Media Commission (IMC), a public agency is established by the Kosovo Constitutional Framework [Chapter 11.1 (e)].

The IMC is a civil service agency modelled upon similar ones such as the IMC of Bosnia-Herzegovina, in the new context of the Provisional Institutions of Kosovo Self-government. With the establishment of the IMC, Kosovo was to make an important step in aligning its media legislation with the EU's *acquis communautaire* and the Council of Europe's acts.

The approval of the IMC regulation – a law drafted during a period of 18 months by a group of international and local experts with extensive media and legal input, including from OMIK's Media Advisory Board and the Joint Advisory Panel on Legislative Matters - was expected before the November 2001 elections. All the three major Albanian political parties and the Kosovo Serb Coalition Povratak (Return) were consulted by the TMC and they expressed their consensus on the regulation. It was on the agenda of the Interim Administrative Council (IAC) meeting of November 6, 2001, which the Albanian parties boycotted in the aftermath of the Covic-Haekerrup agreement. No decision was made at that time.

The IMC regulation had a second chance on 6 February 2002, when the IAC discussed it and approved it. But that meeting occurred on the eve of the changing of the guard at the SRSG and consequently the regulation was not immediately signed.

This delay left room for reopening the debate on the merit of the draft law. The independent broadcasters objected to the signing of the regulation as it was. The US Government was critical as well. The main concerns were articulated in a document drafted by the Association of Independent Electronic Media of Kosova (AMPEK) and in several high level meetings with UNMiK, as well as in a contentious public debate in the local media. They said that there had been lack of consultation; that the institutional form of the Commission, as drafted in the regulation, did not sufficiently shield the broadcasters from political influence; and last but not least, that lack of detail on public broadcasting funding put the independent media at a serious disadvantage. In particular, there was a strong fear that the public broadcasters RTK could monopolise the small local advertising market and thus there was also a strong opposition to allowing RTK to be financed by commercial revenue as well.

In April these concerns were distilled in one action point, that is, the request for an independent review of the advertising market for Kosovo broadcasters.

The TMC took the lead in this action, and in May convened a Task Force on the IMC, a group composed of all major donors, the public broadcasters and the private ones. The majority of the Task Force – with the exception of local independent broadcasters, who reserved their right to oppose the IMC regulation in its entirety - agreed with the TMC's suggestion to separate the signing the IMC regulation from the experts' review of the advertising market for broadcasters. It was understood that this latter question should be addressed in the context of the Administrative Direction on RTK funding, in order to define to what extent RTK will be allowed to finance itself by advertising income, in addition to its funding through a license fee (See section 11.3 Source of RTK Funding of the Regulation 2001/13 on the Establishment of Radio and Television in Kosovo).

With funding from IREX, EAR and DFID, an international advisory group was identified in August and six weeks after its appointment it completed the report, Advertising on the Spot in Kosovo, recommending the SRSG that media regulation be established under the IMC and that RTK should have mixed funding (license fees and advertising). The report also sent a clear message to Kosovo radios and televisions: stop fighting for a small advertising pie and start co-operating to develop the advertising market, grow as broadcasters, and strengthen the economy.

Task Force advisory group

- **Stephen Claypole**, Chairman, DMA-Media, UK -- a well-recognized figure in the international broadcasting industry, his 28-year career spanning the television news industry as Managing Director, Development Manager and Marketing Communication Executive.
- **Michael Gregoire**, Secretary General of the European Group on Television Advertising, Brussels – director of a trade association of 39 sales houses and/or commercial departments which on behalf of 85 television channels in 26 countries collect over 15 billion Euro, or more than 60% of all television advertising investment in Europe.
- **Dr. Horst Wegner**, Executive Director of the German Kommission zur Ermittlung des Finanzbedarfs der Rundfunkanstalten (KEF), the independent Government agency that evaluates the market including the advertising market, assesses the financial needs and budget of the German public broadcasters ARD and ZDF, and recommends the level of the license fee to the German Government.

More specifically, the main conclusions of the report were:

- that a coherent regulatory framework be established as quickly as possible under a properly constituted Independent Media Commission (IMC), in line with European normative and best practices;
- that the European concept of financing Public Broadcasting by a mix of public and commercial funding is the most effective way of serving the viewers and listeners and the particular cultural needs of Kosovo, and that this funding should be regulated;
- that media, advertisers and intermediaries co-operate and create an association to supervise audience measurement, set up self-regulation, and monitor the expenditures for advertising.

The Task Force on the IMC heatedly debated the report, but finally reached the conclusion that RTK's funding should rely on different sources, including commercial revenue. The US Office proposed that a sub-group discuss the implementation of a collection system of public broadcasting fee through the Electric Company KEK, in order to ensure public funding as a first step to regulate and cap commercial revenues in RTK.

The TMC took again the lead and convened a meeting with KEK and RTK, aiming to have the two parties agree on a Memorandum of Understanding on the issue. But no agreement was reached. Therefore, on the prompting of the SRSO office, a draft Administrative Direction on the collection of public broadcasting fee through KEK was co-signed by the TMC and the head of EU Pillar (Economic Reconstruction) of UNMiK. Administrative Direction 2003/5, Implementing UNMiK Regulation No. 2001/13, On the Establishment of Radio Television Kosovo, was signed and entered into force on 5 February 2003.

But the IMC regulation remains in a limbo. The TMC briefed the Presidency of the Assembly and the Prime Minister on the regulation, in a lobbying effort to garner support from the PISG and eliminate the

last stumbling block to the signing of the IMC by the SRSG. Nevertheless, at the end of the year 2002 a decision has been made by the SRSG to send the draft regulation to the Assembly.

PRESS COMPLAINTS

The year 2002 saw a dramatic increase in the number of press complaints processed by the TMC. Whilst not one single complaint had been submitted to the Media Hearing Board (MHB) in 2001, the MHB adjudicated fourteen cases and the Media Appeals Board (MAB) decided on two appeals between January 2002 and January 2003. In order to cope with the increased number of complaints the TMC decided to set up two panels for the MHB. In addition numerous other complaints had been either dismissed or successfully mediated by the TMC.

In the absence of an effective, professional, self-regulatory system in Kosovo the UNMiK Regulation No. 2000/37 On the Conduct of the Print Media and its associated Code of Conduct continues to apply. As long as this temporary regulatory system governs the print media in Kosovo it will be the task of the TMC to implement it. That is to say that once the MHB found that a violation of the law by the indicted newspaper took place, the TMC will impose a sanctioning decision against it.

As it turned out the newspapers, which had been sanctioned by the TMC, refused to pay the fines imposed on them, although the decisions of the TMC had been upheld and declared final by the MAB. This blatant defiance of the rule of law on the part of some Kosovo newspapers forced the TMC to request the assistance of UNMIK enforcement authorities. In its discussion with UNMIK, the TMC was told that the enforcement of the TMC fines requires a clear legal basis and that in the absence of such a law the necessary enforcement procedure would have to be drawn up first, before any execution of the sanctions could take place. The TMC is hoping that UNMIK will act quickly since any delay in the enforcement of these fines will damage the credibility not only of the TMC but that of the legal system as a whole. Sanctions always comprise two elements, an element of punishment and an element of deterrence. Sanctioning decisions, which are not enforced, do not deter anybody, on the contrary, they send out a wrong signal, play into the hands of those who maintain a deep mistrust in the legal system and invite further violations of the law.

The legal framework

The legal framework that governs the print media mainly consists of the following laws and regulations:

1. UNMIK Regulation NO. 2000/37 On the Conduct of the Print Media in Kosovo and its associated Code of Conduct,
2. UNMIK Regulation No. 2000/4 On the Prohibition against inciting to National, Racial, Religious or Ethnic Hatred, Disorder or Intolerance,
3. The FRY Criminal Code applicable in Kosovo and
4. The major international human rights treaties, e.g. the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, many of which contain specific references to the freedoms and the duties of the press.

Although Section 2.1 of Regulation 2000/37 is defining the sanctioning powers of the TMC very widely by referring to any violation of the “*applicable law*”, de facto, the TMC has so far restricted its punitive actions to violations of the Regulation No. 2000/37 and its associated Code of Conduct.

Nevertheless, it may be useful to say a few words about the so called “hate speech” Regulation No.2000/4. There can be no doubt that many articles published by the print media in Kosovo incite hate and intolerance and it is therefore perfectly legitimate to describe these kind of articles as “*hate-ful*”. But not every *hate-ful* article amounts to “hate speech” in a strictly legal sense. It has to be recalled that a violation

of the Regulation on hate speech can be punished with up to 10 years of imprisonment. In order to apply this regulation all of the following legal elements have to be met (*See* Regulation 2000/4, Section 1.1):

1. hatred, discord or intolerance has to be
2. publicly incited or publicly spread
3. between national, racial, religious, ethnic or other such groups living in Kosovo
4. which acts are likely to disturb public order.

None of the articles published by the Kosovo print media in the year 2002, which had been the subject of a complaint submitted to the TMC met all of these elements. The violations the TMC had to deal with were of a different nature. Many of them fall in the category “vigilante journalism”. Since this form of unlawful journalism is covered in Regulation No. 2000/37, we shall deal with this term in the context of the case law of the MHB.

The Case Law of the Media Hearing Board

As mentioned above the MHB had to adjudicate fourteen cases in the last twelve months and found that in most of the cases Section 4.1 of Regulation No. 2000/37

“Owners, operators, publishers, and editors shall refrain from publishing personal details of any person, including name, address or place of work, if the publication of such details would pose a serious threat to life or security of any such person through vigilante violence or otherwise.”

and

Section 3.1 of the Temporary Code of Conduct for the Print Media in Kosovo

“Publishers will not write, print, publish or distribute any material, that by intend or effect attributes criminal responsibility to any individual prior to a finding of guilt by a lawful constituted tribunal.”

had been violated by the indicted newspapers.

Although section 4.1 does only speak about “vigilante violence” and not about “vigilante journalism” the expression “vigilante journalism” is widely used to describe a form of journalism which seeks to use the media to avenge past crimes or acts by implicitly inviting the public to take the law into their own hands. The individuals thus identified and accused by the press of crimes and/or treacherous acts against the interests of the people of Kosovo may just become the victim of public condemnation. In worse cases these public accusations may result in physical attacks or even in the death of the victims.

Before we take a closer look into the specifics of the “vigilante journalism” the MHB had to deal with, it is worthwhile to note that out of the six daily Kosovo newspapers only two, namely *Bota Sot* and *24 Orë* have been charged by the TMC with serious violations of Regulation 2000/37. Seven of the fourteen rulings of the MHB were directed against *24 Orë* and the remaining seven were related to *Bota Sot*. Both newspapers are closely affiliated with two of the political parties in Kosovo, i.e. *Bota Sot* with LDK and *24 Orë* with AAK. It is public knowledge that LDK and AAK are not only political competitors in the Kosovo of today, but that their leaders also represented competing factions during the conflict against the Serbian forces. Both sides today are mutually accusing one another of crimes perpetrated against Albanians during and after the war. It is therefore not just by chance that the “vigilante journalism” of the party press was mainly focussed on the most prominent representatives of the political opponent.

The readiness of these two newspapers to cooperate in the hearings of the MHB and during the ensuing sanctioning procedures was very limited. Some cases had to be decided by the MHB in absentia since the editors of the newspapers choose not to participate in the proceedings. In those cases where the newspapers put forward a defence, this defence mainly consisted in the allegation that they would just publish the truth. Neither the MHB nor the MAB or the TMC were able to enter into any meaningful discussion with the two newspapers about the responsibility of the press in a democratic society. The refusal of *Bota Sot* to pay the fines to the TMC is just a further corroboration of the irresponsible and reckless attitude of this newspaper towards the Kosovo society it purports to serve.

The Tahir Zemaj Case

A particularly vicious example of “vigilante journalism” represents the campaign of *24 Orë* against Tahir Zemaj. Tahir Zemaj was a military leader during the conflict and closely linked to the political cause of Ibrahim Rugova. In a series of articles published between June and July 2002 *24 Orë* accused Zemaj of literary dozen’s of murders against Albanians. The opening sentence of one of these articles reads:

“The history of Tahir Zemaj is long, dark and bloody.”

After calling him “*the most dangerous Mafioso in Europe*” the article alleges that Tahir Zemaj was an active member of the Serbian Military Club “Death Arrow” which together with the Mafia liquidated approximately 50 political opponents of Serbia in Europe, Australia, USA and Canada during the 80s. In addition, *24 Orë* alleges in this article that Tahir Zemaj had close links with the infamous Serbian paramilitary leader Arkan and that he participated in the liquidation of numerous Kosovo martyrs whom the newspapers clearly identified with their full names.

A few weeks after these articles had been published Tahir Zemaj became the victim of an assassination attempt. He survived and lodged a complaint against *24 Orë* with the TMC. The MHB upheld the legal assessment of the TMC that the articles published by *24 Orë* against Tahir Zemaj fell within the class of publications prohibited by Section 4.1 of Regulation 2000/37. During the hearing of the MHB Tahir Zemaj said to the representative of *24 Orë*: “With these articles you have liquidated me.” Three months later Tahir Zemaj was indeed shot dead together with his son and his nephew.

The sanctioning decision of the TMC (a fine) was appealed by the newspaper. Before the MAB could take a final decision on this case and establish a responsibility of the newspaper for the murder of Tahir Zemaj, *24 Orë* informed its readers that it would temporarily suspend publication following threats in the wake of the aforementioned assassinations.

The Case Law of the MAB

In its decision the MHB could take guidance from the case law of the Media Appeals Board. The MAB accepted in the past the assessment of the TMC of the prevailing conditions in Kosovo according to which

“violence remains a regular means by which differences are resolved and scores settled and the fear of violence is self-evident across the whole spectrum of society”

and that

“a dangerous level of violence and inter-communal tensions continues as a consequence of the recent war, and that it now includes a measure of local political and criminal violence.”

In these circumstances the MAB considered that it was reasonable to infer that individuals publicly attacked by the press of crimes would face a serious threat to life, safety or security.

In considering an appeal of *Bota Sot* against two TMC sanctioning decisions regarding the complaints of Blerim Shala and Baton Haxhiu, the MAB found on 18 November 2002 that in these two cases the legal elements of section 4.1 of Regulation 2000/37 had not been met by the impugned articles and that therefore this provision could not be applied against *Bota Sot*. That means that the MAB is of the opinion that by calling Baton Haxhiu a “traitor and collaborator of the Serbian Secret Service” *Bota Sot* is not posing a serious threat to the life, safety or security of Mr. Haxhiu.

This is the first time the MAB disagreed with the legal assessment of both the TMC and the MHB in the interpretation of section 4.1 of Regulation 2000/37. This decision is of great importance for the media in Kosovo and its regulatory authority the TMC, since it redefines the delicate balance between the freedom of the press and the protection of the individual against the press. Due to the fact that the Office of the TMC received the written decision of the MAB only when the Annual Report had already been finalized, we shall not discuss its findings but refer the reader to the decision itself which can be found under Appendix no. 17.

Press Complaints during the Municipal Elections in October 2002

The TMC sent a Notice of Warning to the newspapers *Epoka e Re* and *24 Orë*. Both newspapers had attributed criminal responsibility to an individual prior to a court decision and thus violated Section 3.1 of the Temporary Code of Conduct for the Print Media in Kosovo.

Mediation

Mindful of its double role of regulator and developer of independent and responsible media, as well as of its character of complaint-driven office, the TMC has chosen to emphasise the remedy of right of reply instead of administrative sanctions. Right of reply, since it requires a timely correction by the same publication committing a violation, moves the regulating process in the direction of self-regulation.

The TMC has also tried to find amicable solutions to issues of libel, by mediating between the media outlets and the offended parties, and playing the role of a Media Ombudsperson. The alternative in Kosovo is recourse to the courts, a slow and frustrating process for the complainants and a dangerous one for the press. Last July the Municipal Court in Prizren returned the first post-conflict conviction of a journalist. A *Bota Sot* reporter was given a suspended 30-day jail sentence for slander under the terms of the Yugoslavian criminal code, which remains in force. If the criminal code is used more frequently and effectively, it could play a chilling effect on already weak public service journalism.

Mediation has not been the easiest path to follow, especially because some newspapers have not been willing to find suitable remedies to their violations of the press code, while the complainants themselves required an arduous work of education on what constitutes an appropriate reply. The TMC has been successful in some notable cases:

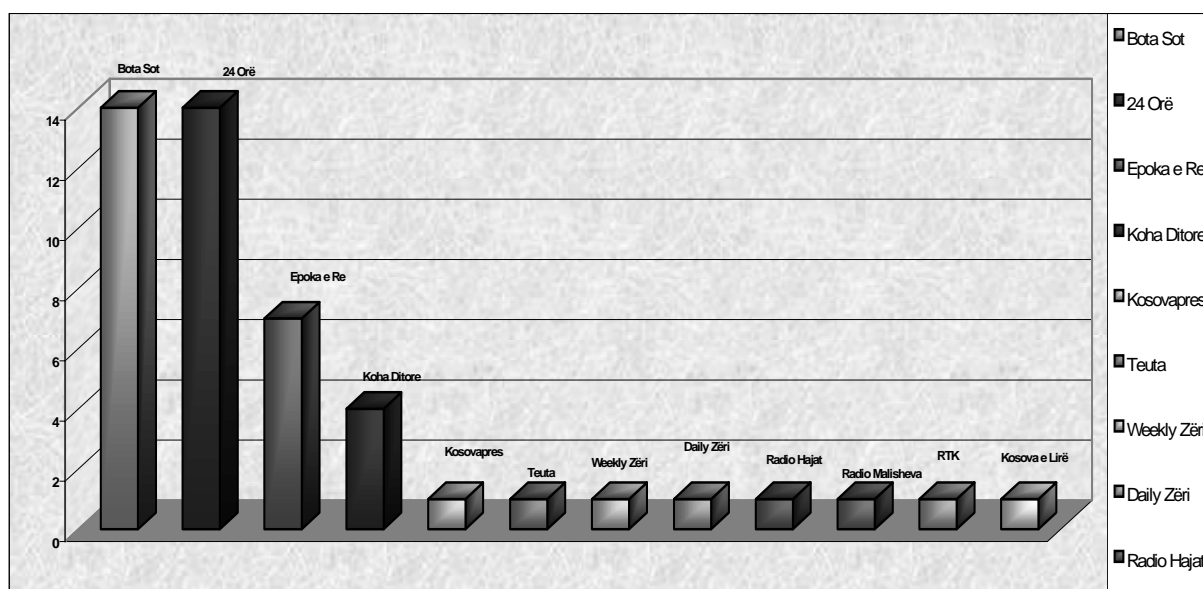
- when it managed that the radical newspaper *Epoka e Re* (the same newspaper which called the UN Administration UNMIKSTAN) published a reply by the UN Department of Justice and an apology to the judges offended by their articles (case # 07/2002);
- when it negotiated an appropriate reply to the monthly magazine *Teuta* by the Parliamentary delegation of the Turkish Party TDPK (case # 40/2002);
- and when it obtained the broadcast of a correction regarding a documentary on a deceased KLA commander during the RTK prime time news (case # 34/2002)

In one egregious case of violation of the press code, the TMC had to resort to imposing the publication of a correction of a false news, published by *Bota Sot* with malicious intent (case # 39/2002).

This mediating approach has been presented by the TMC at the South Eastern European countries Conference on Defamation and Freedom of Expression held by the Council of Europe in Strasbourg on the 17 and 18 October, 2002 and was welcome by participants. It was in fact included in the conclusions, as one of the unanimous recommendations:

“that alternative effective remedies to litigation, such as mediation or the publication of an apology or a correction or a reply, should be encouraged in cases of defamation and insult in order to reduce the number of lawsuits on these grounds...”

Chart of Complaints against Print and Electronic Media during 2002.



REGULATION OF RADIO AND TELEVISION BROADCASTERS

By the end of 2002, the Kosovo broadcasting system functions fairly well. Thanks to the Frequency Plan, all media are able to work without interference in their area of coverage and can count on a high quality signal.

The Kosovo plan has become, in fact, a model for neighbouring countries. In the summer of 2002, the TMC technical advisor Emil Blakaj was hired by the OSCE Presence Albania to create the frequency map for Albania. Thanks to Blakaj's work, for the first time the National Council of Radio and Television (NCRT) has been enabled to define and regulate all broadcast frequencies in Albania.

Against the background of this success, there are a few issues that linger on from the previous year and await further definition. For example, the issue of ownership for several former municipal broadcasters remains ill-defined and has caused local disputes to arise. In the absence of the IMC and a new broadcasting policy, and until privatization progresses in a less confused fashion, there has been no comprehensive solution to this problem.

Yet, during the year the TMC took the initiative to engage this issue, rather than stand on the sidelines and passively observe local government efforts to reassert influence on local broadcasters. When Municipal Assemblies tried to wield control over the administration, finances, or staffing of local stations caught in the midst of a slow and confusing privatization process, the TMC has intervened. The TMC has played the role of mediator between the leaders of local institutions and the staff of radio stations. Results have been mixed. Only in some instances the TMC has been able to find local solutions to a problem that is province-wide and reaches beyond the media. However, the path has been marked and precedents have been set that will help the next Independent Media Commission to deal with the issue in a proactive manner.

The problem of Former Municipal Broadcasters. A short history

For fifty years through to the end of the NATO intervention, the media have been part of the government structure. Many municipalities in Kosovo operated radio stations prior to June 1999. Since the summer of 1999, many radio stations that had been socially-owned recommenced broadcasting with brand new staff and equipment provided by donors, thereby making a quick and unsupervised transition to a market economy. Key individuals assumed the position of directors. They were chosen by the self appointed provisional government established in the aftermath of the conflict by the former UCK. In many cases these are the directors still holding the licenses. Attempts by the municipalities to replace them surged, following the October 2000 elections.

When the TMC began licensing and assisting in the development of broadcasters, many of these former municipal stations applied for licenses and assistance. Obviously, there was no reason not to license these stations; they were often among the first to be ready to commence broadcasting. In order to deal with the complicated ownership issues involved in the transition from socially owned to private enterprises, the TMC decided to license broadcasters in the name of the director instead of the owner, and further restrict transferability of the license.

During the first two rounds of licensing held in 2000 the TMC haphazardly enforced the requirement to register as a business or NGO. This failure was in part due to the fact that the UNMIK registration procedures were concurrently being developed and refined. It was not until the third round of licensing in March 2002 that the TMC began to faithfully require registration either as a business or as an NGO as a prerequisite to licensing. This renewed adherence was largely a result of growing awareness of the potential problems inherent in licensing former municipal radio stations.

Following the municipal elections of October 2000, the TMC began receiving a number of reports of significant Municipal Assembly involvement in the administration of stations. All the stations use municipal space, rent-free. Most often the space is the same as that utilized in the past, and it is government or socially owned property, currently under the administration of UNMiK. Several municipalities have argued that by occupying public offices the radios were in fact direct descendants of the former municipal radios, therefore under the management of the Assembly. Subsequently, these municipalities have tried to gain financial and editorial control of the radios. It should be noted that in those municipalities where no problems have occurred (Mitrovicë/Mitrovica and Prizren, for example) the stations have never used public space.

Municipalities and broadcasters. The legal framework

When the OSCE Department of Media Affairs and the TMC began developing a system for licensing broadcast media in Kosovo in 1999, a principled decision was made. Only one public service broadcaster, RTK, would exist in Kosovo (Regulation 2001/13, On the Establishment of Radio Television Kosovo, defines RTK ‘the public service broadcaster in Kosovo’). The decision was, in part, an economic one. The public of Kosovo could not be expected to fund a multiplicity of broadcasters. But the decision was largely intended to ensure a vital and free broadcast media in Kosovo.

The TMC required that all other applicants for broadcast licenses were to be registered either as businesses or as NGOs with UNMiK. A review of both relevant regulations makes clear that Municipal Assemblies do not qualify:

- Broadcasters as NGOs: Regulation 1999/22 On the Registration and Operation of Non-Governmental Organizations in Kosovo, defines “NGO” and lays out the procedure for registration. According to the regulation, an NGO is either an association or foundation and support of political parties is prohibited.
- Broadcasters as Businesses: UNMIK Regulation 2000/8 On the Provisional Registration of Businesses in Kosovo, defines a business as a for-profit enterprise. It follows logically; a government body is not a business.

The exclusion of Municipal Assemblies from legitimate broadcast operation is reinforced by UNMiK Regulation 2000/45 On Self-Government of Municipalities in Kosovo. Section 3.1 delineates the specific responsibilities and powers granted to Municipal Assemblies. Obviously, no mention is made of a mandate to secure radio and television coverage. The final subparagraph reserves to the municipality those “...activities as are necessary for the proper administration of the municipality and which are not assigned elsewhere by law.” Operating a radio or television station cannot reasonably be considered as necessary for the proper administration of the municipality.

And although the following section also allows municipal authorities to take action in the realm of “cultural activities,” it is again doubtful that management of a radio or television station can be construed as cultural activity. Co-operation with media outlets for the promotion of local culture or civic awareness is of course encouraged. The diversion of public funds to support a municipal run radio or television station should not be.

Furthermore, Section 5.4 of UNMiK Regulation 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo provides that the Provisional Institutions of Self-Government as defined in Section 9 of that regulation, shall have the authority to regulate the broadcast media. Municipal Assemblies are not included in the definition of Provisional Institutions of Self-Government.

The TMC is the sole media regulatory authority in Kosovo, pending the establishment of an Independent Media Commission (IMC).

Several Municipal Assemblies have made hiring and firing decisions for senior management. In at least one station the staff salaries have been funded from the municipal budget. Some of the equipment still being used by the stations has been carried over from the time when the stations were socially owned. In general, where the municipalities claim ownership of equipment, they demand either control over the administration of the station or compensation.

In 2002, the TMC responded by encouraging former municipal stations to finally register as NGOs or businesses, in hopes that this would create an effective legal bulwark against political meddling. These efforts were met with great resistance and/or reluctance against registration from both the radio stations and representatives of the municipalities. In its continued attempts to resolve the problem, the TMC has also met or contacted the UNMiK Municipal and Regional Administrators in the relevant areas for assistance. These requests have been met with only a degree of success. Collaboration with UNMiK produced some results only late in the year, with the establishment of the Kosovo Trust Agency (KTA), dedicated to the formal privatisation of formerly state-owned property.

The case of Radio Ferizaj

Licensed in January 2001 after a year of broadcasting with a special authorization, Radio Ferizaj, which had resumed broadcasting after the conflict, soon became a bone of contention between the newly elected Municipal Assembly and the staff. The Municipal Assembly appointed a new director without any consultation with the staff, and the management of the radio rapidly plummeted into chaos.

The TMC was asked to intervene in May 2002, when the staff went on strike in protest for not having received any salary since the beginning of the year. The TMC met separately and repeatedly with the staff, the director, and the Mayor of Ferizaj/Uroševac, trying to achieve a compromise, which would clarify the management and ownership structure of the radio, while severing all connections with local government.

No agreement was reached, but a stand-off developed as both the management and staff each registered as NGOs, in the process staking sole claim to the radio, its license and equipment. In September 2002 the TMC decided to intervene to greater effect by revoking the license of Radio Ferizaj and encouraging the staff to contact the Kosovo Trust Agency, in order to clarify the ownership title. The KTA, as the single legitimate authority for administering publicly-owned and socially-owned enterprises and related assets, declared that the premises of Radio Ferizaj fell under the aforementioned categories. Once it became clear that the premises of Radio Ferizaj fell under the supervision of the KTA, and that from 24 October 2002 onwards the staff of the station had full responsibility over the premises as well as the equipment and other items left behind by the Municipal Assembly, the TCM granted a new license to the NGO formed by the staff of the radio.

The lack of media legislation continues to complicate the issue. This is the case of Radio Gjlani, which is very similar to Radio Ferizaj, but with a different outcome. In the case of Radio Gjlani it was thought that the problem of Municipal interference had been solved with moving the radio outside the municipal premises. The OSCE was instrumental in assisting the radio at this delicate time, and provided the necessary financial and political support. But one part of the staff close to the Municipality took the radio director to court, claiming that he had illegally appropriated equipment and funds.

In December, the Municipal Court of Gjilan/Gnjilane ruled that all radio equipment be transferred by the current director to the Municipal Department of Youth and Sports. If this decision is upheld it is currently on appeal, the TMC may have to revoke the license of Radio Gjlani, which cannot exist legally as a municipal radio. In this case, it is quite obvious that lack of legislation on media, and lack of familiarity with media regulation on the part of local judges and lawyers, has translated into a lack of communication and co-operation with the courts.

To conclude, postponing the establishment of the IMC has had a negative impact on both broadcasting policy and the rule of law in general. It has contributed to the confusion of overlapping authorities and jurisdictions, that now rely on a patchwork of pre-war Yugoslavian laws and new regulations which themselves fail to catch up with a rapidly changing reality. This insufficiency is further complicated by the

still unresolved political status of Kosovo. Consequently, it has hindered the capacity of the TMC to fully translate the legal authority of the office into concrete influence.

Yet another case in point is the recent proliferation of cable operators originating from Serbia who are getting ready to set up new televisions in the northern part of the province. They do not seem to be aware – or have been made aware by any local authority - of the existing regulation, which confers solely to the TMC the power of issuing broadcasting license regardless of their technical means of transmission. A public agency such as the IMC, integrated in the institutional system designed by the Constitutional Framework, would have greater visibility and thus greater authority to bring order in the complex world of broadcasting.

LICENSING OF BROADCASTERS

Broadcast media in a democratic society are regulated by setting and enforcing rules by which broadcasters must operate. The limited nature of the frequency spectrum requires the regulation of television and radio for technical purposes. Currently, more than 100 broadcast entities, including KFOR and international broadcasters, operate in Kosovo. The question of who had the authority to develop a frequency plan and assign broadcast frequencies remained unresolved. (At the start of the UNMiK mandate KFOR was the only body competent to manage the frequency spectrum.)

Thus, a major achievement in bringing order to the broadcast environment was the signing of a Technical Agreement between KFOR, the UNMiK Department of Post and Telecommunications and the OSCE in December 2000. The Agreement transferred the responsibilities of creating a coherent frequency plan and managing frequency assignment for broadcasting purposes, as defined by the International Telecommunications Union (ITU), to the OSCE.

Rationalizing the broadcast band was designed to serve three purposes: to protect neighboring frequency bands from interference; to guarantee high quality signal to broadcasters receiving licenses; and to re-establish a terrestrial transmission network in Kosovo. Although the OSCE was given the authority to manage the allocation of frequencies on the broadcast band, all three partners participated in the rebuilding of the network as well as the preparation of a frequency plan and its implementation.

Concurrent with the legal establishment of the Temporary Media Commissioner in June 2000, a public announcement was released, making calls for all interested applicants, include those currently on air, to apply for available local broadcast frequencies. In anticipation of the completion of the frequency plan, the TMC distributed Special Broadcast Authorizations (SBAs) to all local broadcasters during the period of 10 September and 15 November 2000. The SBAs issued temporary frequencies pending the completion of the frequency plan. To receive these SBAs, local broadcasters had to submit detailed applications by July 2000 and sign an agreement to abide by the Broadcasting Code of Conduct and the related Electoral Rules on access to the media.

This was indeed a strong incentive enticing media to good behaviour during the run up to the municipal elections. When the establishment and administration of the Broadcast Frequency Plan for Kosovo was finalized on 31 October 2000, and approved by OSCE, UNMIK and KFOR, final frequency assignments were made to these local broadcasters.

In November 2000, two additional tenders for frequencies were announced to the public. The first was for two Kosovo-wide television and radio franchises licensed to operate on the Kosovo terrestrial transmission network. The second made available ten additional local frequencies in Kosovo. In the same announcement, frequencies were made available for low-powered, ethnic community stations. (7 low power radio and 3 low power TV licenses were later issued). This tender reflected the need to provide media coverage, as best possible, for the ethnic and linguistic groups in Kosovo.

Application and evaluation

In its evaluation of broadcast applicants, the TMC has emphasised transparency. Concurrent with each public invitation for applications, applicant criteria and qualifications have also been made public. These criteria were largely content-neutral – that is, evaluation did not rely on the proposed programming of the candidate. Instead, applicants were judged on the basis of financial and technical capacity and prior broadcast or journalistic experience. Emphasis was also placed on Kosovar ownership as well as the ability to produce local programming.

During the first round of licensing, the TMC generally issued licenses to all applicants. This was due in large part to the fact that, by the time the TMC was given a clear mandate over the broadcast spectrum, many broadcasters had been on the air for some time - some new to the airwaves, some recommencing operations suspended during the Milosevic regime and/or the NATO bombing. As long as applicants demonstrated compliance with the TMC's regulatory regime and submitted complete applications, a broadcast license was issued in their name.

The process for evaluating licenses as frequencies grew scarcer became more formalised. Where more than one applicant submitted bids for a single tender, the TMC evaluated the candidates through individual Media Hearing Boards. These Boards were composed of five members. The TMC, chairing each Board, sat with two international and two local representatives. As a group, the Board interviewed each candidate. After the interview, the candidate was graded, in a variety of categories, by each Board member in a blind procedure, thus ensuring fairness and openness in the voting.

2002 Licensing (Third round)

On 6 November 2001 the Temporary Media Commissioner announced that a limited number of extra frequencies were available for prospective local broadcasters in accordance with the frequency plan. The tender was restricted to **one** available frequency in each of the following categories, in each of the following areas:

Local Radio: Istog/Istok municipality and Rahovec/Orahovac municipality

Local Television: Gjakovë/Đjakovica municipality, Mitrovicë/Mitrovica region and Prishtinë/Priština region

Low Powered Radio: Prizren region, Suvo Grlo/Suhogërlë (Mitrovicë/Mitrovica region), Restelicë/Restelica (Prizren region) and Osojan/Osojane (Pejë/Peč region)

The Office received 16 applications and the Temporary Media Commissioner reserved the right not to award the frequencies offered when the applicants failed to present a convincing case for being awarded a license to broadcast.

In the cases where more than one valid application was received for one license, competitive hearings were held to award the available frequency to the strongest candidate. Thus, a Licensing Panel was convened to review the applications for Mitrovicë/Mitrovica, Prishtinë/Priština and Rahovec/Orahovac. All meetings were open to the public and the press.

The panel consisted of five people: Ms. Anna Di Lellio, the Temporary Media Commissioner, Ms. Louise Tickle, the OSCE Department of Media Affairs Senior Media Regulatory Advisor, Mr Vehap Shita, a journalist and a member of the Centre for Human Rights and Freedoms, Mr. Emil Blakaj, the OSCE Department of Media Affairs Senior Technical Advisor, and the Press and Media Officer of the respective municipality (Hanns Christian Klasing in Mitrovicë/Mitrovica, Nderim Pasuli in Prizren and Jehona Ademaj in Prishtinë/Priština).

The Panel scored a series of 8 standard questions, which were asked of each applicant. For each question, the applicant was awarded a score between 1 and 12. These scores were privately recorded by each Panel member and placed in a sealed envelope.

Each applicant was interviewed separately and briefed on the process. Following the interviews, the sealed score sheets were opened in the presence of all the applicants and the total scores for each application were calculated. The applicant receiving the highest score was awarded a license to operate a station in the respective municipality.

The following broadcasters constitute the licensees of the third licensing round:

Broadcaster	Location	Freq. Ch.	Category	Language	Director
PRISHTINË / PRISHTINA REGION					
TV DUKAGJINI	Prishtinë/Priština	ch.52	K - 1	K - A	Baton Haxhiu
MITROVICË / MITROVICA REGION					
TV MOST	Zvečan/Zveçan	ch.61	K - 1	K - S	Zvonimir Miladinovic
PEJË/PEĆ REGION					
Radio FONTANA	Istog/Istok	98.8	K - 1	K - A	Afrim Cacaj
Radio OSOJANE	Osojan/Osojane	96	Low Power	K - S	Ljubisa Popovic
TV SYRI	Gjakovë/Djakovica	ch.57	K - 1	K - A	Enver Mulliqi
PRIZREN REGION					
Radio OMEGA 3	Prizren	91.7	Low Power	K - B	Kasi Ramce
Radio BAMBUS	Restelicë/Restelica	100	Low Power	K - G	Nesim Hodza
Radio START	Rahovec/Orahovac	106.3	K - 1	K - A	Enis Durguti

The hearing for Mitrovicë/Mitrovica was held on 7 February 2002. TV Most (Zvečan/Zveçan) and TV Pink (Belgrade) were competing for a license but as TV Pink did not send a representative at the hearing, TV Most, which met the licensing criteria, was awarded a license to operate a local TV station in Zvečan/Zveçan (Mitrovicë/Mitrovica region).

On 12 February 2002, the Licensing Panel reviewed the applications of Radio Art and Radio Start and decided to grant a broadcast license to Radio Start to operate a local radio in Rahovec/Orahovac (Prizren region). Radio Start obtained 420 scores, Radio Art 360.

The competitive hearing reviewed four applications for a local television in Prishtinë/Priština on 27 February 2002. TV Dukagjini was issued the license to operate a local TV station in Prishtinë/Priština leading with 287 scores in competition with TV Klan (226 scores), NTV (184 scores) and TV Dituria (200 scores).

All present were informed of their right to appeal the Panel's decision to the Media Appeals Board within 30 days. In the cases when one applicant applied for one frequency and the application was eligible a license was granted immediately to the solely applicant (*Radio Fontana, Radio Osojane, TV Syri, Radio Omega 3 and Radio Bambus*).

2002 Revocations

I. TV Mitrovica 1 (M1) – Mitrovicë/Mitrovica

The Temporary Media Commissioner granted a broadcast license to Besfort Hasanaj to operate a local television in Mitrovicë/Mitrovica under the name TV M1 (TV Mitrovica 1) on 9 February 2001. Because of a name dispute with TV Mitrovica, upon the initiative of the director of TV M1 the issue was brought before the Media Appeals Board in November 2001. The Board decided to void both licenses and asked both of them to reapply at the Office of the TMC for a valid license. The deadline for reapplication was 15 February 2002. Mr. Hasanaj refused to comply, and a license was reissued upon request only to TV Mitrovica. However, TV M1 continued broadcasting in violation of UNMiK Regulation No.2000/36 On the Licensing and Broadcast Regulation in Kosovo. On May 31, 2002 the Temporary Media Commissioner asked Mr. Hasanaj to cease broadcasting, as he was no longer in possession of a legal broadcast license.

II. TV Dukagjini – Prishtinë/Priština

On 8 April 2002 the Temporary Media Commissioner granted a broadcast license to TV Dukagjini to operate a local television in Prishtinë/Priština (See 2002 Licensing). Because the licensed station could not start broadcasting within the time specified in the license agreement, the license was revoked on July 2, 2002.

III. Radio Prishtina 1 – Prishtinë/Priština

Radio Prishtina 1 was issued a license to operate a local radio station in Prishtinë/Priština on 7 February 2001. Because the station was not in the position of broadcasting anymore, the Temporary Media Commissioner revoked the license of Radio Prishtina 1 on 2 August, 2002.

IV. Radio LIRIA – Shtime/Štimlje

Radio Liria was issued a broadcast license on 6 March 2001. It was operational until June 2002, when the director of the station ceased broadcasting without notifying the Temporary Media Commissioner. He never resumed broadcasting. The license was therefore revoked on 18 September 2002.

V. TV SAS – Mitrovicë/Mitrovica

TV SAS was issued a broadcast license from the Temporary Media Commissioner on 21 March 2001, but it only worked erratically and finally ceased operation in the summer of 2002. The license was revoked on December 18, 2002.

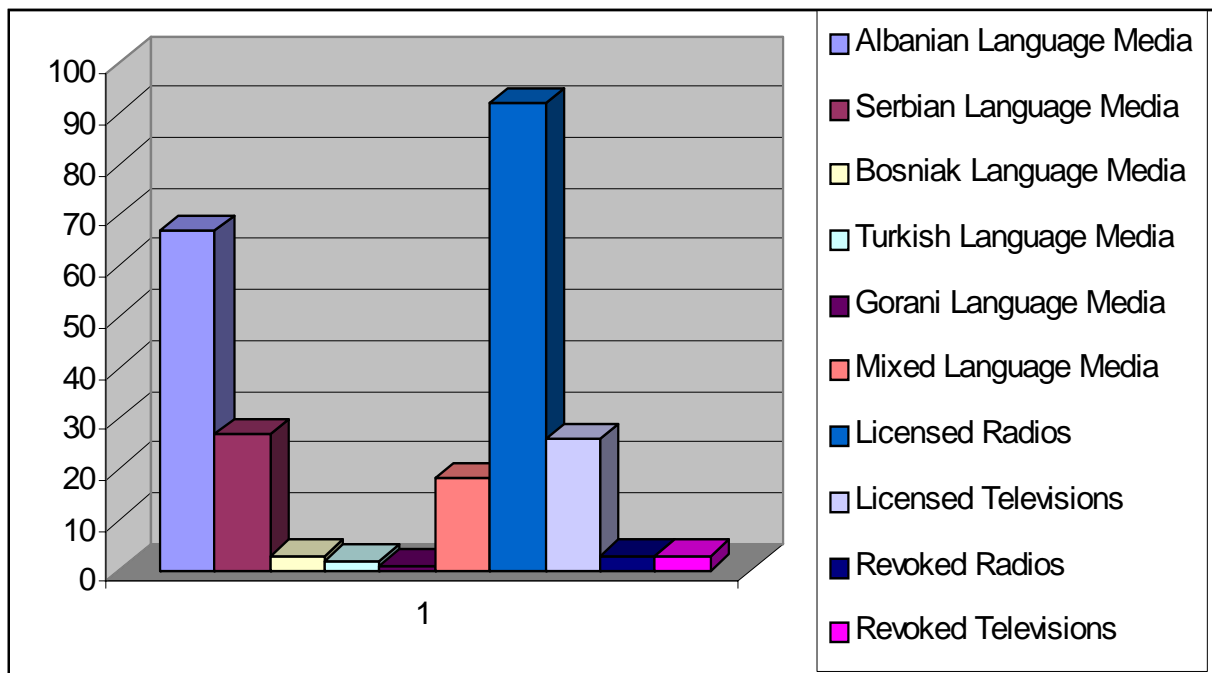
VI. Radio Ferizaj – Ferizaj / Uroševac

Former Municipal Radio (See Box above)

Present State of Licensing

The Office of the TMC has received a great number of requests for a Radio and/or TV License since the completion of the third round of licensing in March 2002. However, it is not prepared to announce a new tender for licensing, as the legislation instituting the IMC has not been approved yet. With the establishment of the Commission, all licensed stations will have to be reviewed and additional frequencies will be made available.

2002 LICENSING CHART



MEDIA DURING THE 2002 ELECTORAL CAMPAIGN

On 26 October 2002, the second municipal elections since the end of the conflict took place in Kosovo. During the forty-five days of the campaign, pursuant to the authority given by Section 1 of UNMiK regulation 2000/36 *On the Licensing and Regulation of the Broadcast Media in Kosovo*, the TMC played its role to ensure that newspapers and broadcasters complied with the regulations and the Codes issued by the TMC and the Central Election Commission (CEC). This legal framework lays out rules about impartiality of presentation and standards of professionalism. In particular, Electoral rule n. 2002/10, *Media during the Electoral Campaign*, issued by CEC, requires an “equitable and fair treatment by the media during the electoral campaign”.

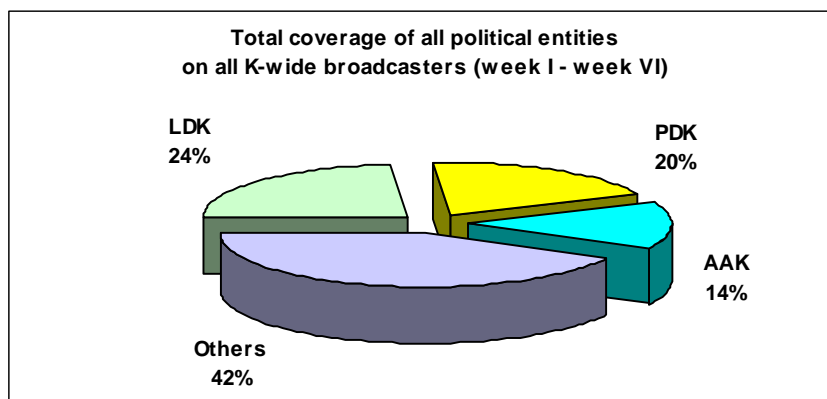
In the media, the electoral campaign ended the way it started: calm and without any major incident. The European Agency for Reconstruction (EAR) project, i.e. funding of the broadcasters during the electoral campaign to support a “fair and equitable” coverage from the side of the media, had a visible and positive effect. Equally important, as in previous elections, was the role of the support teams organized locally by the OSCE to mediate possible disputes, without resorting to administrative punitive measures by the TMC.

In order to support the action of the TMC during the electoral campaign, the OSCE Media Monitoring Division organised also an extensive monitoring system of broadcast and print media. This operation covered almost all licensed Albanian-language and Serbian-language broadcasters (77 regional and 8 Kosovo-wide broadcasters) operating throughout Kosovo and all major newspapers (8 dailies and weeklies). A Media Advisory Panel (MAP), an OSCE media advisory body, received, reviewed and sent the TMC all complaints filed by media outlets, political entities, and the public or initiated by the OSCE Monitoring Division.

Kosovo- wide Broadcast Media

Differently from the print media, broadcasters throughout Kosovo have established a good record of compliance with the regulations. Improvement was especially noteworthy during the election campaign for the Kosovo Assembly, staged in October-November 2001 and continued to show its effect in the local election campaign of 2002.

During the campaign, K-wide broadcasters covered many rallies and aired numerous debates and political spots. Owing to the EAR project, the broadcasters were literally full of political programmes every night.

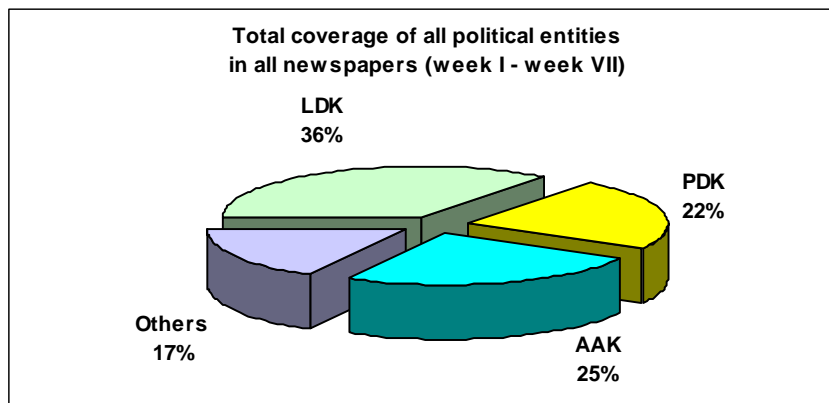


Due to the uncertainty of Serb participation in the election, K-wide broadcasters covered only a few activities of Serb political entities. Parties of other minorities appeared on K-wide broadcasters and were covered like all the other Albanian minor political entities.

Although the coverage of the elections was mainly “fair and equitable”, the TMC issued a warning letter to *Kosova e Lire* on a news item aired on 11.10.2002 related to the early release from detention of Milan Ivanovic’s, a Serb political leader accused of instigating a violent demonstration against UNMiK police in Mitrovica

Kosovo-wide Print Media

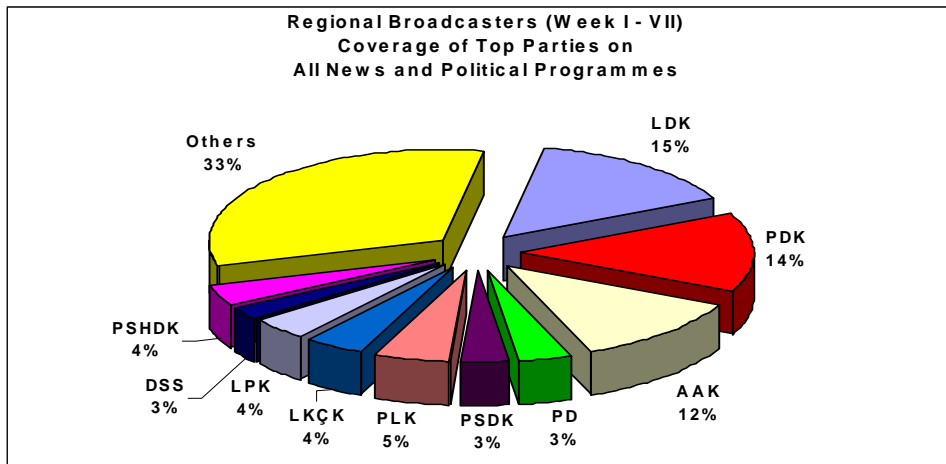
A more a contentious campaign was conducted by some of the newspapers. In particular, party-related newspapers such as *Bota Sot*, *24 Orë* and *Epoka e Re* to a much less extent, strongly supported their favourite parties to the point of becoming exceedingly biased. *Bota Sot* pushed a strong LDK line, *24 Orë* devoted its space almost exclusively to AAK line. *Epoka e Re* pushed a PDK line though it tried to provide a quantitatively fair and equitable coverage to all the political entities running the elections.



The TMC sent two warning letters to the newspapers. *Epoka e Re* received a warning letter regarding an article on the son of mayor of Deçan/Decani, accused by political rivals of common crimes, published on 30 September. Another warning letter was sent to *24 Orë* for an article published on 9 October; the newspaper had reported about a document that accused the candidates of the Serb entity KP in Gjakovë/Djakovica of being involved in crimes against Albanians. [In 2001, the Electoral Complaints Sub-Commission, ECAC, had fined *Bota Sot* twice and *Epoka e Re* once for bias and unfairness in reporting, Case no C01/175; C01/123; C01/197]

Regional Broadcasters

In cases when broadcasters showed a specific interest in the electoral campaign, the quality of the political programme and coverage did not reach high professional standards. Some of the programmes did not go beyond a simple presentation of the party itself.



As far as minority media are concerned, they were not very active during the campaign. During the 45-days-long period, they have been more focused on the Serb presidential elections, which were held in mid Kosovo campaign. The security situation, as well as returns, were the most frequently tackled subjects. In the last week of the electoral campaign, the broadcasters notably increased their activity and this was most probably due to the decision of K-Serb officials to take part in the local elections. Several broadcasters organised debates with the local political leaders, as part of the EAR project. Serb political leaders started discussing the issue and called on the population to participate.

NB: All figures appearing in this document are provided by the former Media Monitoring division of the OSCE Mission in Kosovo (OMiK).

APPENDIX 1: COMPLAINTS - THE DECISION MAKING PROCESS

Making a complaint to the Office of the Temporary Media Commissioner

The central aim of the TMC's work is to resolve disputes amicably between a media outlet and the complainant.

Who can complain and what must they do?

The Office of the TMC will consider individual or institutional complaints, and complaints made by third parties.

The complainant should:

- Within one month of publication or broadcast, contact the relevant newspaper or broadcaster by writing to the editor. The complainant must specify the inaccuracy, and should write a correction. This is usually the fastest way of getting a correction or apology for an inaccuracy or breach. The letter should not exceed the suitable space of the newspaper's page or broadcaster's programming minutes (one page letter format A-4).
- If the editor does not reply within 7 days, or if the complainant is unhappy with the response, he or she should contact the TMC as soon as possible (by mail, fax or e-mail).

In correspondence with the TMC, the complainant should specify the following information:

- The name of the newspaper, radio or television, and date and headline of the article or broadcast item in question.
- The exact nature of the complaint, explaining why the complainant believes that the Regulation or Code was breached. If possible, copies of the complete article and any other relevant information should be attached.

How soon must the complaint to the TMC be made?

The TMC generally accepts only those complaints made within one month of publication, or 20 days from the radio/television broadcast. However, if there has been direct correspondence with the newspaper/radio/television immediately after publication/broadcasting, but without a satisfactory response, and if there is good reason for a delay, the TMC may, at its own discretion, accept the complaint up to one month from the date on which that correspondence ceased.

Anna Di Lellio
Temporary Media Commissioner
Gazmend Zajmi Street, No. 1
Prishtinë/Priština, Kosovo

COMPLAINT

Dear Ms. Di Lellio,

I would like to file a complaint with your office regarding the media outlet _____ that broadcast / published on _____,
(name of the broadcaster / newspaper) (date)

_____ the program/article _____
(time / page) (name / title of the article)

alleging that _____

I believe this programming / article violates Section _____ of the UNMIK Regulation 2000/36 or the UNMIK Regulation 2000/37 and their Codes of Conduct, Section _____.

I have contacted the media outlet on _____ by writing a letter to Mr. / Ms.
(date)

_____, the editor in chief of the broadcaster / newspaper
(name of the editor in chief)

_____ and asked to broadcast / publish a correction. Please find attached copy of my reply and copy of the article (if applicable).
(name of the broadcaster / newspaper)

Sincerely,

Mr. / Ms. _____
(print name and signature)

(address and phone number)

(date and place)

What happens after a complaint is received by the TMC?

The Office of the TMC has devised a set of rules of procedure, which are designed to conform to international legal standards of administrative practice.

These procedures lay out the rules by which infringements of Regulations 2000/36 and 2000/37 and their associated codes will be determined and how sanctions will be applied if this is deemed to be necessary. The aim of these procedures is to ensure transparency, fairness, and equity to all parties involved in disciplinary proceedings initiated by the TMC.

The Office of the TMC will examine the complaint carefully and if the legal team so advise, notification to the media outlet will be sent and a request to explain and show cause, followed by a visit from the TMC as an attempt to negotiate a suitable remedy by agreement and consensus.

The TMC will determine whether a suitable remedy has been applied, and may ask the complainant for comments on the media outlet editor's reply to the letter of inquiry. The aim is to resolve the complaint as quickly and effectively as possible. This might, for instance, be achieved by obtaining an explanation from the editor, or by publication of a correction, an apology, reply or sometimes by the publication of a further article clarifying the situation.

If the offer from the editor is reasonable, the TMC will consider the case closed. If however, the TMC is not satisfied with the editor's response, the following will take place:

The TMC may take a decision immediately, imposing a requirement on the media outlet. In addition, the TMC may issue the media outlet with a notification that the case will be taken to a formal hearing. This is an independent panel called the Media Hearing Board, which has an advisory function.

Media Hearing Board

The process undertaken by the Board consists of three elements:

- a determination of whether a violation occurred.
- a determination as to whether the media outlet had bona fide mitigating circumstances or alternatively, aggravating circumstances.
- a recommendation to the TMC.

Based on the advice of the Board, the TMC makes the final decision.

How long will the process take?

The TMC's Office aims to deal with most complaints within a reasonable amount of time and the usual period is 40 working days. However, if the issues involved are very complex or an appeal is requested, the process may take longer.

Appeal of decision

Any TMC decision may be appealed by the media outlet to the Media Appeals Board. The decision of the Media Appeals Board is deemed final and is not subject to appeal.

Rules of procedure – Media Hearing Board

Office of Temporary Media Commissioner
Pristina, Kosovo

Simon Haselock
Temporary Media Commissioner

7 November 2000

1. TMC shall notify the Board at least 3 days prior to the hearing.
2. At the time of notification, the TMC shall submit to the Board a copy of its complaint with all its supporting documents in written form. The copies should be in English, and if necessary, Albanian and/or Serbian, depending on the needs of the Board members.
3. At the time of notification TMC must submit a copy of the Respondent's answer both in its original language, and in English to the complaint to the Board.
4. Respondents must submit their defense in written form with supporting documentation in English or Serbian or Albanian no later than 48 hours prior to hearing.
5. The written submissions shall be personally delivered at Office of Temporary Media Commissioner.
6. Respondent may be represented by a licensed attorney or a competent advocate of the appellant.
7. The burden of proof upon all such issues shall be upon the TMC.
8. The Board may invite for oral presentation third-party witnesses and experts whose participation, in the view of the Board, shall materially contribute to the finding of whether Respondent violated Regulation 36 or 37.
9. Should the parties wish to submit additional documentation during the hearing, such documents must be offered in both English and Albanian. Such submission is at the total discretion of the Board.
10. For questions of law and interpretation of law and procedure, the Board may consult with its Legal Advisor, who shall not take any role in the determination of whether Respondent violated or did not violate the regulations stipulated in the TMC complaint.
11. The Board shall hear oral arguments from both the TMC and the Respondents. Both parties shall be entitled to a 5 minute opening comment, followed by 30 minutes of oral arguments by both parties, followed by a 5 minute closing summation.

12. After the closing summation, the Board shall take the opportunity of interviewing the parties. Each panel member shall have 30 minutes each to ask questions, if so desired.
13. The Board is empowered to make a decision from the bench without a recess should it desire to do so.
14. Should the Board wish to take a recess, it may do so, providing that a written decision is prepared and released no later than seventy-two (72) hours from the final summation.
15. The decision of the Board shall consist of two elements: 1) a determination of whether a violation occurred; and 2) a recommendation whether the respondent had *bona fide* mitigating circumstances or alternatively, aggravating circumstances.
16. A majority of votes shall prevail on a decision. The results of the vote, including a numerical breakdown of the vote, shall be presented at the time the decision is made.
17. Absent fraud or intentional malfeasance, the decision of the Board is deemed final and not subject to appeal. Both the TMC and the Respondent are bound to the decision.
18. In event that the ruling favors the respondent, the Respondent shall be protected against double-jeopardy, and the TMC shall drop all related complaints stemming from the original complaint.
19. The language of the Appeals Board shall be in English with instantaneous or consecutive translations provided in Albanian and/or Serbian on an 'as-needed' basis. The parties have the right to waive this clause if both parties concur with the decision to conduct the hearing in one language only.
20. All official decisions of the Appeals Board shall be in writing and in English with translations in both Serbian and Albanian.

Rules of Procedure – Filing of Appeals

Acting under the authority conferred upon it by UNMIK Regulation No. 2000/36 of 17 June 2000 on the Licensing and Regulation of the Broadcast Media in Kosovo, sections 4.3 and 4.6, the Media Appeals Board hereby issues the following Rules of Procedure which shall govern the filing of appeals.

These Rules may be cited as MAB Rules of Procedure (Filing of Appeals)–002/2000, 31 August 2000.

Decisions which may be appealed

A person or entity may appeal to the Media Appeals Board ('the Board') against any of the following decisions, made in their regard, by the Temporary Media Commissioner:

- (a) A refusal to issue a broadcast licence;
- (b) The conditions attached to a broadcast licence; or
- (c) Sanctions imposed by the Temporary Media Commissioner.

Time when an appeal may be made

Notice of appeal against any of the decisions set out in paragraph 1 above shall be made to the Board within thirty (30) days of the issue of such decision.

Form of notice of appeal

Notice of appeal should be made on Form MAB NA-1 and should contain the following information in English and in Albanian or Serbian, as appropriate:

- (a) Name of the Appellant
- (b) Address of the Appellant
- (c) Date and reference number of the decision appealed against
- (d) Statement of the relief sought
- (e) Statement of the grounds of law and/or fact upon which the appeal is based.

A copy of the decision appealed against should be attached to the notice of appeal.

Delivery of notice of appeal and receipt

The notice of appeal should be delivered to the Appeals Department, Office of the Media Appeals Board, Gazmend Zajmi Street No.1, Prishtinë/Priština.

An officer of the Board shall provide the Appellant with a stamped copy of the notice of appeal, which shall indicate the time and date of receipt of the notice of appeal by the Board.

Notification of time and date of appeal hearing

Within 72 hours of receipt of the notice of appeal the Board shall issue the Appellant with a 'Notice of Hearing'.

The 'Notice of Hearing' shall advise the Appellant of the time, date and place of the appeal hearing, which shall be held no sooner than 5 days after issue of the 'Notice of Hearing'.

Supporting documentation

The Appellant shall submit any documentation or other evidence in support of the appeal no later than 48 hours before the time and date scheduled for hearing.

Submissions by third parties

A person or entity having an interest in the proceedings may submit a written statement of its views (a 'third party statement') for consideration by the Board.

A third party statement shall indicate the nature of the third party's interest in the proceedings and a succinct account of its views.

A third party statement shall be submitted to the Board no later than 48 hours before the time and date scheduled for the hearing in question.

Every third party statement shall be submitted in English and in Albanian or Serbian, as appropriate.

Attendance at hearings

If the Appellant is unable to attend the hearing for good cause and advises the Board of this fact no later than twenty-four hours before the time and date scheduled for the hearing, the Board may schedule an alternative time and date. In all other cases where the Appellant does not attend the hearing, the Board may decide the appeal on the basis of the written submissions alone.

Guy S. Goodwin-Gill
President

Julie Chadbourne
Member

Ramadan Vraniqi
Member

Pristina
31 August 2000

Rules of Procedure – Media Appeals Board Conduct of Hearings

Acting under the authority conferred upon it by UNMIK Regulation No. 2000/36 of 17 June 2000 on the Licensing and Regulation of the Broadcast Media in Kosovo, section 4.6, the Media Appeals Board hereby issues the following Rules of Procedure which shall govern the conduct of hearings before it.

These Rules may be cited as MAB Rules of Procedure (Conduct of Hearings)–001/2000, 31 August 2000.

Hearings and Languages

1. Hearings before the Media Appeals Board ('the Board') shall be held in private unless either one or both parties requests that this provision be waived.
2. Hearings shall be conducted in English and Albanian with translation as necessary. Where appropriate, provision will be made for the use of Serbian.

Parties to the Hearing

3. The Appellant may be represented by a licensed attorney or a competent advocate.
4. The Temporary Media Commissioner ('the Respondent') may be represented by a duly appointed legal officer.
5. The Appellant and the Respondent shall both have the right to be present at the hearing and to give evidence or make submissions to the Board. The parties will be entitled to receive at least three days advance notice in writing of the time, date and place of the hearing.

Organization of the Proceedings

6. The Board or Presiding Officer shall designate the order of the hearing.
7. Any member of the Board may put questions to or invite comment from the Appellant or the Respondent on any matter of law or fact relevant to the proceedings.
8. The Presiding Officer, after consultation with the members of the Board, may call for further evidence on any such issue to be submitted by any party to the proceedings.
9. The Presiding Officer may order a short adjournment of the hearing at any time. The Board, on its own motion or at the request of either party, may adjourn the hearing for such time as it deems appropriate.
10. The Board may take decisions necessary for the orderly and timely conduct of proceedings before it.

Evidence and Submissions

11. The burden of bringing forward facts upon which a party relies shall lie on that party.
12. Every document or exhibit which is put in evidence shall be accompanied by a translation into English, Albanian or Serbian as appropriate.
13. On application being made to it, the Board may admit written submissions by third parties having an interest in the proceedings. In exceptional circumstances, the Board may invite any such third party to address the Board.
14. In all other circumstances, the hearing shall be conducted on the basis of the written submissions of the parties, and of such lawfully authenticated statements of witnesses, if any, as the parties may decide to submit.

Decisions of the Board

15. Decisions of the Board shall be by a majority of votes.
16. The decision of the Board shall be in writing and supported by reasons. A member of the Board may attach a separate or dissenting opinion.
17. The decision of the Board will indicate whether it upholds, modifies or rescinds the condition or sanction imposed by the Temporary Media Commissioner or any refusal by the Temporary Media Commissioner to issue a licence. The reasons for decision shall contain the Board's findings of material fact, its conclusions as to the applicable law, and its ruling on the application of the law to the facts as found, including the exercise of any discretion.
18. The decision of the Board shall be given in public and shall be published in the English, Albanian and Serbian languages and in such media as the Board shall determine.

Reconsideration and Finality of Decisions

19. In exceptional cases and within three months of the decision of the Board to uphold, modify or rescind any decision of the Temporary Media Commissioner, either party may request reconsideration of that decision on the basis of new evidence which could not reasonably have been made available to the Board at its original hearing.
20. The Board shall decide on any such application for reconsideration without a hearing and on the basis of written submissions from the Parties.
21. Subject to paragraphs 19 and 20 above, decisions of the Board are final.

Guy S. Goodwin-Gill
President

Julie Chadbourne
Member

Ramadan Vraniqi
Member

Pristina
31 August 2000

APPENDIX 2: MEDIA HEARING BOARD MEMBERS

Members of the Media Hearing Board convened on 13 February to consider the Bota Sot case No. 01/2002

Mr. Martin Dvorak

Chairperson

A Czech economist and former Mayor, he was the first UN administrator of Istog/Istok after the war and later the UN administrator of Gjakova/Djakovica.

Mr. Astrit Salihu

Member

From 1984 until 1996 Mr. Salihu was a journalist in the daily newspaper Rilindja and an editor in the weekly magazine Koha. From 1995 he has been a philosophy professor at the University of Prishtina and the Director of the Center for Humanistic Studies "Gani Bobi".

Mr. Selajdin Selimi

Member

A lawyer, he worked in the Constitutional Court of Kosova from 1974 until 1991 and was a representative in the Municipal Assembly in Prishtinë/Priština. After the war, he was the chairperson of the Municipal Election Commission of Prishtinë/Priština Municipality and a MEC Co-ordinator at OSCE.

Members of the Media Hearing Board convened on 1 July 2002 to consider the Bota Sot cases No. 05/2002 and No. 06/2002.

Mr. Sylvain Roy

Chairperson

A Canadian lawyer, he worked as a Human Rights Field Officer/Investigator with the Office of the High Commissioner for Human Rights in Geneva from 1994 to 1999. He also worked as a Program Manager and Director at the OSCE Criminal Defence Resource Centre in Kosovo.

Mr. Astrit Salihu

Member

Mr. Selajdin Selimi

Member

Members of the Media Hearing Board convened on 24 July 2002 to consider the Bota Sot cases No. 09/2002 and No. 10/2002

Mr. Sylvain Roy

Chairperson

Mr. Astrit Salihu

Member

Mr. Selim Dushi

Member

A lawyer, he worked at the Secretariat of Kosovo for National Defence. He also worked as a lawyer in the Enterprise "Ramiz Sadiku".

Members of the Media Hearing Board convened on 25 September 2002 to consider the 24 Orë cases No. 15/2002 and No. 19/2002

Mr. Sylvain Roy

Chairperson

Mr. Astrit Salihu

Member

Mr. Selajdin Selimi

Member

Members of the Media Hearing Board convened on 22 November 2002 to consider the 24 Orë cases No. 20/2002 and No. 21/2002

Ms. Beth Miller

Chairperson

An American Defence Attorney and a lobbyist in the field of education, she worked with the American Bar Association / Central East – European Law Initiative (ABA/CEELI) in Kosovo as a Rule of Law Liaison. Currently she is working as a Program Manager and Director at the Criminal Defence Resource Center in Kosovo.

Ms. Feride Hyseni

Member

A lawyer, she was President of the Conference for Women’s Social Activity from 1968 until 1973. She founded and worked for many years as director in the preschool of Vushtrri/Vucitrn. She was also a member of the former Kosovo Assembly and she is currently working with the Red Cross.

Mr. Selajdin Selimi

Member

Members of the Media Hearing Board convened on 4 December 2002 to consider the Bota Sot cases No. 11/2002 and 12/2002

Ms. Beth Miller

Chairperson

Ms. Feride Hyseni

Member

Mr. Selajdin Selimi

Member

MEDIA APPEALS BOARD MEMBERS

Ms. Agnieszka Klonowiecka-Milart

Chairperson

A District Court Polish Judge, she is an International Judge in the District Court in Prishtinë/Priština. She also worked in Bosnia as a Regional Co-ordinator for the Judicial System Assessment Programme and as Head of the Judicial Review Team with the United Nation Mission in BiH.

Ms. Catherine Marchi-Uhel

Member

A French Judge, she is an International Judge in the District Court in Prishtinë/Priština. She worked at the Tribunal de Grande Instance Countances in France. From 1998 till 2000 she was Judicial System Officer in UNMiK.

Mr. Anton Nokaj

Member

A Kosovar Judge, he is the President of the District Court in Prishtinë/Priština. From 1980 until 1986 he worked as a judge in the District Court of Prishtinë/Priština. From 1988 until 1999 he worked as a lawyer.

APPENDIX 3:

REGULATION NO. 2000/37 UNMIK/REG/2000/37 17 June 2000

ON THE CONDUCT OF THE PRINT MEDIA IN KOSOVO

The Special Representative of the Secretary-General, Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999, Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,
Recalling UNMIK Regulation No. 2000/36 of 17 June 2000 on the Licensing and Regulation of the Broadcast Media in Kosovo, For the purpose of addressing the conduct of the print media in special circumstances and on a temporary basis pending the establishment of an effective professional self-regulation by the print media in Kosovo, Hereby promulgates the following:

Section 1

CODES OF CONDUCT

1.1 The Temporary Media Commissioner, in special circumstances, may issue temporary Codes of Conduct. Before issuing any such code, the Temporary Media Commissioner shall consult with the Special Representative of the Secretary-General, and interested, media-related parties as appropriate.

1.2 The Special Representative of the Secretary-General may promulgate into law any such code by administrative direction.

Section 2

SANCTIONS

2.1 The Temporary Media Commissioner may impose one or more of the following sanctions on owners, operators, publishers, editors-in-chief, and/or those with ultimate and final editorial control of publications published and/or distributed within Kosovo, who operate in violation of the applicable law, or such code or codes of conduct as may be promulgated under section 1.2 hereof, or section 4.1:

- a) A warning;
- b) The requirement to publish a reply, correction or apology;
- c) A fine of not less than DM 1,000 and not exceeding DM 100,000;
- d) Seizure of equipment and/or printed material; and
- e) Suspension or close down of operations.

2.2 The imposition of any sanctions pursuant to the present regulation shall be without prejudice to any applicable criminal sanctions and civil causes of action.

2.3 The Temporary Media Commissioner shall give written notice of a violation and provide a reasonable opportunity for reply prior to the imposition of any sanction.

2.4 The Temporary Media Commissioner may request the assistance of the relevant law enforcement authorities in Kosovo and appropriate public officials in the enforcement of an imposed sanction.

Section 3
APPEALS

3.1 A person or entity affected by a decision of the Temporary Media Commissioner to impose sanctions may appeal to the Media Appeals Board (“the Board”) established under UNMIK Regulation No. 2000/36 against such a decision.

3.2 Appeals against any of the above decisions shall be made to the Board within 30 days of the issuance of such decision. The appeal shall be made in writing and may be accompanied by such documentation or other evidence as the appellant wishes to present.

3.3 Decisions of the Temporary Media Commissioner shall remain in effect until the Board has issued a final decision modifying or rescinding the decision of the Temporary Media Commissioner.

Section 4
SPECIAL PROVISIONS

4.1 Owners, operators, publishers and editors shall refrain from publishing personal details of any person, including name, address or place of work, if the publication of such details would pose a serious threat to the life, safety or security of any such person through vigilante violence or otherwise.

4.2 Nothing in the present regulation in any way limits or restricts the authority of the Special Representative of the Secretary-General to take such action, as he may deem necessary for security reasons, to protect life, or to maintain civil law and order.

Section 5
IMPLEMENTATION

The Special Representative of the Secretary-General may give administrative directions in connection with the implementation of the present regulation.

Section 6
APPLICABLE LAW

The present regulation shall supersede any provision in the applicable law that is inconsistent with it.

Section 7
ENTRY INTO FORCE

The present regulation shall enter into force on 17 June 2000.

Bernard Kouchner
Special Representative of the Secretary-General

APPENDIX 4:

TEMPORARY CODE OF CONDUCT FOR THE PRINT MEDIA IN KOSOVO (Pursuant to Section 1 of UNMIK Regulation No. 2000/37 On the Conduct of the Print Media in Kosovo of 17 June 2000)

Whereas, Section 1 of UNMIK Regulation 2000/36 On the Licensing and Regulation of the Broadcast Media in Kosovo confers upon the Temporary Media Commissioner the responsibility for the implementation of a temporary regulatory regime for all media in Kosovo;

Whereas, Section 1 of UNMIK Regulation 2000/37 On the Conduct of the Print Media in Kosovo of 17 June 2000 (hereinafter, the “Regulation”) provides that, in special circumstances, the Temporary Media Commissioner may issue temporary codes of conduct;

Whereas, the Temporary Media Commissioner has determined that such special circumstances currently exist in Kosovo;

Affirming respect for the principles of the Universal Declaration of Human Rights which include the following provisions:

Article 19

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

and

Article 29

1. “Everyone has duties to the community in which alone the free and full development of his personality is possible;

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”;

Affirming respect for the principles of the European Convention on Human Rights and its Five Protocols which include the following provisions:

Article 2

“1. Everyone’s right to life shall be protected by law...”

and

Article 5

“Everyone has the right to liberty and security of the person...”

and in the case of hearings before tribunals established by law

Article 6

“1...the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

“2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”

and

Article 10

“1. Everyone has the right to freedom of expression...”

“2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

Consistent with Section 1 of UNMIK Regulation No. 2000/37, this Temporary Code of Conduct is hereby issued:

Section 1 **Application**

This Code applies to all owners, operators, publishers, editors-in-chief, and/or those with ultimate and final editorial control of publications published and/or distributed within Kosovo (hereinafter “publishers”).

Section 2 **Provocative Statements**

2.1. Publishers will not write, print, publish or distribute any material that encourages crime or criminal activities or which carries imminent risk of causing harm, such harm being defined as death, or injury, or damage to property or other violence.

2.2. Publishers will not write, print, publish or distribute any material that denigrates an ethnic or religious group or implies that an ethnic or religious group is responsible for criminal activity.

Section 3
Privacy

3.1. Publishers will not write, print, publish or distribute any material, that by intent or effect attributes criminal responsibility to any individual prior to a finding of guilt by a lawfully constituted tribunal.

3.2. Publishers will protect the identity of, and will not reveal the names, description, photograph, the likeness of, or specific information about any individual alleged to have committed a crime, unless authorities responsible for the administration of justice have expressly authorized the publication of such information, or unless the individual has been found guilty of the crime by a lawfully constituted tribunal.

3.2.1. Publishers will not publish the address or the specific location of any accused. Publishers may indicate that an accused is being held in prison, when such is the case.

Section 4
Applicable Law

Publishers must respect the laws in Kosovo applicable to media-related activities including, but not limited to, electoral rules.

Section 5
Separation of News and Opinion

Publishers, while free to express their own views, will make every effort to distinguish clearly between comment, conjecture, and fact and will clearly entitle editorials and commentaries as such.

Section 6
False and Deceptive Material

6.1. Publishers will not write, print, publish or distribute material that they know or ought to know to be false or deceptive.

6.2. Publishers will not write, print, publish or distribute material unless they have undertaken a prudent and reasonable inquiry to ensure the veracity of the material.

Section 7
Right of Reply

7.1. Publishers will extend a right of reply when they have written, printed, published, or distributed content that places a person, group or an institution in an unfavourable light, if fairness and impartiality require it. Publishers will ensure that the reply is given equal prominence to the unfavourable content.

7.2. If printed, published or distributed content proves to be false, publishers will print, publish and distribute a correction as soon as possible. Publishers will ensure that the correction is given equal prominence to the false content.

Section 8

Complaints by the Public

Publishers will ensure that every issue of a publication contains in an appropriate place the name, address, telephone and, if available, fax number and e-mail address, of the responsible publisher and editor to whom complaints may be addressed.

Section 9

Archives

Publishers will ensure that one complete copy of each issue of each publication will be maintained for a minimum of 90 days following the initial publication.

Section 10

Termination

10.1. If, in the opinion of the Temporary Media Commissioner, or the successor, the Interim Media Commission, an effective, professional, self-regulatory system is operational or special circumstances pursuant to Section 1 of the Regulation cease to exist prior to 1 January 2001, this Code will cease to be in effect on 1 January 2001.

10.2. Notwithstanding sub-section 10.1 if, in the opinion of the Temporary Media Commissioner, or the successor, the Interim Media Commission, no effective, professional, self-regulatory system is operational, or special circumstances pursuant to Section 1 of the Regulation continue to exist after 1 January 2000, this Code will continue in effect for a further ninety (90) days after 1 January 2001, and such further periods of ninety (90) days as required, as determined by the Commissioner, or the successor, the Interim Media Commission.

APPENDIX 5

REGULATION NO. 2000/36

UNMIK/REG/2000/36

17 June 2000

ON THE LICENSING AND REGULATION OF THE BROADCAST MEDIA IN KOSOVO

The Special Representative of the Secretary-General, Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999, Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,
For the purpose of licensing and regulating the broadcast media in Kosovo pending the establishment of a regulatory regime for broadcasting, Hereby promulgates the following:

Section 1

TEMPORARY MEDIA COMMISSIONER

1.1 The Temporary Media Commissioner is responsible for the development and promotion of an independent and professional media in Kosovo and the implementation of a temporary regulatory regime for all media in Kosovo, pending the establishment of an Interim Media Commission, and shall be independent in the performance of these responsibilities.

1.2 The Temporary Media Commissioner is appointed by the Special Representative of the Secretary-General.

Section 2

REQUIREMENTS ON RADIO AND TELEVISION OPERATORS

2.1 Radio and television operators shall not broadcast in Kosovo without a broadcast license issued by the Temporary Media Commissioner.

2.2 Applications by radio and television operators for a broadcast license shall be made to the Temporary Media Commissioner in accordance with the procedures set out in the Application and Registration Form issued by the Temporary Media Commissioner. Applicants for a broadcast license shall agree to abide by the Broadcast Code of Conduct issued by the Temporary Media Commissioner and attached to the Application and Registration Form.

2.3 The Temporary Media Commissioner shall, in accordance with the criteria set out in a document attached to the Application and Registration Form, and taking into account the public interest, evaluate the applications for broadcast licenses. If a broadcast license is denied, the Temporary Media Commissioner shall include an explanation of the grounds upon which such license was denied.

Section 3

SANCTIONS

3.1 The Temporary Media Commissioner may impose one or more of the following sanctions on broadcast licensees who fail to adhere to the Broadcast Code of Conduct:

- (a) The requirement to broadcast a correction or apology;

- (b) A warning;
- (c) A fine of not less than DM 1,000 and not exceeding DM 100,000;
- (d) Suspension of the broadcast license;
- (e) Denial of entry into premises;
- (f) Seizure of equipment;
- (g) Closedown of broadcast operations; or
- (h) Termination of the broadcast license.

3.2 The sanctions referred to in subsections (e), (f) and (g) may be imposed by the Temporary Media Commissioner on a radio or television operator who is broadcasting without a broadcast license as well as licensees who fail to adhere to the terms of the Broadcast Code of Conduct.

3.3 The imposition of any sanctions pursuant to the present regulation shall be without prejudice to any applicable criminal sanctions and civil causes of action.

3.4 The Temporary Media Commissioner shall give written notice of a violation and provide a reasonable opportunity for reply prior to the imposition of any sanction.

3.5 The Temporary Media Commissioner may request the assistance of the relevant law enforcement authorities in Kosovo and appropriate public officials in the enforcement of an imposed sanction.

Section 4 **MEDIA APPEALS BOARD**

4.1 The Media Appeals Board (hereinafter called "the Board") is hereby established.

4.2 The Board is an independent body which shall hear and decide on appeals by a person or an entity against any of the following decisions by the Temporary Media Commissioner:

- (a) Refusal to issue a broadcast license;
- (b) The condition(s) attached to a broadcast license; or
- (c) Sanctions imposed by the Temporary Media Commissioner.

4.3 Appeals against any of the above decisions shall be made to the Board within 30 days of the issuance of such decision. The Appeal shall be made in writing and may be accompanied by such documentation or other evidence as the appellants wish to present.

4.4 The Board shall be composed of two international members and one local member who shall be nominated by the Deputy Special Representative of the Secretary-General for Institution Building and all of whom shall be competent and appropriately qualified. The Special Representative of the Secretary-General shall appoint the members of the Board and shall designate one international member as the President of the Board.

4.5 The Board may uphold, modify, or rescind any condition or sanction imposed by the Temporary Media Commissioner or any refusal by the Temporary Media Commissioner to issue a license. The Board shall state the reasons for its decision. A decision of the Temporary Media Commissioner shall remain in effect until the Board has issued a final decision modifying or rescinding the decision by the Temporary Media Commissioner.

4.6 The Board shall determine its own rules of procedure, which rules shall guarantee fair

and impartial proceedings in accordance with internationally recognized human rights standards. In particular, such rules shall include provisions on reconsideration of decisions of the Board. The said rules of procedure shall be adopted at the first meeting of the Board.

4.7 Final decisions of the Board are binding and enforceable.

Section 5
SPECIAL PROVISIONS

5.1 Radio and television operators shall refrain from broadcasting personal details of any person, including name, address or place of work, if the broadcast of such details would pose a serious threat to the life, safety or security of any such person through vigilante violence or otherwise.

5.2 Nothing in the present regulation shall in any way limit or restrict the authority of the Special Representative of the Secretary-General to take such action as he may deem necessary for security reasons, to protect life, or to maintain civil law and order.

Section 6
IMPLEMENTATION

The Special Representative of the Secretary-General may issue administrative directions in connection with the implementation of the present regulation.

Section 7
APPLICABLE LAW

The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 8
ENTRY INTO FORCE

The present regulation shall enter into force on 17 June 2000.

Bernard Kouchner
Special Representative of the Secretary-General

**CODE OF CONDUCT
FOR THE
BROADCAST MEDIA IN KOSOVO**

Whereas, Section 1 of UNMIK Regulation 2000/36 On the Licensing and Regulation of the Broadcast Media in Kosovo confers upon the Temporary Media Commissioner the responsibility for the implementation of a temporary regulatory regime for all media in Kosovo;

Whereas, Sub-Section 2.2 of UNMIK Regulation 2000/36 provides that the Temporary Media Commissioner shall issue a Broadcast Code of Conduct;

Affirming respect for the principles of the Universal Declaration of Human Rights which include the following provisions:

Article 19

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

and

Article 29

1. "Everyone has duties to the community in which alone the free and full development of his personality is possible;

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.";

Affirming respect for the principles of the European Convention on Human Rights and its Five Protocols which include the following provisions:

Article 2

"1. Everyone's right to life shall be protected by law..."

and

Article 5

"Everyone has the right to liberty and security of the person..."

and in the case of hearings before tribunals established by law

Article 6

“1...the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

“2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”

and

Article 10

“1. Everyone has the right to freedom of expression...”

“2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

Consistent with sub-Section 2.2 of UNMIK Regulation 2000/36 this Broadcast Code of Conduct is hereby issued:

Section 1 **Application**

All owners, station managers, editors-in-chief and/or those with ultimate and final editorial control of programmes on radio or television stations in Kosovo (hereafter “broadcasters”) agree to abide by this Code as a condition of receiving a license to broadcast from the Temporary Media Commissioner.

Section 2 **Provocative Statements**

- 2.1. All programming will meet generally accepted international standards of civility and respect the ethnic, cultural, and religious diversity of Kosovo.
- 2.2. Broadcasters will not broadcast any material that encourages crime or criminal activities or which carries imminent risk of causing harm, such harm being defined as death, or injury, or damage to property or other violence.
- 2.3. Broadcasters will not broadcast any material that denigrates an ethnic or religious group or implies that an ethnic or religious group is responsible for criminal activity.

Section 3
Privacy

3.1. Broadcasters will not broadcast any material that by intent or effect attributes criminal responsibility to any individual prior to a finding of guilt by a lawfully constituted tribunal.

3.2. Broadcasters will not reveal the names, description, photograph, the likeness of, or specific information about any individual alleged to have committed a crime, unless authorities responsible for the administration of justice have expressly authorized that such information can be made public, or unless the individual has been indicted or found guilty of the crime by a lawfully constituted tribunal.

Section 4
Fairness and Impartiality

4.1. Broadcasters will strive to ensure accuracy, fairness, and impartiality in all reporting.

4.2. Broadcasters will strive to present differing points of view accurately and fairly.

4.3. Broadcasters will not promote the interests of one political party, or political point of view, nor engage in a practice that could have the effect of promoting the interests of one political party or political point of view, or of any group or individual, to the exclusion of other parties, points of view, groups or individuals.

Section 5
Applicable Law

Broadcasters must respect the laws in Kosovo applicable to media-related activities including, but not limited to, electoral rules.

Section 6
Separation of News and Opinion

Broadcasters, while free to express their own views, will make every effort to distinguish clearly between comment, conjecture, and fact and will clearly entitle editorials and commentaries as such.

Section 7
False and Deceptive Material

7.1. Broadcasters will not broadcast material that they know or ought to know to be false or deceptive.

7.2. Broadcasters will not broadcast material unless they have undertaken a prudent and reasonable inquiry to ensure the veracity of the material.

Section 8
Language

Broadcasters will not be prohibit or censor expression on the grounds that it is in a particular language, especially the language of an ethnic minority.

Section 9
Right of Reply

9.1. Broadcasters will extend a right of reply when they have broadcast material that places a person, group or an institution in an unfavorable light, if fairness and impartiality require it. Broadcasters will ensure the reply is given equal prominence to the unfavorable content.

9.2. If material broadcast proves to be false, broadcasters will broadcast a correction as soon as possible. Broadcasters will ensure the correction is given equal prominence to the false content.

Section 10
Complaints by the Public

At least once each day, broadcasters will broadcast the name, address, telephone and, if available, fax number and e-mail address of the responsible owner, manager or editor to whom complaints may be addressed.

Section 11
Archives

11.1 Broadcasters will make complete audio or, in the case of television stations, video recordings of all programs transmitted by them and will preserve such recordings for at least 21 days. These recordings will be made available to the Temporary Media Commissioner on request and must be delivered within 12 hours of the request.

11.2 In the event of a complaint against a broadcaster being received by the Temporary Media Commissioner, or in the case of a sanction being imposed pursuant to Section 3 of UNMIK Regulation 2000/36, or in the case of an appeal against a sanction pursuant to Section 4 of UNMIK Regulation 2000/36, the broadcaster must comply with a request from the Temporary Media Commissioner to preserve a recording made under sub-Section 11.1 until the matter is definitively resolved.

Section 12
Undertaking

I hereby undertake to abide by the provisions of this Code. I understand that any failure to do so may result in sanctions pursuant to Section 3 of the Regulation.

Place/date

Place/date

name of applicant

name of witness

APPENDIX 7: BROADCAST REGISTRATION FORM

I. Station/Applicant Information

1. Station Information

- a) **Name of Broadcast Station:** Name that is used to identify the station on-air and in correspondence with the Temporary Media Commissioner (TMC).
- b) **Type of Broadcast Station:** Radio, Television or combined operation (RTV). Separate applications must be filed for radio and television components of RTV stations.
- c) **Date of the First Broadcasting:** When the station first went on air under its current name.
- d) **Principal Contact:** Provide name, address and telephone number of the principal contact person(s) for all TMC matters, including this application.

2. Ownership Information: Provide the following information about the individual or organization which is applying for a license to operate the station identified in Section 1, according to the type of applicant:

a. Private commercial enterprise as station owner:

- (1) Name of company
- (2) Address, telephone, e-mail address (if any) of the registered office.
- (3) Principle place of business if different from (2).
- (4) Names, addresses and telephone numbers of company directors/founding members and their citizenship. If company is not yet formed or registered, state that this is the case and provide names, addresses and telephone numbers of proposed directors/founders and their citizenship.
- (5) Name and address of any other organization holding more than a 10 percent influence in Applicant company and the names and addresses of the directors of such companies.
- (6) Provide a copy of the company's registration documents.

b. Non-Commercial Private Organization as Applicant:

- (1) If Applicant is a non-commercial and non-governmental organization, provide name and purpose of the organization.
- (2) Address, telephone and e-mail address (if any) of the principal office of the organization in Kosovo and the principal office outside Kosovo, if any.
- (3) Names, addresses and telephone numbers of the principal officers of the organization in Kosovo and abroad, if any, and the citizenship of principal officers in Kosovo.
- (4) Provide a copy of organization registration documents in Kosovo. If none, please provide an explanation.

- (5) Identify any commercial, government or other organization that will have a role in managing or financing the station.

c. Individual Person as Applicant:

- (1) Name, address, telephone and citizenship of Applicant. If applying as an individual person, the Applicant must state that he/she does not represent the interests of any company, organization or government agency in applying for a broadcast license.
- (2) Provide a copy of the Applicant's registration in Kosovo as a Sole Proprietor.

d. Municipal Entity or State Agency as Applicant:

- (1) If the Applicant is a governmental agency, give name, function of the agency and principal address, telephone and telefax numbers of the agency.
- (2) Provide a letter or other appropriate document showing that the Applicant is authorized by the named agency to operate a broadcast station.
- (3) Identify any other commercial or non-commercial organization that provides financial support or exercises management direction in the station.

3. Other Broadcasting or Publishing Activities of Applicant:

- a. Identify any other radio or television activities in which Applicant, principal officers or founders are engaged and have a 10% or more interest.
- b. Identify any current publishing or advertising activities in which Applicant, principal officers or founders are engaged and have a 10% or more interest..

4. Persons or Organizations Associated with Applicant:

- a. Identify any of the following persons or organizations which are associated with the Applicant, other than those listed in Sections 1-3 and describe the nature of this association. The term "associated" shall mean providing financial support or in a position to directly influence the content of programming or management of the broadcast operation:
 - (1) A government agency, or an individual acting on behalf of such an agency.
 - (2) A political party or other organization whose purpose is mainly or entirely of a political nature.
 - (3) An officer or other leading figure in an organization of the kind described in (2).
 - (4) A company associated with an organization of the kind described in (1) or (2).
 - (5) A religious organization, or a leading figure in a religious organization.
 - (6) A foreign private or governmental organization. "Foreign" shall mean any organization whose primary source of funding, management or policy direction is based outside the territory of Kosova.
 - (7) Direct family members (spouse, sibling, child, parents) who hold broadcast Licenses, maintain publishing operations or hold more than a 10% interest in such media in Kosovo.

- b. Association with criminal activity: In filing this registration form, the registrant states that the management, finances and program content are not, and will not be, in any way associated with, and do not promote the interests of any person associated with criminal activity.

Section II: Station Management

1. Organizational Structure:

- a. **Organization:** Provide an organizational chart explaining duties and responsibilities of each unit of the proposed broadcast station, if applicable.
- b. **Chief Executive:** Name, address and telephone numbers of the person who is responsible for overall operations of the Station. Provide a brief description of this person's professional qualifications and relevant experience.
- c. **News/Information Director:** Name, address and telephone numbers of person who is chiefly responsible for news and information content of the broadcaster's program. Provide a brief description of this person's professional qualifications and relevant experience.
- d. **Technical Director:** Name, address and telephone numbers of the person who is chiefly responsible for transmitter operations. Provide a brief description of this person's professional qualifications and relevant experience.
- e. **Person Responsible for Broadcast Archives:** Provide the name, address and telephone numbers of the person who is chiefly responsible for tape archives.
- f. **Person Responsible for Compliance:** Name, address and telephone numbers of the person who is chiefly responsible for compliance with the Terms and Conditions of the broadcast License and other TMC rules and regulations.
- g. **Person Responsible for Complaints:** TMC will develop specific rules consistent with general European practices for the handling of public complaints. Stations should designate a person who is responsible for handling such complaints.

2. Operating Staff:

- a. **Total Staff:** Total number and duties of full and part-time administrative, news/information, other programming, and technical staff.
- b. **Marketing Staff:** Expected total number of full and part-time advertising/marketing staff or sales representatives who work on behalf of the station, if applicable.

Section III: Current License Status

1. **Current License:** State the source, type and date of issue of the current License or other document authorizing broadcasting by Applicant, if any. Provide a copy of this document. If none, state, "None"
2. **No Current License:** If the registrant currently operates without a license, provide copy of a document that you consider grants authority for current broadcasting and explain why you believe this document provides a legal basis for broadcasting.
3. **Previous License:** If the Applicant has previously been denied a broadcast license, or has held a license in Kosovo or elsewhere which has been suspended or terminated, provide details

Section IV: Financial Status

Note: The TMC seeks the following financial information to determine whether the granting of license is likely to result in effective use of the assigned frequency. The TMC will treat responses to Section IV as confidential unless the Applicant otherwise agrees, or unless public disclosure is required by law.

1. **Financial Resources:** State the total funds the Applicant has received during the past 12 months for purposes of operations or purchase of equipment for the Station.
2. **Source of Funds:** Identify each source of funds for operations and equipment purchase over the past 12 months of operation and the percentage of the total from each source.

Section V: Community Served

1. **Identify Community:** Describe the geographic or special-interest community which your broadcasting serves.
2. **Distinction from other Broadcasting:** Describe how your programming differs from others currently available to the community you serve. Explain the particular value you believe your broadcasting will provide to the community or region you serve.
3. **Community Issues:** List at least five issues that are important to the community your broadcasting intends to serve and describe how your station has treated these issues in the past six months, and plans to do in the next six months.

Section VI: Program Content

1. **Program Hours:** List the hours you currently broadcast on each day of the week.
2. **Program Schedule:** Provide the name and a detailed description of the content of each scheduled program segment for each day of a representative broadcasting week.
 - a. Identify which segments are produced by the Applicant.
 - b. **Acquired Programs:** Identify any external sources of programming, foreign or domestic (Kosovo), which the registrant broadcasts, including news and current affairs programs and films and other commercial entertainment. State whether the Applicant has a contract with each such source of programming.
3. **Copyright Obligations:** Describe the arrangements whereby you currently meet, or intend to meet, legal copyright obligations with regard to audio and/or video materials broadcast by Applicant.
4. **News and Information Content:**
 - a. Indicate the principle sources of news and information content in your current programming in approximate percentage terms. For example, 20% own news staff; 20% domestic news agencies; 10% foreign news agencies; 50% from other Kosovo broadcasters.
 - b. List the domestic sources which you currently use for news and information programming.
 - c. List the foreign news sources you currently use for news and information programming.

Section VII: Technical Operations

1. Complete the attached form: **Technical Operations Information: Studio and Program Feed Facilities.** Attach additional information to this form as responses may require.
2. Complete the attached form: **Technical Operations Information: Transmitter Operations** for each transmitter the registrant operates or proposes to operate.

Technical Operations Information

Transmission Information

	<u>Information Requested</u>	Response	Units	Remarks
1	Name of Applicant			Station name
2	Address of Record		-	As given in Registration Form.
3	<u>Name of Station</u>		-	As identified on air, if different from name of <u>Registering Organization</u> .
4	Type of Station		-	Radio or television
5	<u>Technical Director</u>			Name of person responsible for transmitter operations
6	Office Telephone		-	Office telephone(s).
7	Office Telefax		-	
8	Emergency Contact Information			Mobile or other telephone number in event of urgent inquiries related to transmitter operations.
9	Frequency of transmitter		MHz	For radio
10	Transmitter Channel Number		-	For television: Normal broadcast number.
11	Source of Program Feed to Transmitter		Line, MHz or GHz	Indicate Direct Line or frequency of broadcast link from program source to transmitter; if satellite, identify satellite and frequency.
12	Selectivity and Sensitivity of the receiver			If incoming signal is delivered to transmitter by radio frequency.
13	Location of Transmitter		-	City and street location, or nearest geographic reference from standard topographic map. Designate map and scale.
14	Geographic Coordinates of Transmitter		-	Standard geographic coordinates of transmitter (latitude and longitude) if known.
15	Facility in which Transmitter is Located		-	Separate building or building shared with other facilities.
16	Manufacturer and Model Number of Main Transmitter			

17	Manufacturer and Model Number of Reserve Transmitter			If a reserve transmitter is installed at this site.
18	Class of emission		-	If known.
19	Output power		W	
20	Offset of Transmitter Tuning within Designated Channel		kHz	If tuned above or below carrier frequency.
21	Type of Transmitting Antenna			Omni-directional; cardoid; if other, specify
22	Altitude of Antenna Site		m	Meters above sea-level.
23	Height of the transmitting antenna		m	Height above ground level.
24	Vertical Length of the transmitting antenna		m	If applicable: Vertical length of length of antenna array, as distinguished from tower on which it is mounted.
25	Antenna Polarisation		-	Horizontal, Vertical, Mixed, Circular.
26	Direction of Antenna Major Lobe		degrees	If directional; Degrees East of True North.
27	Transmitting Antenna Gain		dB	If directional; gain in direction of major lobe.
28	Antenna Major lobe Angle of Elevation		degrees	Negative degrees for declination.
29	Antenna Forward – backward Ratio		dB	If directional.
30	Expected Geographical Coverage of this Transmitter			Provide topographic map showing current coverage area.
31	Expected population coverage from this Transmitter Location			Estimated total population within the coverage area.

Signature:
Print Name:

Position in Organization:
Date:

Technical Operations Information

Studio and Program Feed Facilities

	Information Requested	Response	Units	Remarks
1	Name of Applicant		-	
2	Address of Record			As given in Registration Document.
3	Name of Station		-	As identified on air, if different from name of Licensee or broadcast organization.
4	Type of Station			Radio or television
5	Studio Facilities:		-	Attach detailed description of studio facilities, including any to be located separately from main studio facilities.
6	Remote Studio Network Links			Provide detailed description of means by which any remote studio facilities are to be linked to main studios. Specify whether by direct line or by microwave or other types of broadcast links.
7	Authorization for Broadcast Studio Links if now in place		-	
8	Operating standard of studio equipment		-	Beta / M / DSI / s-VHS / VHS

9	Owner of studio facilities if other than License applicant		-	
10	Signal source from studio to transmitter		MHz	Indicate whether program feed from studio or other program source to transmitter is to be by direct line or by a broadcast link. If by a broadcast link, give frequency.

Signature:

Position:

Print Name:

Date:

APPENDIX 8: SAMPLE LICENSE (RADIO)



LICENSE

4 Zvezdara Street East in Kosovo (T: +383 42 702 140, F: +383 42 702 147)

Pursuant to the authority granted under United Nations Security Council resolution 1244 (1999) of 10 June 1999, Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

Pursuant to the authority given to the Temporary Media Commissioner under UNMIK Regulation No. 2000/36, *On the Licensing and Regulation of the Broadcast Media in Kosovo*, (Name) director of (Radio Name), (hereafter "Licensee"), is hereby authorized permission to operate radio station, located on xxx MHz, in the location of (Name of Town) in the Municipality of _____.

The location of the antenna and transmitter of Licensee shall not be removed, transferred, or relocated without the written approval of the Office of the Temporary Media Commissioner in Kosovo.

By accepting this license, licensee hereby acknowledges that Licensee is aware of, familiar with, bound by and agrees with the ITU technical standards that are required for all radio stations licensed by the Office of the Temporary Media Commissioner in Kosovo.

MATERIAL TERMS OF LICENSE AGREEMENT

Grant of License

The validity of this radio license is contingent on compliance with Regulation 2000/36 as well as the following terms and conditions listed below. Unless otherwise exempted, the licensee agrees to comply with all regulations, codes, directives and orders promulgated by the Temporary Media Commissioner or any other authorized legal body.

Required Information

The Licensee shall:

- Retain an audio cassette of what was aired (air-check) by Licensee during the previous 21 days of operations.
- Notify the TMC within five (5) business days in writing in the event of a change in the following information as provided in the original license application:
- Station address of record, telephone, fax or other contact information;
- Senior (Key) Management and/or investors listed in the license application;
- Significant changes in operating hours;
- Interruptions in broadcasting greater than one-half day's program schedule.

Amending the Terms and Conditions of a License

The Licensee may apply to change the Specific Terms and Conditions of this license only by requesting such changes in writing to the TMC. Such changes may be made only upon written approval of the TMC. The TMC may, upon delivering a notice to the Licensee, amend the terms of this broadcast license consistent with due process under Regulation 2000/36.

Use and Transferability of License

Licensee may not transfer or assign this license without the prior written consent of the TMC. Any change in the ownership affecting more than a 10% share of interests shall require written TMC approval. The Licensee must commence broadcast operations within 45 days of receipt of this license, but under no circumstances more than 50 days from date of issue of this license. Failure to comply with this requirement shall result in the cancellation of the license.

Station Identification

The Licensee will identify itself clearly and consistently, by its authorized name or call sign, every hour on the top of the hour (plus or minus 2 minutes) orally.

Compliance

The Licensee shall display a copy of its broadcasting license at a publicly accessible site of its principal business office.

Copyright Permission

It is the obligation of the Licensee to obtain all the proper copyright clearances and permission for any and all programming (including music via CD and other means) prior to the airing of such programming by licensee. This includes reproduction, retransmission and simultaneous relaying of foreign and imported signals, be it from distant territorial broadcasters as well as satellite-derived signals and programming. In the event that the programming is legally deemed in the public domain, no such permission is required. Licensee agrees to provide TMC copies of such licensing agreements on 72 hour written notice.

Sanctions for the Breach of License Terms and Conditions

Consistent with Regulation 2000/36, where apparent deviations from the terms of a broadcast license occur, the TMC will provide the Licensee an opportunity to respond before taking any action.

Seizure of Broadcast Equipment

By accepting the license to operate a radio station within Kosovo, Licensee agrees with the following terms relating to the seizure of broadcast equipment pursuant to Section 3.1(F) of Regulation 2000/36.

In the event that licensee replaces seized equipment without written authorization of the TMC, such unauthorized actions shall constitute a material breach of the licensing terms for broadcast, which shall result in the immediate permanent revocation of the broadcast license.

Moreover, Licensee agrees that seizure of equipment shall be subject to the following terms:

Upon seizing broadcast equipment pursuant to Section 3.1(F) of Regulation 2000/36, the TMC shall provide a receipt for all equipment seized to the licensee. Pending a final decision by hearing board, the seized equipment shall remain in the exclusive custody of the TMC. The TMC takes full responsibility of the seized equipment during the period it is in the custodianship of the TMC.

Revocation of License

In the event that the TMC issues sanction 32 (e), (f) or (g) against License requiring immediate suspension of broadcasting or permanent revocation of licensee's authorization to broadcast, unless an emergency situation is proclaimed by the SRSB, the sanction shall not be effective pending a final decision by the Media Appeals Board. In connection with this clause, it is hereby agreed that licensee shall submit a formal Letter of Appeal to the Media Appeals Board within 24 hours of receiving notification of sanction to suspend broadcasting or notice that licensee's license is permanently revoked. The Media Appeals Board shall issue an emergency expedited decision within 48 hours of receiving such an appeal according to their own rules of procedure.

Moreover, Licensee agrees that seizure of equipment shall be subject to the following terms:

Upon seizing broadcast equipment pursuant to Section 3.1(F) of Regulation 2000/36, the TMC shall provide a receipt for all equipment seized to the licensee. Pending a final decision by hearing board, the seized equipment shall remain in the exclusive custody of the TMC. The TMC takes full responsibility of the seized equipment during the period it is in the custodianship of the TMC.

Election Rules

Licensee *voluntarily* agrees to abide by any Rules promulgated by the Central Election Commission pursuant to its authority given to it by the Special Representative of the Secretary-General under UNMIK Regulation No. 2000/21 of 18 April 2000, including but not limited to Electoral Rule No. 2000/11, *Media During the Electoral Campaign*. Failure to comply with such Electoral Rules shall subject Licensee to punitive sanctions stipulated in Section 3.1 of Regulation 2000/36.

Other Conditions

The licensee further agrees that it shall provide the necessary studio-transmitter link to enable it to broadcast in an immediate and proper fashion.

The licensee further agrees that it shall broadcast a minimum of 6 hours a day, seven days a week, from 18:00 until 24:00. However, licensee is free to broadcast in excess of the minimum without authorization or notice to the Office of the TMC.

The licensee also acknowledges that while there are no mandatory license fees payable in year 2000, it is anticipated that a license fee will be introduced in year 2001.

Moreover, licensee agrees that it shall not sub-license out or transfer this license to any third party without the exclusive written authorization from the Office of the TMC, and under no circumstances shall any financial compensation be paid or accepted for transfer of this licensee, in the event that permission to transfer is provided by the Office of the TMC.

This License incorporates by legal reference the attached General Terms and Conditions. Adherence to the attached General Terms and Conditions is obligatory by the Licensee and failure to adhere to such General Terms and Conditions shall subject Licensee to disciplinary actions pursuant to the provisions of Regulation 2000/36 including revocation of this license if such violation is deemed a material breach of this license agreement.

This License incorporates by legal reference the attached Specific Terms.

This License incorporates by legal reference the attached Broadcast Code of Conduct. Adherence to the attached Broadcast Code of Conduct is obligatory by the Licensee and failure to adhere to such Code shall subject Licensee to disciplinary actions pursuant to the provisions of Regulation 2000/36 including revocation of this license if such violation is deemed a material breach of this license agreement.

This License incorporates by legal reference the attached Election Code of Conduct (including Rule 11) and other applicable election laws relating to the broadcast media. Adherence to the attached Election Code of Conduct is obligatory by the Licensee and failure to adhere to such Code shall subject Licensee to disciplinary actions pursuant to the provisions of Regulation 2000/36 including revocation of this license if such violation is deemed a material breach of this license agreement.

License incorporates by legal reference the attached Technical Standards Terms and References. Adherence to the Technical Standards Terms and References is obligatory by the Licensee and failure to adhere to such Technical Standards Terms and References shall subject Licensee to disciplinary actions pursuant to the provisions of Regulation 2000/36 including revocation of this license if such violation is deemed a material breach of this license agreement.

The licensee also agrees to respect any additional regulations promulgated by the TMC and other authorized bodies under UNMIK during the lifetime of this license unless specifically granted a waiver by the TMC or other authorized bodies under UNMIK.

By accepting this license, licensee hereby acknowledges the terms of this license and agrees to such terms as stipulated herewith as well as those being incorporated by legal reference, thereof.

By affixing signature of TMC below, this license shall be deemed officially issued and valid.

SEAL _____ DATE _____

SIGNATURE _____

By affixing signature of Licensee below, Licensee hereby accepts and agrees to all the preceding terms stipulated above, including adherence to the Broadcast Code of Conduct.

SEAL _____ DATE _____

SIGNATURE _____

APPENDIX 9 : SAMPLE LICENSE (TELEVISION)



4 Zvezda Street, Pristina, Kosovo | P.O. Box 518 | Tel: +383 11 411 147

LICENSE

Pursuant to the authority granted under United Nations Security Council resolution 1244 (1999) of 10 June 1999, Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

Pursuant to the authority given to the Temporary Media Commissioner under UNMIK Regulation No. 2000/36, *On the Licensing and Regulation of the Broadcast Media in Kosovo*,

(Name) _____ director of (TV Name), (hereafter "Licensee"), is hereby authorized permission to operate television station, located on Channel _____ located in the town of _____ in the Municipality of _____.

The location of the antenna and transmitter of Licensee shall not be removed, transferred, or relocated without the written approval of the Office of the Temporary Media Commissioner in Kosovo.

By accepting this license, licensee hereby acknowledges that Licensee is aware of, familiar with, bound by and agrees with the ITU technical standards that are required for all TV stations licensed by the Office of the Temporary Media Commissioner in Kosovo.

MATERIAL TERMS OF LICENSE AGREEMENT

Grant of License

The validity of this TV license is contingent on compliance with Regulation 2000/36 as well as the following terms and conditions listed below. Unless otherwise exempted, the licensee agrees to comply with all regulations, codes, directives and orders promulgated by the Temporary Media Commissioner or any other authorized legal body.

Required Information

The Licensee shall:

- Retain a VHS recorded video archive of what was aired (air-check) by Licensee during the previous 21 days of operations.
- Notify the TMC within five (5) business days in writing in the event of a change in the following information as provided in the original license application:
- Station address of record, telephone, fax or other contact information;
- Senior (Key) Management and/or investors listed in the license application;
- Significant changes in operating hours;
- Interruptions in broadcasting greater than one-half day's program schedule.

Amending the Terms and Conditions of a License

The Licensee may apply to change the Specific Terms and Conditions of this license only by requesting such changes in writing to the TMC. Such changes may be made only upon written approval of the TMC. The TMC may, upon delivering a notice to the Licensee, amend the terms of this broadcast license consistent with due process under Regulation 2000/36.

Use and Transferability of License

Licensee may not transfer or assign this license without the prior written consent of the TMC. Any change in the ownership affecting more than a 10% share of interests shall require written TMC approval. The Licensee must commence broadcast operations within 45 days of receipt of this license, but under no circumstances more than 50 days from date of issue of this license. Failure to comply with this requirement shall result in the cancellation of the license.

Station Identification

The Licensee will identify itself clearly and consistently, by its authorized name or call sign, every hour on the top of the hour (plus or minus 2 minutes) both orally and visually.

Compliance

The Licensee shall display a copy of its broadcasting license at a publicly accessible site of its principal business office.

Copyright Permission

It is the obligation of the Licensee to obtain all the proper copyright clearances and permission for any and all programming (including music via CD and other means) prior to the airing of such programming by licensee. This includes reproduction, retransmission and simultaneous relaying of foreign and imported signals, be it from distant territorial broadcasters as well as satellite-derived signals and programming. In the event that the programming is legally deemed in the public domain, no such permission is required. Licensee agrees to provide TMC copies of such licensing agreements on 72 hour written notice.

Sanctions for the Breach of License Terms and Conditions

Consistent with Regulation 2000/36, where apparent deviations from the terms of a broadcast license occur, the TMC will provide the Licensee an opportunity to respond before taking any action.

Seizure of Broadcast Equipment

By accepting the license to operate a television station within Kosovo, Licensee agrees with the following terms relating to the seizure of broadcast equipment pursuant to Section 3.1(F) of Regulation 2000/36.

In the event that licensee replaces seized equipment without written authorization of the TMC, such unauthorized actions shall constitute a material breach of the licensing terms for broadcast, which shall result in the immediate permanent revocation of the broadcast license.

Moreover, Licensee agrees that seizure of equipment shall be subject to the following terms:

Upon seizing broadcast equipment pursuant to Section 3.1(F) of Regulation 2000/36, the TMC shall provide a receipt for all equipment seized to the licensee. Pending a final decision by hearing board, the seized equipment shall remain in the exclusive custody of the TMC. The TMC takes full responsibility of the seized equipment during the period it is in the custodianship of the TMC.

Revocation of License

In the event that the TMC issues sanction 32 (e), (f) or (g) against License requiring immediate suspension of broadcasting or permanent revocation of licensee's authorization to broadcast, unless an emergency situation is proclaimed by the SRSG, the sanction shall not be effective pending a final decision by the Media Appeals Board. In connection with this clause, it is hereby agreed that licensee shall submit a formal Letter of Appeal to the Media Appeals Board within 24 hours of receiving notification of sanction to suspend broadcasting or notice that licensee's license is permanently revoked. The Media Appeals Board shall issue an emergency expedited decision within 48 hours of receiving such an appeal according to their own rules of procedure.

Moreover, Licensee agrees that seizure of equipment shall be subject to the following terms:

Upon seizing broadcast equipment pursuant to Section 3.1(F) of Regulation 2000/36, the TMC shall provide a receipt for all equipment seized to the licensee. Pending a final decision by hearing board, the seized equipment shall remain in the exclusive custody of the TMC. The TMC takes full responsibility of the seized equipment during the period it is in the custodianship of the TMC.

Election Rules

Licensee *voluntarily* agrees to abide by any Rules promulgated by the Central Election Commission pursuant to its authority given to it by the Special Representative of the Secretary-General under UNMIK Regulation No. 2000/21 of 18 April 2000, including but not limited to Electoral Rule No. 2000/11, *Media During the Electoral Campaign*. Failure to comply with such Electoral Rules shall subject Licensee to punitive sanctions stipulated in Section 3.1 of Regulation 2000/36.

Other Conditions

The licensee further agrees that it shall provide the necessary studio-transmitter link to enable it to broadcast in an immediate and proper fashion.

The licensee further agrees that it shall broadcast a minimum of 6 hours a day, seven days a week, from 18:00 until 24:00. However, licensee is free to broadcast in excess of the minimum without authorization or notice to the Office of the TMC.

The licensee also acknowledges that while there are no mandatory license fees payable in year 2000, it is anticipated that a license fee will be introduced in year 2001.

Moreover, licensee agrees that it shall not sub-license out or transfer this license to any third party without the exclusive written authorization from the Office of the TMC, and under no circumstances shall any financial compensation be paid or accepted for transfer of this licensee, in the event that permission to transfer is provided by the Office of the TMC.

This License incorporates by legal reference the attached General Terms and Conditions. Adherence to the attached General Terms and Conditions is obligatory by the Licensee and failure to adhere to such General Terms and Conditions shall subject Licensee to disciplinary actions pursuant to the provisions of Regulation 2000/36 including revocation of this license if such violation is deemed a material breach of this license agreement.

This License incorporates by legal reference the attached Specific Terms.

This License incorporates by legal reference the attached Broadcast Code of Conduct. Adherence to the attached Broadcast Code of Conduct is obligatory by the Licensee and failure to adhere to such Code shall subject Licensee to disciplinary actions pursuant to the provisions of Regulation 2000/36 including revocation of this license if such violation is deemed a material breach of this license agreement.

This License incorporates by legal reference the attached Election Code of Conduct (including Rule 11) and other applicable election laws relating to the broadcast media. Adherence to the attached Election Code of Conduct is obligatory by the Licensee and failure to adhere to such Code shall subject Licensee to disciplinary actions pursuant to the provisions of Regulation 2000/36 including revocation of this license if such violation is deemed a material breach of this license agreement.

License incorporates by legal reference the attached Technical Standards Terms and References. Adherence to the Technical Standards Terms and References is obligatory by the Licensee and failure to adhere to such Technical Standards Terms and References shall subject Licensee to disciplinary actions pursuant to the provisions of Regulation 2000/36 including revocation of this license if such violation is deemed a material breach of this license agreement.

The licensee also agrees to respect any additional regulations promulgated by the TMC and other authorized bodies under UNMIK during the lifetime of this license unless specifically granted a waiver by the TMC or other authorized bodies under UNMIK.

By accepting this license, licensee hereby acknowledges the terms of this license and agrees to such terms as stipulated herewith as well as those being incorporated by legal reference, thereof.

By affixing signature of TMC below, this license shall be deemed officially issued and valid.

SEAL _____ DATE _____

SIGNATURE _____

By affixing signature of Licensee below, Licensee hereby accepts and agrees to all the preceding terms stipulated above, including adherence to the Broadcast Code of Conduct.

SEAL _____ DATE _____

SIGNATURE _____

**REGULATION NO. 2001/13
ON THE ESTABLISHMENT OF RADIO TELEVISION KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999 (UNSCR 1244),

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo and UNMIK Regulation No. 2000/36 of 17 June 2000 on the Licensing and Regulation of the Broadcast Media in Kosovo,

For the purpose of establishing Radio Television Kosovo as the public service broadcaster in Kosovo,
Hereby promulgates the following:

CHAPTER I: DEFINITIONS

For the purposes of the present regulation, the following definitions shall apply:

- (a) “communities” shall mean communities of inhabitants belonging to the same ethnic, religious or linguistic group;
- (b) “resident of Kosovo” shall mean a person registered or eligible for inclusion in the register of the Central Civil Registry as a habitual resident of Kosovo pursuant to UNMIK Regulation No. 2000/13 of 17 March 2000 on the Central Civil Registry; and
- (c) “Temporary Media Commissioner” shall mean the Temporary Media Commissioner (hereinafter “the TMC”) as established in UNMIK Regulation No. 2000/36 on the Licensing and Regulation of the Broadcast Media in Kosovo. A reference to the TMC in the present regulation shall also include any successor to the TMC established by the Special Representative of the Secretary-General.

CHAPTER II: RADIO TELEVISION KOSOVO

Section 1

Establishment of Radio Television Kosovo as a Public Service Broadcaster

1.1 Radio Television Kosovo (hereinafter “RTK”) is hereby established as a not for profit public service broadcasting organization.

1.2 RTK shall have legal personality, including the power to acquire, hold and dispose of property, and shall enjoy operational and administrative autonomy, except as specifically provided by the present regulation and the applicable law.

1.3 RTK shall be based in Priština and provide a quality broadcasting service to the whole of Kosovo that reflects the guiding principles of public service broadcasting. The guiding principles require that RTK shall:

- (a) Be independent and impartial, reflecting editorial integrity and objectivity;
- (b) Include comprehensive, impartial and balanced news and current affairs programmes covering events both within and outside Kosovo;
- (c) Provide prime time news coverage, of which not less than 15% shall be in the language(s) of communities within Kosovo other than the language of the majority community;
- (d) Promote cultural development and reflect the cultural diversity of Kosovo;
- (e) Give a voice to all communities in Kosovo, including through the establishment of a programming services office to support such communities and through the dedication of not less than 15% of RTK's programming, including prime time news coverage, in the language(s) of communities other than the language of the majority community on television and on the combined broadcasts of the RTK radio frequencies;
- (f) Strike a balance between programming of wide appeal and specific programmes that serve the needs of different audiences;
- (g) Provide adequate coverage of the proceedings of key decision-making bodies;
- (h) Include programmes that are of interest to different regions in Kosovo;
- (i) Ensure the diffusion of important public announcements;
- (j) Provide a reasonable proportion of educational programmes and programmes oriented towards children;
- (k) Promote domestic programme production; and
- (l) Contribute to informed debate and critical thought.

1.4 RTK shall endeavour to obtain 20% of its total domestically produced broadcasting, not including news programmes, from independent producers in Kosovo.

1.5 RTK shall establish a broadcasting archive of domestically produced programmes that shall include but not be limited to:

- (a) Events of significance to Kosovo;
- (b) Programmes that significantly reflect the culture of Kosovo;
- (c) Programmes dealing with significant social issues;
- (d) Educational programmes; and
- (e) Other programmes deemed appropriate by the Director-General of Broadcasting Operations.

1.6 RTK shall hold a public meeting at least once per year to receive feedback from the community and to respond to issues raised by the community concerning its operations.

CHAPTER III: RTK STRUCTURE

Section 2 Composition of RTK

RTK shall be composed of two bodies: the Board of Directors (hereinafter "the RTK Board"); and Broadcasting Operations.

Section 3
Functions of the RTK Board

3.1 The RTK Board shall appoint the Director-General of Broadcasting Operations (hereinafter “the Director-General”) and the Deputy Director-General of Broadcasting Operations (hereinafter “the Deputy Director-General”) in accordance with section 9 of the present regulation.

3.2 The RTK Board shall, following consultation with the Director-General and interested parties, determine the policies and procedures of RTK in accordance with the requirements set out in section 1.3 of the present regulation, principles and policies established by the TMC, and the general and specific conditions of its licenses as determined by the TMC.

3.3 The RTK Board shall, following consultation with the Director-General, prepare the annual budget of RTK for submission through the Central Fiscal Authority to the Special Representative of the Secretary-General for approval within the framework of the Kosovo Consolidated Budget. The budget shall provide for honoraria, reasonable expenses, adequate administrative support, reasonable capital expenditures, staffing, programming expenses, facilities, and other associated costs as required for both RTK bodies and shall be in accordance with normal budget procedures established by the Special Representative of the Secretary-General and the Central Fiscal Authority. The financial administration of RTK shall be subject to audit procedures established by the Special Representative of the Secretary-General.

3.4 The RTK Board shall, following consultations with the Director-General, prepare and present to the Kosovo Transitional Council and the Special Representative of the Secretary-General within two months of the end of each calendar year, an annual report, including details as to RTK’s financial situation, programme schedules, editorial policy and activities in the preceding year, including information on the fulfillment of RTK’s mandate as defined, *inter alia*, by the guiding principles of public service broadcasting set out in section 1.3 of the present regulation. The annual report shall also elaborate RTK’s objectives and projections for the coming year. The annual report shall be made available to the public.

Section 4
Composition of the RTK Board

4.1 The RTK Board shall be composed of nine members of whom three shall be international members and six shall be residents of Kosovo (hereinafter “resident members”).

4.2 Members of the RTK Board shall be appointed by the Special Representative of the Secretary-General, taking into account the recommendations of the Deputy Special Representative of the Secretary-General for Institution Building.

4.3 With respect to recommendations concerning the appointment of three of the resident members of the RTK Board, the Deputy Special Representative of the Secretary-General for Institution Building shall consider nominations submitted by the Senate of the University of Priština, the Association of Journalists of Kosovo, and the Worker’s Union of RTK. With respect to recommendations concerning the appointment of the remaining three resident members of the RTK Board, the Deputy Special Representative of the Secretary-General for Institution Building shall consider nominations submitted by the NGO Assembly or other appropriate civil society institution. The Deputy Special Representative of the Secretary-General for Institution Building shall satisfy himself that all nomination procedures are open and transparent. The Deputy Special Representative of the Secretary-General for Institution Building, in consultation with the Interim Administrative Council, shall also ensure that recommendations to the Special Representative of the Secretary-General for the appointment of the resident members of the RTK

Board reflect a cross-section of Kosovo's civil and multi-ethnic society as well as the regions of Kosovo. At least two of the resident members of the RTK Board shall be women.

4.4 Candidates selected for appointment as members of the RTK Board shall possess expertise that enables them to contribute significantly to the functions of the RTK Board and shall, for the duration of their appointments, uphold the guiding principles of public service broadcasting set out in section 1.3 of the present regulation.

4.5 No person may become or remain a member of the RTK Board if he or she:

- (a) Is in active employment in the public service of Kosovo;
- (b) Holds elected public office;
- (c) Is a member of the executive body of a political party;
- (d) Has direct or indirect financial interests in the telecommunications or broadcasting industries; or
- (e) Has been convicted, after due process in accordance with internationally accepted standards, of a crime involving violence or dishonesty for which he or she has not been officially and lawfully pardoned.

Section 5 Duration of RTK Board Appointments

5.1 In the first series of appointments following establishment of the RTK Board:

- (a) Two international members shall be appointed for a term of one year;
- (b) One international member shall be appointed for a term of six months;
- (c) Three resident members shall be appointed for a term of two years; and
- (d) Three resident members shall be appointed for a term of one year.

5.2 Appointments made after the first series of appointments shall be one-year terms for international members and two-year terms for resident members.

5.3 RTK Board members may be reappointed for one or more additional terms by the Special Representative of the Secretary-General taking into account the recommendation of the Deputy Special Representative of the Secretary-General for Institution Building.

Section 6 Removal from the RTK Board and the Conduct of Members

6.1 Taking into account the recommendation of the Deputy Special Representative of the Secretary-General for Institution Building, the Special Representative of the Secretary-General may remove a member from the RTK Board where he or she considers that any of the grounds for removal set out in section 6.2 of the present regulation apply to the member.

6.2 Grounds for removal of an RTK Board member shall include:

- (a) The member becomes ineligible for continued membership pursuant to section 4.5 above;
- (b) The member fails to perform his or her duties effectively, or acts in a manner inconsistent with the present regulation or with the principles contained in UNSCR 1244; or
- (c) The member fails, without valid excuse, to attend three consecutive meetings of the RTK Board.

6.3 Taking into account the recommendation of the Deputy Special Representative of the Secretary-General for Institution Building, the Special Representative of the Secretary-General shall appoint a new member to replace any member who has been removed from the RTK Board. The member so appointed shall serve for the remainder of the term of the member being replaced.

6.4 RTK Board members shall neither seek nor accept instruction in the performance of their duties from any authority, except as provided by law.

6.5 RTK Board members shall not use their appointment for personal benefit, or for the benefit of any party or entity other than the RTK.

Section 7 Procedures of the RTK Board

7.1 The Deputy Special Representative of the Secretary-General for Institution Building shall convene the first meeting of the RTK Board as soon as practicable after the first series of appointments have been completed.

7.2 At the first meeting, the RTK Board shall, by majority vote, elect its Chairperson and Vice-Chairperson from among the Board members.

7.3 The terms of the Chairperson and Vice-Chairperson shall be one year, and may be renewed by majority vote of the RTK Board.

7.4 The Director-General shall attend meetings of the RTK Board as a non-voting member.

7.5 The Chairperson shall convene meetings of the RTK Board once every month. At the discretion of the Chairperson or at the request of not less than four members, not including the Director-General, the Chairperson shall convene additional meetings as required.

7.6 The quorum for meetings of the RTK Board shall be five members, not including the Director-General.

7.7 The RTK Board shall determine its own rules of procedure as required to perform its functions in an open and transparent manner.

Section 8 Functions of Broadcasting Operations

8.1 Under the direction of the Director-General, Broadcasting Operations shall, within the framework of a budget established and approved in accordance with the present regulation and in accordance with the terms and conditions for broadcasting as specified by the TMC in RTK's licenses and other applicable instruments, implement all facets of the policies and procedures established by the RTK Board pursuant to section 3.2 of the present regulation.

8.2 Broadcasting Operations may make recommendations to the RTK Board regarding matters of policy, and matters relating to budget and administration.

8.3 Broadcasting Operations shall have the sole responsibility, within the framework of the present regulation and the policies established by the RTK Board, for all decisions and implementation relating to programming and programme transmission and for all aspects of programme development.

8.4 Broadcasting Operations shall recommend to the RTK Board, for its approval, a Code of Conduct for RTK.

8.5 Upon the approval by the RTK Board of a Code of Conduct for RTK, Broadcasting Operations shall determine and give effect to administrative procedures required for its implementation.

Section 9 The Director-General

9.1 The Director-General shall, in accordance with policies established by the RTK Board and the TMC, be responsible for all aspects of the management of Broadcasting Operations.

9.2 The Director-General shall be a person with extensive experience in broadcasting management. The Director-General shall be assisted by a Deputy Director-General who shall be a resident of Kosovo.

9.3 Upon the entry into force of the present regulation, the Deputy Special Representative of the Secretary-General for Institution Building shall appoint an acting Director-General to act in the position until 31 December 2001. The RTK Board shall appoint a new Director-General in accordance with the present regulation, with the appointment to take effect from 1 January 2002. The appointment may be renewed with the concurrence of not less than six members of the RTK Board including at least one international member. The term of appointment shall be two years.

9.4 As soon as practicable after the coming into force of the present regulation, the RTK Board shall appoint the Deputy Director-General. The appointment may be renewed with the concurrence of not less than six members of the RTK Board including at least one international member. The term of appointment shall be two years.

9.5 The Director-General and Deputy Director-General shall, for the duration of their appointments, uphold the guiding principles of public service broadcasting set out in section 1.3 of the present regulation.

9.6 No person may become or remain Director-General or Deputy Director-General if he or she:

- (a) Is in active employment in the public service of Kosovo;
- (b) Holds elected public office;
- (c) Is a member of the executive body of a political party;
- (d) Has direct or indirect financial interests in the telecommunications or broadcasting industries; or
- (e) Has been convicted, after due process in accordance with internationally accepted standards, of a crime involving violence or dishonesty for which he or she has not been officially and lawfully pardoned.

9.7 The RTK Board shall, upon the concurrence of not less than six members of the RTK Board including at least one international member, remove the Director-General or Deputy Director-General from office when:

- (a) The Director-General or Deputy Director-General becomes ineligible to continue to hold office pursuant to section 9.6 above; or
- (b) The Director-General or Deputy Director-General fails to perform his or her duties effectively, or acts in a manner inconsistent with the present regulation or with the principles contained in UNSCR 1244.

9.8 Should the Director-General resign or be removed from office, the Deputy Special Representative of the Secretary-General for Institution Building shall appoint a person to act provisionally in the position until such time as the RTK Board, by a vote of not less than six members including at least one international member, elects a new Director-General; provided, however, that should the acting Director-General appointed pursuant to section 9.3 above resign or be removed from office, the Deputy Special Representative to the Secretary-General for Institution Building shall appoint a new acting Director-General to serve for the remainder of the former acting Director-General's term. Should the Deputy Director-General resign or be removed from office, the RTK Board shall appoint a senior staff member of Broadcasting Operations to act provisionally in the position until such time as the RTK Board, by a vote of not less than six members including at least one international member, elects a new Deputy Director-General.

Section 10
Staff of Broadcasting Operations

10.1 The Director-General shall, in accordance with the approved budget of the RTK, appoint staff as required to fulfil the responsibilities of Broadcasting Operations.

10.2 The Director-General and staff shall neither seek nor accept instruction in the performance of their duties from any authority other than the RTK Board or the TMC, except as provided by law.

10.3 The Director-General and staff shall not use their appointments for personal benefit, or for the benefit of any party or entity other than the RTK.

CHAPTER IV: FUNDING OF RTK

Section 11
Sources of RTK Funding

11.1 The annual budget for RTK, to be submitted for approval pursuant to section 3.3 of the present regulation, shall include clear estimates of the total revenue expected from all sources.

11.2 RTK shall obtain funding from the revenue generated by a public broadcasting fee. Details of the public broadcasting fee, including apportionment and allocation of the revenue generated by the fee, shall be set out in an administrative direction to be issued by the Special Representative of the Secretary-General.

11.3 RTK may also generate supplementary revenues within the guidelines and limits that shall be set out in a further regulation or administrative direction issued by the Special Representative of the Secretary-General.

11.4 In addition, the RTK Board may request an appropriation of funds from the Kosovo Consolidated Budget. Any such appropriation shall be subject to established Kosovo Consolidated Budget procedures.

CHAPTER V: IMPLEMENTATION

Section 12
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 13
Applicable Law

The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 14
Entry into Force

The present regulation shall enter into force on 15 June 2001.

Hans Haekkerup
Special Representative of the Secretary-General

ADMINISTRATIVE DIRECTION NO. 2003/5

**IMPLEMENTING UNMIK REGULATION NO. 2001/13 ON THE
ESTABLISHMENT OF RADIO TELEVISION KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under section 11.2 of United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2001/13 of 15 June 2001 on the Establishment of Radio Television Kosovo,

Hereby issues the following Administrative Direction:

Section 1

Purpose

The monthly public broadcasting fee (hereinafter the “fee”) shall be collected for the exclusive purpose of funding the operations of Radio Television Kosovo (hereinafter “RTK”) as provided in UNMIK Regulation No. 2001/13 of 15 June 2001 on the Establishment of Radio Television Kosovo.

Section 2

Collection and Remittance of the Fee

2.1 Every household, business or other establishment in Kosovo receiving electricity service provided by the Energy Corporation of Kosovo (hereinafter “KEK”) shall pay the fee, which shall be invoiced through electric bills issued by KEK.

2.2 On behalf of RTK, KEK shall remit to RTK all fees collected each and every month, from all those required to pay the fee.

2.3 KEK shall remit all fees collected each and every month, within the first ten (10) days of the month following the month in which the fees have been collected, unless otherwise agreed in writing between RTK and KEK.

2.4 KEK shall remit collected fees to RTK by direct deposit to a bank account designated by RTK, the details of which shall be provided in writing by RTK to KEK.

2.5 The bank account designated by RTK for the purpose of receiving direct-deposit of funds from KEK shall be audited in accordance with all applicable provisions of UNMIK Regulation No. 2001/13 of

15 June 2001. The bank account shall not enter into overdraft. No assets on deposit in the account shall constitute collateral or otherwise be used for any transactions.

2.6 Both RTK and KEK shall maintain records as to the amounts collected and remitted as a monthly broadcasting fee. These records shall be made available to the public. RTK shall have the right to review KEK accounting and business records as necessary to establish the accuracy of these fee collection and remittance records.

2.7 Accounting methods and procedures to implement this directive shall be developed jointly by RTK and KEK.

Section 3 **Service Charge**

3.1 RTK shall pay to KEK an administrative service charge for collecting the fee and remitting the fee to RTK. KEK shall invoice RTK monthly for the service charge.

3.2 The amount of the service charge shall be fixed by written agreement between RTK and KEK within thirty (30) days of the effective date of this Administrative Direction. Should RTK and KEK fail to reach agreement on the service charge within the specified time, the Special Representative of the Secretary-General shall fix the amount of the service charge. The amount fixed by the Special Representative of the Secretary-General shall remain in effect until replaced by an amount agreed between RTK and KEK, or determined by the PISG.

Section 4 **Establishing the Level of the Fee**

4.1 The level of the fee shall be set initially at three (3) Euro (€) per month, and shall be effective as of the effective date of this Administrative Direction. The fee shall remain in effect until and unless a new level is established by the Assembly, pursuant to section 4.2 below.

4.2 No earlier than twelve months following the effective date of this Administrative Direction, and once each year thereafter, RTK, through the Minister for Transport and Communication, may propose to the Assembly, a change in the level of the fee. The Assembly may, after receiving a proposal from the Minister or of its own initiative, make a recommendation to the Special Representative of the Secretary-General regarding the level of the fee. The RTK shall publish notice of the proposal in Albanian, Bosniak, English, Serbian and Turkish languages in newspapers serving the community once such proposal is presented to the Assembly.

Section 5 **Exemption**

5.1 Households on the Ministry of Labour and Social Welfare, Social Assistance Scheme roster shall be exempt from payment of the RTK fee.

5.4 The exempt status of any household shall remain in effect for a period of twelve (12) months following registration, or until such time as that household ceases to belong to an exempt category, whichever is earlier. Any household whose exempt status has been registered, must inform the RTK immediately should the household cease to meet the criteria for an exempt category.

5.5 Any household may re-apply for exempt status in accordance with a process established by the RTK.

Section 6

Disputes

Disputes between RTK and KEK regarding the implementation of this agreement, which are not resolved amicably by negotiation by the parties, shall be resolved by the Deputy Special Representative of the Secretary-General, Pillar IV, in coordination with the Temporary Media Commissioner.

Section 7

Entry into Force

The present Administrative Direction shall enter into force on 5 February 2003, with implementation of the fee to begin not later than 1 March 2003, with first payment of fees by KEK to RTK not later than 10 April 2003.

Michael Steiner
Special Representative of the Secretary-General

APPENDIX 12



**Organization for Security and Co-operation in Europe
MISSION IN KOSOVO
Central Election Commission**

*CEC/Electoral
Rule/10/2002
23 August 2002*

ELECTORAL RULE NO. 10/2002

MEDIA DURING THE ELECTORAL CAMPAIGN

The Central Election Commission, pursuant to authority given by the Special Representative of the Secretary-General by UNMIK Regulation No. 2000/21 of 18 April 2000, as amended by UNMIK Regulation 2000/65 of 19th December 2000,

Issues the following Electoral Rule:

Section 1

Equitable and Fair Treatment by the Media during the Electoral Campaign

- (a) Journalists, editors, broadcast managers and publishers shall ensure exercise of the right of freedom of expression whilst observing limitations recognised by international law. Such limitations include, but are not restricted to, a prohibition on publishing or broadcasting material that by its content or tone incites or encourages criminal activities involving imminent risk of causing death or injury, damage to property, or other violence.
- (b) Journalists, editors, broadcast managers and publishers shall comply with the Codes of Conduct issued by the Temporary Media Commissioner, or successor, and shall endeavour to achieve accuracy, fairness and impartiality in all reporting.
- (c) All media shall, during the electoral process, endeavour to ensure that all certified political parties, coalitions, citizens' initiatives and independent candidates receive fair and equitable news coverage related to the electoral campaign.
- (d) The media shall endeavour to ensure that all certified political parties, coalitions, citizens' initiatives, and independent candidates receive fair exposure through interviews, debates, discussions, analytical articles and coverage of newsworthy campaign activities and events.

- (e) Journalists, editors, broadcast managers and publishers shall endeavour to operate in a manner that provides the public with accurate and balanced information concerning the views and activities of the certified political parties, coalitions, citizens' initiatives and independent candidates.

Section 2

Prohibition on Paid Political Advertising

All paid political advertisements on broadcast media shall be prohibited.

Section 3

Free Equitable Access to Broadcast Media

- (a) All broadcast media shall, during the "Campaign Period" –the period commencing 44 days before election day ending 24 hours before voting commences- day period prior to the election day, provide equitable free broadcast time for direct access by certified political parties, coalitions, citizens' initiatives and independent candidates, in accordance with the provisions of Administrative Procedures issued by the Temporary Media Commissioner, or successor. The Administrative Procedures shall be subject to the approval of the Central Election Commission.
- (b) The equitable free access provisions specified in the Administrative Procedures issued by the Temporary Media Commissioner, or successor, shall determine the amount of broadcast time allocated to the certified political parties, coalitions, citizens' initiatives and independent candidates, as well as the time-of-day and duration of the broadcasts.
- (c) The equitable free broadcast time for direct access shall be sufficient for certified political parties, coalitions, citizens' initiatives and independent candidates to communicate their messages and for voters to inform themselves about the issues.
- (d) Political discussion programs and debates shall endeavour to have a politically balanced composition of guests and, when relevant, studio audiences. The moderators of such programs and debates shall project an image of impartiality in the performance of their duties.

Section 4

Paid Political Advertising for Print Media

- (a) Print media shall provide equitable access and pricing policies for paid political advertisements in accordance with specifications issued by the Temporary Media Commissioner, or successor, subject to the approval of the Central Election Commission.
- (b) When print media carry political advertisements, the sponsors of such advertisements shall be clearly indicated.
- (c) Where free print space is given to a single or some certified political parties, coalitions, citizens' initiatives or independent candidates, then free print space must be offered to other certified political parties, coalitions, citizens' initiatives, or independent candidates in the circulation area of the publication on an equitable basis.

Section 5
Availability of Publications

Print distribution agencies or organizations and publication outlets, such as news stands and kiosks, shall provide for sale a diverse selection of publications thereby ensuring that a range of political and social viewpoints are readily available to the public.

Section 6
Prohibition of Media Coverage

No media coverage of any political campaign activity shall take place in Kosovo during the period commencing twenty-four (24) hours prior to the opening of the polling stations until the official close of the polling stations.

Section 7
Violations

- (a) The Election Complaints and Appeals Subcommission shall have authority to impose sanctions on certified political parties, coalitions, citizens' initiatives and candidates in respect of violations of this Rule in accordance with the provisions of Electoral 6/2002.
- (b) Any complaints against the broadcast and print media shall be referred to the office of the TMC or successor for review and adjudication.

Section 8
Repeal

- (a) Electoral Rule No. 2001/7 of July 13, 2001 on Media during the Electoral Campaign is repealed. Such repeal shall not have any effect on the validity of any act done under the Rule repealed, and shall not have effect on any obligation, liability, penalty or measure incurred under the Rule so repealed.
- (b) Any reference in any effective Regulation, Electoral Rule or Administrative Direction to Electoral Rule 2001/7 shall be construed as a reference to this Electoral Rule.

Section 9
Entry into Force

This Electoral Rule shall enter into force on 23rd. August 2002.

On Behalf of the Central Election Commission
Pascal Fieschi
Deputy Special Representative of the
Secretary-General for Institution Building and
Chairperson of the Central Election Commission

**APPENDIX 13: MEDIA HEARING BOARD DECISION ON CASES NO.
15/2002
and 19/2002**

Hearing of the Media Hearing Board (MHB)
Held on 25 September 2002, 10:00am, at the Kosovo Law Center in Prishtinë/Priština.

DECISION

The Temporary Media Commissioner (TMC)
Complainant

Versus

24 Orë
Respondent

In the complaints lodged with the TMC by Mr. Tahir Zemaj (TMC complaint # 1) and Mr. Sadik Musaj (TMC complaint # 2).

The panel of the MHB was composed of Mr. Sylvain Roy (presiding), Mr. Selajdin Selimi and Mr. Astrit Salihu.

Present:

Ms. Anna Di Lellio (Temporary Media Commissioner)
Mr. Ewald Orf (Senior Legal Advisor of the TMC)
Mr. Tahir Zemaj (Complainant to the TMC)
Mr. Sadik Musaj (Complainant to the TMC)
Mr. Merxhan Avdyli (Editor, *24 Orë*, Prishtinë/Priština)
Assistants/Interpreters

PRELIMINARY MATTERS:

The MHB noted with satisfaction the attendance of a representative of *24 Orë* (the Respondent) at the hearing. The MHB also noted that the Respondent had not prepared or submitted a written defence to the complaints of the TMC, as envisaged in the MHB Rules of Procedures. On the other hand, the Respondent had sent a written response to the letter of the TMC dated 13 August 2002, and *24 Orë* was ready and willing to have the MHB consider that letter as part of its defence. The MHB also informed the representative of the Respondent that he would be given equal opportunity to present evidence and arguments in response to the complaints made by the TMC or, through the panel of the MHB, ask questions to the witnesses of the TMC.

The MHB asked the representative of the Respondent if he was satisfied with the translation of the articles made by the TMC. The Respondent had no comments on this issue.

There were no other preliminary matters and, after the panel had reviewed for the participants the Rules of Procedures of the MHB, the hearing could then proceed.

CHARGES:

TMC Complaint # 1

On 29 June 2002, *24 Orë* published an article entitled “Tahir Zemaj – Capobanda of Crimes in Kosovo”. On 2 July 2002, *24 Orë* published an article entitled “Why and Who Brought Tahir Zemaj to Kosovo?”. On 3 July 2002, *24 Orë* published an article entitled “Did Tahir Zemaj Co-operate With Arkan?”. Following a complaint lodged by Mr. Tahir Zemaj, the TMC claims that, in these articles, *24 Orë* attributes criminal responsibility to Tahir Zemaj for numerous serious crimes, including murders, attempted murders and organised crimes committed in Kosovo, therefore exposing him to threats or risks for his life, safety or security. Thus, the TMC claims that, by doing so, *24 Orë* violated Section 4.1 of UNMiK Regulation 2000/37 and Section 2.1 of the Temporary Code of Conduct for the Print Media in Kosovo (TCCPMK).

Section 4.1 stipulates:

“Owners, operators, publishers and editors shall refrain from publishing personal details of any person, including name, address or place of work, if the publication of such details would pose serious threat to the life, safety and security of any such person through vigilante violence or otherwise.”

Section 2.1 stipulates:

“Publishers will not write, print, publish or distribute any material that encourages crime or criminal activities or which carries imminent risk of causing harm, such harm being defined as death, or injury, or damage to property or other violence.”

The TMC further claims that, by charging Mr. Tahir Zemaj with numerous criminal offences, *24 Orë* violated Section 3.1 of the TCCPMK.

Section 3.1 stipulates:

“Publishers will not write print, publish or distribute any material, that by intent or effect attributes criminal responsibility to any individual prior to a finding of guilt by a lawfully constituted tribunal.”

The TMC further claims that the publisher, by not verifying the facts of the story presented by the author in advance of the publication of *24 Orë*, violated Section 6.1 and 6.2 of the TCCPMK.

Section 6.1 stipulates:

“Publishers will not write, print, publish or distribute material that they know or ought to know to be false and deceptive.”

Section 6.2 stipulates:

“Publishers will not write, print, publish or distribute material unless they have undertaken a prudent and reasonable inquiry to ensure the veracity of the material.”

TMC Complaint # 2

On 19 July 2002, *24 Orë* published an article entitled “How Were Sadri Ahmetxhekaj From Isniq and Xhemajl Bucolli From Raushiq Killed?”. Following a complaint lodged by Mr. Sadik Musaj, the TMC claims that, in this article, *24 Orë* attributes criminal responsibility to Mr. Sadik Musaj for involvement in many criminal acts, and that, therefore, *24 Orë* violated Section 3.1 of the TCCPMK.

Section 3.1 stipulates:

“Publishers will not write print, publish or distribute any material, that by intent or effect attributes criminal responsibility to any individual prior to a finding of guilt by a lawfully constituted tribunal.”

ARGUMENTS AND EVIDENCE PRESENTED:

The articles published by *24 Orë* on 29 June, 2,3 and 19 July 2002, written in Albanian and translated into English, were presented to the MHB.

The representative of the TMC recalled the validity of the TCCPMK, at the time of the alleged violations, to the MHB.

OPENING STATEMENTS:

Both the TMC and the Respondent presented opening statements. The TMC referred to the following points:

- This was the first time that complaints had been brought against *24 Orë*.
- *24 Orë* had only started publishing within the last few months.
- More complaints were pending against *24 Orë*. This was deemed irrelevant by the MHB in this case, since the MHB was not in a position to assess the validity of those complaints.
- *24 Orë* had been co-operative with the TMC during the pre-hearing phase.
- The serious nature of the accusations contained in the articles.
- The fact that the Freedom of the Press ends at the point where Individual Rights are breached.

The Respondent referred to the following points:

- The letter sent to the TMC by *24 Orë*, on 24 August 2002, contains all the arguments that *24 Orë* may have in support of the publication of the articles.
- *24 Orë* does not feel that the life and security of the complainants were put at risk by the publication of these articles. This since other newspapers have also made similar accusations and other persons were also accused.
- *24 Orë* had published replies to its articles that it had received from other persons mentioned in the articles and, while they had not received any reply from the complainants, they would still publish such reply if the complainants sent it to them.

EVIDENCE:

Following the opening statements, the evidentiary part of the hearing commenced. After a review of the complaints against *24 Orë* and of the notice to appear for this hearing, the TMC recalled certain issues:

In relation to the case of Mr. Thair Zemaj:

- Newspaper publishers should take into consideration the particular “climate” of violence in Kosovo.
- The desire to “publish the truth” cannot serve as a justification for vigilantism on the part of newspapers or other media.
- The publication of such articles could incite individuals to take the law in their own hands.
- The article of 29 June 2002, accused Mr. Zemaj of at least 5 murders.
- The article of 2 July 2002, accused Mr. Zemaj of several crimes and of being a “collaborator” of the Serb regime.
- The article of 3 July 2002, accused Mr Zemaj of being the most dangerous *Mafioso* in Europe and of murders.
- The articles accused Mr. Zemaj of having collaborated with the Serb forces in an effort to crush the UCK, which could be considered, by Kosovo-Albanians, as a sacrilege committed against them.
- Persons publicly accused of such actions could seriously be worried about their safety.
- *24 Orë* should have been aware of the possibility of risks to the safety of persons accused in such a way.
- A few days after the publication of these articles, Mr. Zemaj was the victim of an assassination attempt and, while there are no direct link between the two, the sequences of events could establish circumstantial evidence as to the existence of such a link.
- These types of event are exactly why UNMiK has enacted the Regulations and Codes governing the conduct of Media in Kosovo.
- Mr Zemaj is a well-know public figure of Kosovo. Therefore, there was no need to publish additional details to expose Mr. Zemaj to potential risk.
- The articles attribute criminal responsibilities to Mr. Zemaj, before the proper determination of such responsibility by a court.

In relation to Mr. Sadik Musaj:

- The articles of *24 Orë* accused Mr. Musaj of involvement in many criminal acts, this before the proper determination of such responsibility by a court.
- While there were not such specific accusations as those made against Mr. Zemaj, the simple accusation of involvement of Mr. Musaj in criminal activities was sufficient to constitute a breach of the TCCPMK.

The TMC then presented witnesses testimonies from Mr. Tahir Zemaj and Mr. Sadik Musaj. These testimonies referred more specifically to the following facts:

From the testimony of Mr. Tahir Zemaj:

- He is a graduate of Military Science and has worked with the JNA (Yugoslav Army) as a professional officer. He also was a fighter in the “war” on the side of Kosovo-Albanians.
- The complaint he lodged with the TMC was filed before the assassination attempt on his person and not as a reaction to this event.
- There are improvements in the political and security situation in Kosovo but there are still some problems. As a result, the public accusation of such crimes as carried in the articles of *24 Orë* could lead to people being killed.

- The articles followed the arrests of the “Dukajini group” in what he believed to be a possible retaliation. He had nothing to do with these arrests.
- Everything written in the articles is untrue. In reply to a question by the MHB, Mr. Zemaj did admit that a local court had convicted him in the past, as written in one of the articles.
- As an example, he indicated that he had never possessed a passport before 1997 and that, therefore, he could not have been abroad to commit some of the murders he is accused of in the articles.
- He denied accusations contained in the articles and believe that only courts can establish the truth.
- He believes, as he puts it, that “he was liquidated by these articles”.
- He believes that the attack against him resulted from these articles.
- In this attack, 16 persons were injured to various degrees, while he himself was wounded with a bullet in the back.
- He is now also afraid for his family.
- In a reply to a question by the MHB, as to the fact of having or not written a reply to the articles, Mr. Zemaj indicated that he had not wanted to reply.

From the testimony of Mr. Sadik Musaj:

- He has lived in Switzerland for 17 years and only recently returned to Kosovo, after the death of his brother.
- He denies the accusations contained in the article and feels that they are retaliation by opposing political group, following the arrests of the “Dukajini group”.
- He did not want to reply to the article of *24 Orë*.
- Such accusations could even lead to consequences for those who made them.

The Respondent had no questions for the witnesses and presented evidence of its own. To that effect, Mr. Mexham Avdyli reiterated that the response sent to the TMC contained all answers to the complaints and that, as the representative of the Respondent, he accepted the content of this document.

Mr. Avdyli then requested a postponement of the hearing in order to have the Editor-in-Chief of *24 Orë*, Mr. Rasim Selmanaj, attend the hearing in order to provide additional information. The TMC opposed that request, indicating that the Respondent had been duly requested to attend the hearing and had chosen to send Mr Avdyli to represent the newspaper. After hearing further arguments, the MHB refused to allow the postponement.

Mr. Avdyli then made a short statement indicating that:

- He apologised to the complainants if their life was put in danger, but he did not think it to be the case.
- He himself was accused in the past by other newspapers and is not in danger.
- In response to a question from the MHB regarding possible clashes between Freedom of Expressions and the Presumption of Innocence, Mr. Avdyli indicated that the language used by newspapers might create such clashes and put people at risk. He further indicated that *24 Orë*, but also other newspapers of Kosovo, were using language that could create such situations.
- In reply to another question by the MHB, *24 Orë* indicated that they had to understand that, the rules and regulations established by UNMiK, were there exactly to prevent the situations of people being put at risk.
- The MHB also tried to emphasise to *24 Orë* that their offering of a right of reply to persons accused in their newspaper, could not serve as an opportunity to be allowed to publish anything or an opportunity to conduct trial by media.

The testimonies of all witnesses were presented in relation to the two complaints.

CLOSING ARGUMENTS:

The TMC representative presented closing arguments as to the following specific issues:

- The desire to “tell the truth” expressed by *24 Orë* could not serve as a justification for vigilantism and violations of UNMiK rules and regulations.
- The language of these articles spoke for itself. The articles did contain numerous serious criminal accusations.
- Given this fact and the clear UNMiK rules and regulations, violations of UNMiK Regulation 2000/37 and of the TCCPMK had to be assessed.

Specific references were made in relation to words, phrases and the general tone of the articles of *24 Orë* from 29 June, 2, 3 and 19 July 2002, and the relation between these and the specific elements of the charges under UNMiK Regulation 2000/37 and the TCCPMK.

As to aggravating or mitigating circumstances, the TMC argued more specifically that:

- There was an absence of mitigating circumstances.
- The serious nature of the accusations contained in the articles of *24 Orë* should be viewed as an aggravating circumstance.

At the conclusion of the evidentiary part of the proceeding, the TMC argued that it had discharged its burden of proof and presented evidence in relation to all charges. The TMC argued that there was sufficient evidence for the MHB to arrive at the conclusion that *24 Orë* had committed violations in relation to all of the charges laid against them, this with aggravating circumstances. Therefore, the TMC invited the MHB to rule on whether violations had occurred and, if such was the case, whether such violations had been committed with mitigating or aggravating circumstances.

For its part, *24 Orë* did not present any additional comments.

DECISION:

Having heard the arguments and evidence presented to the MHB and after deliberations, the panel ruled UNANIMOUSLY that:

- Journalism is a difficult profession and the MHB agrees that the media should be able to report on every issue, including organised crime, but that this should be done professionally.
- The MHB recognised the importance of the freedom of the press.
- The MHB also emphasise that along with this freedom comes an obligation to respect the rights of others, including the presumption of innocence guaranteed to all.
- The violations alleged against the Respondent are very serious.
- The fact that some information is clearly established, such as the death of the Kosovo-Albanian citizens, does not give the media a licence to substitute themselves to courts.
- The accusations made against the two witnesses, as contained in the articles of *24 Orë*, are very serious. The arguments advanced by *24 Orë* that they do not believe that the witnesses were put at risk by the accusations contained in the articles are incompatible with their own assertions that they were sorry if the witnesses felt unsafe. This is also contrary to the MHB own assessment that political killings are still a reality in Kosovo society.

- When it comes to criminal accusations, courts are the place where guilt or innocence should be determined. Not the press. This is a fundamental concept of a democratic society where the Rule of Law is respected.

AS TO THE COMMISSION OF THE VIOLATIONS:

In relation to TMC Complaint # 1:

- The *24 Orë* newspaper published the articles of 29 June, 2 and 3 July 2002 submitted in evidence.
- The translation, in English, of this article was sufficient and reflected the content in Albanian.
- The MHB found that the whole tone of the articles should be qualified as demagogic. The articles used some specific factual issues, such as the fact that the complainant had worked as an officer for the JNA, his marriage to a Serbian women or his previous conviction, as a basis to lay serious criminal accusations against him, such as murders (including of “martyrs of Kosovo”) and participation in organised crimes.

As to Section 4.1 of UNMiK Regulation 2000/37:

- In its article of 29 June, 2 and 3 July 2002, *24 Orë* did publish the name of a person (Mr. Tahir Zemaj). Given the standing of Mr. Zemaj in Kosovo, this information was sufficient to identify him in the eyes of the public. This information was given in relation to specific accusations made against Mr Zemaj, such as, in the opening paragraph of the article of 29 June, direct involvement in the killing of no less than 8 persons. This type of accusation can pose a serious threat to the life, safety and security of Mr. Tahir Zemaj, or that of his family, through vigilante violence or otherwise. The fact that Mr. Zemaj was the subject of an attack, shortly after the publications of these articles, can not be ruled out as a possible result of the accusations made by the articles of *24 Orë*.

Therefore the panel concludes that *24 Orë* committed a violation of Section 4.1

As to Section 2.1 of the TCCPMK:

- In its articles of 29 June, 2 and 3 July 2002, *24 Orë* did publish material, such as the example given above, which directly implicated and accused Mr. Zemaj in the murders of Kosovo-Albanians committed in Kosovo and abroad. Given the context of Kosovo, this type of material encourages crime, namely the commission of offences against the integrity of the person, such as murder or threats, or carries the imminent risk of causing harm, such as death or injuries, to Mr. Tahir Zemaj and possibly resulted in such an attack taking place.

Therefore the panel concludes that *24 Orë* committed a violation of Section 2.1

As to Section 3.1 of the TCCPMK:

- In its article of 29 June, 2 and 3 July 2002, *24 Orë* did publish material such as the example given above, containing accusations of participation, as a perpetrator or accomplice or conspirator, in murders. That material by intent or effect attributes criminal responsibility to Mr. Tahir Zemaj, except in so far as to the previous conviction admitted to by Mr. Zemaj, prior to a finding of guilt by a lawfully constituted tribunal.

Therefore the panel concludes that *24 Orë* committed a violation of Section 3.1

As to Section 6.1 of the TCCPMK:

- The panel, after a review of the evidence, found that, in its article of 29 June, 2 and 3 July 2002, *24 Orë* did publish material, such as the excerpts quoted above, that, at the very least created the impression that there should be no doubts as to the guilt of Mr. Zemaj for these crimes. For this, *24 Orë* knew or should have known that the material was deceptive.

Therefore the panel concludes that *24 Orë* committed a violation of Section 6.1

As to Section 6.2 of the TCCPMK:

- The panel, after a review of the evidence, found that, in its article of 29 June, 2 and 3 July 2002, *24 Orë* did publish material without undertaking a prudent and reasonable inquiry to ensure the veracity of that material. The panel found that the whole tone of these articles amounted more to gossip than factually based research, therefore demonstrating the lack of inquiry to verify the veracity of the material.

Therefore the panel concludes that *24 Orë* committed a violation of Section 6.2

In relation to TMC Complaint # 2:

- The *24 Orë* newspaper published the article of 19 July 2002 submitted in evidence.
- The English translation of this article was sufficient and reflected the content in Albanian.

As to Section 3.1 of the TCCPMK:

- In its articles of 19 July 2002, *24 Orë* did publish material containing accusations, such as participation in the wounding of 2 Kosovo-Albanians in Autumn 2000 as a perpetrator or accomplice or conspirator in criminal acts. That material by intent or effect attributes criminal responsibility to Mr. Sadik Musaj prior to a finding of guilt by a lawfully constituted tribunal.

Therefore the panel concludes that *24 Orë* committed a violation of Section 3.1

AS TO MITIGATING OR AGGRAVATING CIRCUMSTANCES:

In relation to both complaints, the panel found that there were aggravating circumstances stemming from the following facts:

- The serious nature of the accusations made in the articles published on 29 June, 2, 3 and 19 July 2002 and the potential lethal consequences of the accusations for both Mr. Tahir Zemaj and Sadik Musaj. As one of the witnesses expressed it in Albanian, “I have been liquidated by these articles.”

The panel also found that there were mitigating circumstances stemming from the following facts:

- The readiness of *24 Orë* to publish replies from individuals affected by these articles, and the fact that they have done so, including other persons associated with this particular case. While this is a noteworthy attitude, as indicated above, it cannot serve as a justification for the conduct of “trial by media”.
- The recognition of, at least, the representative of the Respondent that there is a need to change the language and tone used by their newspaper. In this respect, the decision of the MHB should be viewed, by *24 Orë* and perhaps others media, as a message that they need to change their conduct as journalists and adopt professional standards of journalism.

- The fact that *24 Orë* is a relatively new participant in the media scene of Kosovo. The MHB therefore hopes that this is “an error of youth,” so to say.

In conclusion, the panel invites the TMC to take under consideration these circumstances when time comes to determine the appropriate sanction against *24 Orë*.

Furthermore, the panel notes that spreading these kinds of accusations, as done by *24 Orë* in the articles of 29 June, 2, 3 and 19 July 2002, is not only damaging to the character and reputation of the individual victims of such accusations but can also result in dire consequences. This conduct is also damaging for the Kosovo society as a whole, by putting in danger its very future as a democratic, tolerant and law abiding member of the international community.

This decision was delivered orally at the close of the hearing on 25 September 2002.

The written version (original in English) of this decision was submitted for approval by other panel members and for translation on 14 October August 2002.

The final written version, in English and Albanian, was delivered on 24 August 2002.

APPENDIX 14: TMC SANCTIONING DECISION ON CASES No.15/2002 and 19/ 2002

18 November 2002

SANCTIONING DECISION ON 24 ORË

BACKGROUND:

1. This decision arises out of two cases brought against the *24 Orë* newspaper pursuant to the authority granted to me as Temporary Media Commissioner (TMC) under UNMiK Regulation 2000/36. The cases concern numerous violations of UNMiK Regulation 2000/37 and its associated Code of Conduct. Specifically:
 - By publishing on 29 June 2002 an article entitled, “Tahir Zemaj - Capobanda of Crimes in Kosovo”
 - By publishing on 2 July 2002 an article entitled, “Who Brought Tahir Zemaj to Kosovo and Why?”
 - By publishing on 3 July 2002 an article entitled “Did Tahir Zemaj Co-operate With Arkan?”
 - By publishing on 19 July 2002 an article entitled “How Sadri Ahmetgjokaj from Isnij and Xhemajl Buçolli from Raushiq Got Killed?”
2. The decision follows the findings of the Media Hearing Board (MHB) of 25 September 2002 that *24 Orë* had violated UNMiK Regulation 2000/37 Section 4.1 and its associated Code of Conduct in one case and Section 3.1 of the Code of Conduct in the other case. Furthermore, it takes cognizance of the Board’s recommendations as to mitigating and aggravating circumstances.
3. In coming to this decision I have also taken account of the observations of the Media Appeals Board (MAB) in its decision of 16 September 2000, *Beqaj & Dita v. Temporary Media Commissioner*, in respect of due process and the explanation of the criteria used in determining “reasonable and proportionate” sanctions.

SANCTIONS:

4. In accordance with the authority granted to me under UNMiK Regulations 2000/36 and 2000/37; and accepting the findings of the MHB; consistent with the principles of reasonableness and proportionality; and taking into account factors relating to the financial situation of *24 Orë*, the need to deter future similar violations and the current atmosphere of violence in Kosovo, I hereby require the owners and operators of *24 Orë* to pay the following fines:
 - In respect to the 29 June 2002 article the sum of - Euro 1,500

- In respect to the 2 July 2002 article the sum of - Euro 1,500
- In respect to the 3 July 2002 article the sum of - Euro 1,500
- In respect to the 19 July 2002 article the sum of - Euro 500

EXPLANATION:

5. Available Sanctions: Section 2.1 of UNMiK Regulation 2000/37 provides that:

“The Temporary Media Commissioner may impose one or more of the following sanctions on owners, operators, publishers, editors-in-chief and/or those with ultimate and final editorial control of publications published and/or distributed within Kosovo, who operate in violation of the applicable law, or such code or codes of conduct as may be promulgated under Section 1.2 hereof, or Section 4.1:

- a) A warning*
 - b) The requirement to publish a reply, correction or apology*
 - c) A fine of not less than DM 1,000 and not exceeding DM 100,000*
 - d) Seizure of equipment and/or printed material*
 - e) Suspension or close down of operations.”*
6. Decision to Fine: Upon deciding to impose a fine I have taken into account the serious nature of the violations. A warning or the requirement to publish a reply, a correction or an apology would not adequately reflect this serious nature of the violations. I therefore consider that a fine is the appropriate sanction. Seizure of equipment, the suspension or close down of operations, will only be applied by the TMC as the very last resort, if any other means to deter *24 Orë* from violating the law will fail.
7. Prevailing Conditions in Kosovo and Deterrence: It is generally accepted that the conditions in Kosovo could not yet be described as approximating a fully functioning democracy. Violence remains a regular means by which differences are resolved and scores settled and the fear of violence is self-evident across the whole spectrum of society. Recent violent events only serve to illustrate this reality further. Tensions continue between the communities and political ideologies and the legacy of the war pervades many aspects of daily life. These tensions are easily inflamed and in such circumstances it is clearly reasonable to infer that articles such as those referred to in this decision and others like them would result in violence or the threat or fear of such. The Media Appeals Board also came to the same conclusions on the *“continuing level of violence and inter-communal tension”* in its 16 September 2000 decision. Furthermore, as TMC I am deeply concerned about the current levels of inflammatory and potentially dangerous accusation and counter accusation in the Kosovo written press of which the articles referred to in this decision are prime examples. The flavor of much of the press at present does, in my view, contribute to the prevailing atmosphere of tension. Editors must understand that they are accountable for what is written in their publications and that, as has been stated many times before, freedom of speech, as defined by international convention, brings with it duties and responsibilities. These duties and responsibilities are currently not being fulfilled by a significant proportion of the print media. My duty in these cases is to uphold the rights of the individual and the society in general against the threat of violence and increased tension caused by such irresponsibility. In this context I have considered the necessity to deter further violations of these rights and responsibilities as a major factor in the determination of sanctions in these cases.
8. Media Hearing Board Findings: The MHB concluded that violations of UNMiK Regulation 2000/37 Section 4.1 and the Code of Conduct had taken place in one case and violation of Section 3.1 of the Code of Conduct had taken place in the other case.

- a) As to Damage: The MHB emphasized the serious nature of the accusations made in the articles and stated that it can not be ruled out that the fact that Mr. Zemaj became a victim of an assassination attempt was a result of the accusations made by the articles of *24 Orë*.
- b) As to Mitigating Circumstances: The MHB found that there were three mitigating circumstances. The fact that *24 Orë* is a relatively new participant in the media scene in Kosovo. The readiness of *24 Orë* to publish replies from individuals affected by its articles and the recognition that there is a need to change the language and the tone of the newspaper.
- c) As to Aggravating Circumstances: The MHB pointed out the potential lethal consequences of the accusations for both the injured parties.

6. Disclosure and Financial Situation:

- a) Disclosure: Following the decision of the MHB on 25 September 2002 I wrote *24 Orë* in order to explain to them the criteria that I would apply in determining an appropriate sanction. In this letter I requested information from them as to their business registration within Kosovo, their yearly income and expenditure and their daily circulation figures.
- b) Financial Situation: According to the figures received from *24 Orë* the revenues from sales amount to Euro 168 per day. The daily circulation amounts to approximately 2,000 copies out of which 700 are sold. *24 Orë* did not provide me with any figures of its revenues generated by advertising. *24 Orë* is carrying advertising. For the purpose of the calculation of the fines I take a daily average of 2000 sold copies, which will compensate for any advertising generated by *24 Orë* in addition to the revenue generated by sales.

CALCULATION:

- 7. The sanctions subject of this decision are based on proportionality with respect to the information provided by *24 Orë* and reflect the appropriate standards of punitive and deterrent damages relevant to the violations as determined by the MHB.
- 8. Punitive damages for each violation are based on a daily circulation of 2,000 copies of *24 Orë* which constitutes a daily gross revenue of Euro 600. Minus 20% commission equals Euro 480. I thus determine the punitive damages amounting to Euro 500.
- 9. Deterrent damages represent in the case of the articles published on 29 June, 2 July and 3 July 2002 Euro 1000 for each article. Given the mitigating circumstances found by the MHB and in view of the significant difference in the nature of the accusations against Mr. Zemaj on the one hand and Mr. Musaj on the other hand, the deterrent damages thus determined shall include the article published by *24 Orë* on 19 July against Mr. Musaj.
- 13. Each sanction is therefore comprised of a daily punitive damage of Euro 500 based on the potential daily distribution revenue for each of the four days the articles appeared in *24 Orë*. Furthermore, given the need to deter future violations and specifically the circumstances described in Paragraph 7 of this decision, a further sum of Euro 3,000 is included amounting to a total of Euro 5000.

RIGHT OF APPEAL:

10. In accordance with the provisions of Section 4 of UNMiK Regulation 2000/36, 24 Orë is hereby advised of the right to appeal this decision to the Media Appeals Board. The written appeal and any accompanying documents shall be filed and delivered to the TMC located at Ombudsperson Building in Priština, Kosovo no later than 18 December 2002. For further information, contact the TMC office at 038 540 077.
11. During the period of appeal, all sanctions will be suspended.

PAYMENT

12. Payments required under this decision must be paid by 18 December 2002 unless an appeal is filed with the Media Appeals Board, in which case, payments are suspended until resolution of the appeal. Payments required under this decision shall be paid in cash or via bank transfer. Details on bank payment may be obtained from my office.

Anna Di Lellio
Temporary Media Commissioner

**APPENDIX 15: MEDIA HEARING BOARD DECISION ON CASES
No.5/2002 and 6/2002**

Hearing of the Media Hearing Board (MHB)
Held on 1 July 2002, at 10:00, in KLC office in Pristina.

DECISION

The Temporary Media Commissioner (TMC)
Complainant

Versus

Bota Sot
Respondent

In the complaints lodged with the TMC by Mr. Baton Haxhiu (TMC complaint # 1) and Mr. Blerim Shala (TMC complaint # 2).

The panel of the MHB was composed of Mr. Sylvain Roy (presiding), Mr. Selajdin Selimi and Mr. Astrit Salihu.

Present:

Ms. Anna Di Lellio (Temporary Media Commissioner)
Mr. Ewald Orf (Senior Legal Advisor of the TMC)
Mr. Baton Haxhiu (Complainant to the TMC)
Mr. Blerim Shala (Complainant to the TMC)
2 Assistants/Interpreters

PRELIMINARY MATTERS:

Bota Sot (the Respondent) or its legal representative being absent from the proceeding, the MHB first heard arguments regarding the appropriateness of conducting the hearing in the absence of the Respondent (*in absentia*).

RULING:

Having received evidence that the Respondent was duly notified, both orally and in written form, of the date, place and time of the hearing by the MHB.

Having received evidence that the Respondent is clearly aware of the complaints against him, particularly through contacts and conversations with the TMC.

Noting that the Respondent, through past experiences with the TMC, is familiar with the proceeding of the MHB.

Noting that no explanations or contacts were received, either by the TMC or the MHB, from the Respondent as to reasons for his absence.

Having received evidence that the Respondent is notified that the TMC would request that the proceeding be conducted *in absentia* and that, in such case, a decision could be reached without the presence of the Respondent or him being heard.

Noting that the MHB would have preferred that the proceeding be conducted in the presence of the Respondent, thus providing him with the opportunity to be heard.

Noting finally the seriousness of the complaints against the Respondent and the urgency in dealing with these complaints.

The MHB ruled unanimously that the hearing should proceed *in absentia* of the Respondent.

CHARGES:

TMC Complaint # 1

On 18 April 2002, *Bota Sot* published an article entitled “Syndrome Baton Haxhiu”. Following a complaint lodged by Mr. Baton Haxhiu, the TMC claims that, in this article, *Bota Sot* alleges that Mr. Baton Haxhiu was a traitor and a collaborator of the Serb Secret Service. The TMC claims that, by doing so, *Bota Sot* violated Section 4.1 of UNMiK Regulation 2000/37 and Section 2.1 of the Temporary Code of Conduct for the Print Media in Kosovo (TCCPMK).

Section 4.1 stipulates:

“Owners, operators, publishers and editors shall refrain from publishing personal details of any person, including name, address or place of work, if the publication of such details would pose serious threat to the life, safety and security of any such person through vigilante violence or otherwise.”

Section 2.1 stipulates:

“Publishers will not write, print, publish or distribute any material that encourages crime or criminal activities or which carries imminent risk of causing harm, such harm being defined as death, or injury, or damage to property or other violence.”

The TMC further claims that the publisher of *Bota Sot*, by not verifying the facts of the story prepared by the author in advance of the publication, violated Section 6.1 and 6.2 of the TCCPMK.

Section 6.1 stipulates:

“Publishers will not write, print, publish or distribute material that they know or ought to know to be false and deceptive.”

Section 6.2 stipulates:

“Publishers will not write, print, publish or distribute material unless they have undertaken a prudent and reasonable inquiry to ensure the veracity of the material. “

TMC Complaint # 2

On 12 April 2002, *Bota Sot* published an article entitled “Miserable People of Journalism – Today’s Patriots”. Following a complaint lodged by Mr. Blerim Shala, publisher of the *Zeri* newspaper, the TMC claims that, in this article, *Bota Sot* suggested that Mr. Blerim Shala was a collaborator of the Serb regime. The TMC claims that, by doing so, *Bota Sot* violated Section 4.1 of UNMiK Regulation 2000/37 and Section 2.1 of the TCCPMK.

Section 4.1 stipulates:

“Owners, operators, publishers and editors shall refrain from publishing personal details of any person, including name, address or place of work, if the publication of such details would pose serious threat to the life, safety and security of any such person through vigilante violence or otherwise.”

Section 2.1 stipulates:

“Publishers will not write, print, publish or distribute any material that encourages crime or criminal activities or which carries imminent risk of causing harm, such harm being defined as death, or injury, or damage to property or other violence.”

The TMC further claims that, by suggesting that Mr. Blerim Shala should have been imprisoned for his anti-national injustice during the occupation of Kosovo, *Bota Sot* violated Section 3.1 of the TCCPMK.

Section 3.1 stipulates:

“Publishers will not write print, publish or distribute any material, that by intent or effect attributes criminal responsibility to any individual prior to a finding of guilt by a lawfully constituted tribunal.”

The TMC further claims that the publisher of *Bota Sot*, by not verifying the facts of the story prepared by the author in advance of the publication, violated Section 6.1 and 6.2 of the TCCPMK.

Section 6.1 stipulates:

“Publishers will not write, print, publish or distribute material that they know or ought to know to be false and deceptive.”

Section 6.2 stipulates:

“Publishers will not write, print, publish or distribute material unless they have undertaken a prudent and reasonable inquiry to ensure the veracity of the material. “

ARGUMENTS AND EVIDENCE PRESENTED:

The articles published by *Bota Sot* on 12 and 18 April 2002, written in Albanian and translated into English, were presented to the MHB.

The validity of the TCCPMK, at the time of the alleged violations, was established by the TMC.

Testimonies were heard from Mr. Baton Haxhiu and Mr. Blerim Shala. These testimonies referred more specifically to the following facts:

- A systematic campaign of attacks by *Bota Sot* on *Koha Ditore*, more significantly through attacks on the personality of its Editor-in Chief, Mr. Baton Haxhiu.
- Similar attacks by *Bota Sot* against competing newspapers, such as *Zeri*.
- The perpetuating mentality of *Bota Sot* in accusing people of collaborating with the Serbian authorities.
- The fact that both witnesses are well known in Kosovo and therefore can be identified by the single mention of their names.
- The dangerous nature of such accusations, particularly in the fact that, in recent past, such accusations have led to threats or harm being brought to persons against whom such accusations were made.
- The fact that serious risk of harm could come from the incitement, by such article, if only by a single individual.
- Specific threats received by one of the witness, shortly after the publication of one of the article, using similar accusations as those contained in the article as the basis for the threats.
- The destabilising nature of such accusations for the Kosovo society as a whole.
- The possible negative impact of such accusations on the reputation and standing of the witnesses in the Kosovo society.
- The untruthfulness of the accusations made in relation to the witnesses.
- Information concerning a meeting in 1997, which formed the basis of the article of 18 April in *Bota Sot* and, more particularly, information that circulated in various local and international publications regarding this meeting.
- The fact that neither Mr. Baton Haxhiu nor other persons present in the above mentioned meeting were contacted in order to ascertain their versions of the events.
- Steps taken by one of the witnesses to request from *Bota Sot* for the possibility of having them either retract or print his response to the accusations and the ensuing negative reply by *Bota Sot* to this request.
- More generally, the professional conduct of the witnesses in carrying out their work as journalist, editor or publishers and standards they upheld.

The testimonies of both witnesses were filed in relation to the two complaints.

The TMC representative presented arguments as to the following specific issues:

- The role of the TMC in Kosovo.
- The mandate entrusted to the TMC by the SRSB and the continuous need for protection and supervision demonstrated by the extension of the TCCPMK by the SRSB.
- The current situation in Kosovo, particularly in relation to tension and violence.
- The role of the media in relation to this situation as a positive or poisonous factor.
- The fact that oral violence could lead to physical violence.
- Recent figures regarding newspaper circulation in Kosovo (placing *Bota Sot* in 3rd position) and abroad.

Specific references were made in relation to words, phrases and the general tone of the articles of *Bota Sot* from 12 and 18 April 2002, and the relation between these and the specific elements of the charges under UNMiK Regulation 2000/37 and the TCCPMK.

Arguments were presented as to aggravating or mitigating circumstances, more specifically:

- The previous conviction of *Bota Sot* for a similar complaint.
- The efforts undertaken by the TMC to meet and discuss with *Bota Sot* regarding ways to align their publication with the standards contained in the UNMiK regulation and the TCCPMK.
- The lack of reply by *Bota Sot* to the complaints made against them.
- The avoidance of *Bota Sot* to participate in the hearing of the MHB.
- The general disregard for the TMC, the legislation in place or the procedures established in relation to this legislation, including the MHB.

At the conclusion of the evidentiary part of the proceeding, the TMC argued that it had discharged of its burden of proof and presented evidence in relation to all charges. The TMC argued that there was sufficient evidence for the MHB to arrive at the conclusion that *Bota Sot* had committed violations in relation to all of the charges laid against them, this with aggravating circumstances. Therefore, the TMC invited the MHB to rule on whether violations had occurred and, if such was the case, whether such violations had been committed with mitigating or aggravating circumstances.

DECISION:

Having heard the arguments and evidence presented to the MHB and after deliberations, the panel ruled UNANIMOUSLY that:

- The panel wished that the Respondent had made himself heard in these proceeding but, in all likelihood, choose not to do so.
- The violations alleged against the Respondent are very serious.
- The accusations made against the two witnesses, as contained in the articles of *Bota Sot*, are very serious.

AS TO THE COMMISSION OF THE VIOLATIONS:

In relation to TMC Complaint # 1:

- The *Bota Sot* newspaper published the article of 18 April 2002 submitted in evidence.
- The translation, in English, of this article was sufficient and reflected the content in Albanian.

As to Section 4.1 of UNMiK Regulation 2000/37:

- In its article of 18 April 2002, *Bota Sot* did publish the name of a person (Mr. Baton Haxhiu) and indicated that he was associated with the print media in Kosovo. Given the standing of Mr. Baton Haxhiu in Kosovo, this information was sufficient to identify him in the eyes of the public. This information was given in relation to specific accusations made against Mr Baton Haxhiu, such as “*The “syndrome Baton Haxhiu” [...] acting in accordance with the orders that he received from UDB,[...] he produced only poison against his colleagues and Albanian politicians, causing fear and threats*”. This type of accusation can pose a serious threat to the life, safety and security of Mr. Baton Haxhiu through vigilante violence or otherwise and, indeed, since the publication of this article, Mr. Baton Haxhiu has received such threats.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 4.1

As to Section 2.1 of the TCCPMK:

- In its article of 18 April 2002, *Bota Sot* did publish material such as the excerpt quoted above and others such as “*Baton Haxhiu, even when Serb regime left Kosovo, continued to cut Turkish heads with the swords of Stanistic*” leaving the clear impression to the readers that Mr. Baton Haxhiu was a collaborator to the Serbian regime or its institutions, including the Secret Service, and a traitor to the Albanians of Kosovo. This type of material encourages crime, namely the commission of offences against the integrity of the person, such as murder or threats, or carried the risk of causing harm, such as death or injuries, and, indeed, since the publication of this article, Mr. Baton Haxhiu has received such threats.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 2.1

As to Section 6.1 of the TCCPMK:

- The panel, after a review of the evidence, found that, in its article of 18 April 2002, *Bota Sot* did publish material, such as the excerpts quoted above, *Bota Sot* knew or should have known was, in all likelihood false, and deceptive.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 6.1

As to Section 6.2 of the TCCPMK:

- The panel, after a review of the evidence, found that, in its article of 18 April 2002, *Bota Sot* did publish material without undertaking a prudent and reasonable inquiry to ensure the veracity of that material

Therefore the panel concludes that *Bota Sot* committed a violation of Section 6.2

In relation to TMC Complaint # 2:

- The *Bota Sot* newspaper published the article of 12 April 2002 submitted in evidence.
- The translation, in English, of this article was sufficient and reflected the content in Albanian.

As to Section 4.1 of UNMiK Regulation 2000/37:

- In its article of 12 April 2002, *Bota Sot* did publish the name of a person (Mr. Blerim Shala) and indicated that he was associated with the print media in Kosovo. Given the standing of Mr. Blerim Shala in Kosovo, this information was sufficient to identify him in the eyes of the public. This information was given in relation to specific accusations made against Mr Blerim Shala, such as “*These individuals, some more some less, have undermined Kosovo Albanian requests for freedom, democracy and independence, through their collaboration with the Serb regime.*” This type of accusation can pose a serious threat to the life, safety and security of Mr. Blerim Shala through vigilante violence or otherwise. The fact that Mr. Blerim Shala has not been subjected to such threat does not deter from the fact that such threat could objectively be the result of accusations of this nature.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 4.1

As to Section 2.1 of the TCCPMK:

- In its article of 12 April 2002, *Bota Sot* did publish material such as the excerpt quoted above and others such as “*These miserable people of journalism who, today, with their false “patriotism” pretend to be “more Catholic than the Pope” in the Albanian opinion they are known as people who have always been in the service of the anti-national forces.*” leaving the clear impression to the readers that Mr. Blerim Shala was a collaborator to the Serbian regime and a traitor to the Albanians of Kosovo. This type of material encourages crime, namely the commission of offences against the integrity of the person, such as murder or threats, or objectively carried the risk of causing harm, such as death or injuries

Therefore the panel concludes that *Bota Sot* committed a violation of Section 2.1

As to Section 3.1 of the TCCPMK:

- In its article of 12 April 2002, *Bota Sot* did publish material such as “*If there was any court institution in Kosovo, both these journalistic “patriots” should have provided explanation but also they should have been imprisoned, for all their anti-national injustice that they committed while co-operating with Serb regime of Belgrade during their occupation of Kosovo.*” That material by intent or effect attributes criminal responsibility to Mr. Blerim Shala prior to a finding of guilt by a lawfully constituted tribunal.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 3.1

As to Section 6.1 of the TCCPMK:

- The panel, after a review of the evidence, found that, in its article of 12 April 2002, *Bota Sot* did publish material, such as the excerpts quoted above, *Bota Sot* knew or should have known was deceptive.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 6.1

As to Section 6.2 of the TCCPMK:

- The panel, after a review of the evidence, found that, in its article of 12 April 2002, *Bota Sot* did publish material, without undertaking a prudent and reasonable inquiry to ensure the veracity of that material.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 6.2

AS TO MITIGATING OR AGGRAVATING CIRCUMSTANCES:

In relation to both complaints, the panel found that there were absolutely no mitigating circumstances but rather aggravating circumstances stemming from the following facts:

- Despite contacts and warning from the TMC to *Bota Sot*, the newspaper continues to publish articles that carry the same kind of accusations against these individuals and others. Evidence was presented that this is the way that *Bota Sot* treats political or commercial opponents.
- *Bota Sot* was found in violation of UNMiK Regulation 2000/37 previously.
- *Bota Sot* ignores the TMC, as shown by the absence of response to the complaints and by their absence at the hearing of the MHB, to the point that the panel infers a general contempt, on the part of *Bota Sot*, for the institution of the TMC and its role.
- Even more importantly, the panel comes to the conclusion that *Bota Sot* has a general disregard for the law, namely UNMiK Regulation 2000/37 and the TCCPMK. Individuals and corporation may

disagree with legislation affecting them and should be encouraged to act legally, through courts or the legislature, in order to have the legislation changed or repealed. On the other hand, they can not ignore or disregard the legislation because “they do not like it”.

- The serious nature of the accusations made in the articles published on 12 and 18 April 2002 and the potential lethal consequences of the accusations for both Mr. Baton Haxhiu and Mr. Blerim Shala. As one of the witnesses expressed it in Albanian “The language might not have teeth but it may brake bones”.
- The fact that, at least for Mr. Baton Haxhiu, threats have shortly followed the publication of the article of 18 April 2002.
- The high circulation of *Bota Sot* in Kosovo in relation to the possibility that it might encourage a larger number of persons to act in relation to the accusations it carried, keeping in mind that consequences could result from the incitement of only one person.
- The circulation of *Bota Sot* abroad in relation to the fact that it becomes more difficult for persons having been accused by *Bota Sot* to have their views known and that it may poison the mind of people about to return to Kosovo from abroad.

Therefore the panel concludes that *Bota Sot* committed the above mentioned violations with aggravating circumstances. Furthermore, the panel notes that spreading lies or deceptive information through hateful and inflammatory language, as used by *Bota Sot* in the articles of 12 and 18 April 2002, is not only damaging to the character and reputation of the individual victims of such accusations but can also result in dire consequences. This conduct is also damaging for the Kosovo society as a whole, by putting in danger its very future as a democratic, tolerant and law abiding member of the international community.

AS TO THE RECOMMENDATION FOR SANCTION:

Because of a discrepancy between the English and Albanian versions of the MHB rules of procedures, the panel first asked the representative of the TMC for an opinion on the appropriateness for the panel to make a recommendation as to possible sanctions. After having heard the opinion of the TMC the panel recommended that a financial sanction be imposed on *Bota Sot*, the amount of such sanction to be determined by the TMC.

This decision was delivered orally at the close of the hearing on 1 July 2002.

The written version (original in English) of this decision was submitted for approval, by other panel members, and translation on 4 July 2002.

Mr. Selajdin Selimi also made these additional comments to be included in the decision:

The TMC and MHB hope and want that in the future *Bota Sot* would not be the subject of a review by these bodies, because they are certain that this newspaper has sufficient capacity to build a journalism that would meet the highest professional standards. Therefore we are convinced that in the future there shall be no more articles that objectively may cause harm to the image and respect which is considerably present in part of a citizens of Kosovo and abroad.

We would be pleased if you perceived our decision as above.

The final written version, in English and Albanian, was rendered on 15 July 2002.

APPENDIX 16: TMC SANCTIONING DECISION ON CASES No.5/2002 and 6/2002

22 July 2002

SANCTIONING DECISION ON *BOTA SOT*

BACKGROUND:

1. This decision arises out of two cases brought against the *Bota Sot* newspaper pursuant to the authority granted to me as Temporary Media Commissioner (TMC) under UNMiK Regulation 2000/36. The cases concern numerous violations of UNMiK Regulation 2000/37 and its associated Code of Conduct. Specifically:
 - By publishing on 12 April 2002 an article entitled, “Miserable People of Journalism-Today’s Patriots.”
 - By publishing on 18 April 2002 an article entitled, “Syndrome Baton Haxhiu”
2. The decision follows the findings of the Media Hearings Board (MHB) of 1 July 2002 that *Bota Sot* had violated UNMiK Regulation 2000/37 Section 4.1 and its associated Code of Conduct in both cases. Furthermore, it takes cognisance of the Board’s recommendations as to mitigating and aggravating circumstances.
3. In coming to this decision I have also taken account of the observations of the Media Appeals Board (MAB) in its decision of 16 September 2000, *Beqaj & Dita v. Temporary Media Commissioner*, in respect of due process and the explanation of the criteria used in determining “reasonable and proportionate” sanctions.

SANCTIONS:

4. In accordance with the authority granted to me under UNMiK Regulations 2000/36 and 2000/37; and accepting the findings of the MHB; consistent with the principles of reasonableness and proportionality; and taking into account factors relating to the financial situation of *Bota Sot*, the need to deter future similar violations and the current atmosphere of violence in Kosovo, I hereby require the owners and operators of *Bota Sot* to pay the following fines:
 - In respect to the 12 April 2002 article the sum of - Euro 5,000
 - In respect to the 18 April 2002 article the sum of - Euro 7,500

EXPLANATION:

5. Available Sanctions: Section 2.1 of UNMiK Regulation 2000/37 provides that:

“The Temporary Media Commissioner may impose one or more of the following sanctions on owners, operators, publishers, editors-in-chief and/or those with ultimate and final editorial control of publications published and/or distributed within Kosovo, who operate in violation of the applicable law, or such code or codes of conduct as may be promulgated under Section 1.2 hereof, or Section 4.1:

- e) A warning*
- f) The requirement to publish a reply, correction or apology*
- g) A fine of not less than DM 1,000 and not exceeding DM 100,000*
- h) Seizure of equipment and/or printed material*
- i) Suspension or close down of operations.”*

6. **Decision to Fine:** Upon deciding to impose a fine I have taken into account the various warnings that *Bota Sot* had already received through correspondence and meetings with me and representatives of my office concerning these and other cases. Although the TMC has already imposed a fine on *Bota Sot* in the past, I consider that a fine is again the appropriate sanction. Seizure of equipment, the suspension or close down of operations, will only be applied by the TMC as the very last resort, if any other means to deter *Bota Sot* from violating the law will fail.

7. **Prevailing Conditions in Kosovo and Deterrence:** It is generally accepted that the conditions in Kosovo could not yet be described as approximating a fully functioning democracy. Violence remains a regular means by which differences are resolved and scores settled and the fear of violence is self-evident across the whole spectrum of society. Recent violent events only serve to illustrate this reality further. Tensions continue between the communities and political ideologies and the legacy of the war pervades many aspects of daily life. These tensions are easily inflamed and in such circumstances it is clearly reasonable to infer that articles such as those referred to in this decision and others like them would result in violence or the threat or fear of such. The Media Appeals Board also came to the same conclusions on the “*continuing level of violence and inter-communal tension*” in its 16 September 2000 decision. Furthermore, as TMC I am deeply concerned about the current levels of inflammatory and potentially dangerous accusation and counter accusation in the Kosovo written press of which the articles referred to in this decision are prime examples. The flavor of much of the press at present does, in my view, contribute to the prevailing atmosphere of tension. Editors must understand that they are accountable for what is written in their publications and that, as has been stated many times before, freedom of speech, as defined by international convention, brings with it duties and responsibilities. These duties and responsibilities are currently not being fulfilled by a significant proportion of the print media. My duty in these cases is to uphold the rights of the individual and the society in general against the threat of violence and increased tension caused by such irresponsibility. In this context I have considered the necessity to deter further violations of these rights and responsibilities as a major factor in the determination of sanctions in these cases.

8. **Media Hearings Board Findings:** The MHB concluded that violations of UNMiK Regulation 2000/37 Section 4.1 and the Code of Conduct had taken place in both cases.

d) **As to Damage:** The MHB emphasised the serious nature of the accusations made in the

articles published on 12 and 18 April 2002 and the potential lethal consequences of the accusations for both complainants.

- e) **As to Mitigating Circumstances:** The MHB found “that there were absolutely no mitigating circumstance”
- f) **As to Aggravating Circumstances:** The MHB listed eight aggravating circumstances. Inter alia the MHB came to the conclusion that *Bota Sot* shows a general disregard for the law and the institution of the TMC.

9. Disclosure and Financial Situation:

- c) **Disclosure:** Following the decision of the MHB on 1 July 2002 I wrote *Bota Sot* in order to explain to them the criteria that I would apply in determining an appropriate sanction. In this letter I requested information from them as to their business registration within Kosovo, their yearly income and expenditure and their daily circulation figures. I subsequently met with them to discuss these issues. At this meeting they only provided me with figures for the month of June 2002. They promised me however the complete answers for Monday 22 July. The only additional information I received this day was a copy of their business registration. Since it was obvious that *Bota Sot* had no intention to co-operate with my office and new cases against *Bota Sot* were piling up, I informed the editor in chief of *Bota Sot* Mr. Bytyqi that I would make my decision on sanctions based on the information that I had on hand.
- b) **Financial Situation:** According to the figures received from *Bota Sot* for June 2002 the total revenues comprising sales and advertising amount to Euro 62,682.5 against expenditures of a total amount of Euro 80,772. The daily circulation amounts to approximately 4,000 sold copies. This is 2000 copies less than the figures available to the TMC from other sources. For the purpose of the calculation of the fines I take an daily average of 5,000, which is still only a fifth of the circulation of the 27,000 per day on which my predecessor based the calculation of his fines against *Bota Sot* in December 2000.

CALCULATION:

- 10. The sanctions subject of this decision are based on proportionality with respect to the information provided by *Bota Sot* and other sources and reflect the appropriate standards of punitive and deterrent damages relevant to the violations as determined by the MHB.
- 11. Punitive damages for each violation are based on a daily circulation of 5,000 copies of *Bota Sot* which constitutes a daily gross revenue of Euro 1,500. To this amount another Euro 1,000 from advertising, which is approximately a 1/30 of the monthly income on advertising of *Bota Sot* has to be added. The punitive damages thus amounting to Euro 2,500.
- 12. Deterrent damages represent in the case of the article published on 12 April 2002 Euro 2,500 and in the case of the article published on 18 April 2002 Euro 5,000. The difference between the two deterrent damages reflects the different degrees of damage caused to the honour and reputation of the two complainants by *Bota Sot* in these two articles.
- 13. Each sanction is therefore comprised of a daily punitive damage of Euro 1,500 based on potential daily distribution revenue for each of the days the articles appeared in *Bota Sot* plus an additional

amount of Euro 1,000 of potential daily advertising income. Furthermore, given the need to deter future violations and specifically the aggravating circumstances described in Paragraph 7 of this decision, a further sum of Euro 2,500 and Euro 5,000 respectively is included amounting to a total of Euro 12,500.

RIGHT OF APPEAL:

14. In accordance with the provisions of Section 4 of UNMiK Regulation 2000/36, Bota Sot is hereby advised of the right to appeal this decision to the Media Appeals Board. The written appeal and any accompanying documents shall be filed and delivered to the TMC located at Qyteza Pejton, Bell Street No. 6 in Priština, Kosovo no later than 26 August 2002. For further information, contact the TMC office at 243477.
15. During the period of appeal, all sanctions will be suspended.

PAYMENT

16. Payments required under this decision must be paid by 26 August 2002 unless an appeal is filed with the Media Appeals Board, in which case, payments are suspended until resolution of the appeal. Payments required under this decision shall be paid in cash or via bank transfer. Details on bank payment may be obtained from my office.

Anna Di Lellio
Temporary Media Commissioner

APPENDIX 17: MAB DECISION ON CASES No.5/2002 and 6/2002

Media Appeals Board Pristina, Kosovo

**THE NEWSPAPER *BOTA SOT*, APPELLANT
THROUGH AVDULLAH BYTYCI, EDITOR IN CHIEF**

- and -

TEMPORARY MEDIA COMMISSIONER, RESPONDENT

Board Members:

I. Procedure

This appeal arises out of the decision of the Respondent on 22 July 2002 to levy two fines of Euro 5,000 and Euro 7,500 on the Appellant for having twice violated section 4.1 of UNMiK Regulation No. 2000/37 of 17 June 2000 and various sections of the Temporary Code Of Conduct For The Print Media In Kosovo. The facts and the law are set out below.

A hearing was held on 23 October and 8 and 13 November 2002. The hearing was public, *Bota Sot* represented by Mr. Avdullah Bytyci, Editor in Chief, the Temporary Media Commissioner represented by the Legal Advisor, Mr. Ewald Orf. The Board heard submissions of the parties, submissions on behalf of the TMC were also filed in writing. Upon the motion of the TMC the complainants, Mr. Blerim Shala and Mr. Baton Haxhiu, were invited to address the Board. The hearing was adjourned in order to enable the parties to submit evidence for the relevant circumstances to alleged violations of UNMiK Regulation 2000/37 and of the Temporary Code of Conduct for the Print Media in Kosovo. The Board adjourned to consider its decision

Background and applicable law

The authority of the United Nations Interim Administration Mission in Kosovo is set out in detail in the decision of this Board in the case of *Beqaj and Dita v. Temporary Media Commissioner*, 16 September 2000. In that decision, we took due note of UNMIK Regulation No. 1999/24, which defines the law applicable in Kosovo, and of the two regulations dated 17 June 2000, which concern the media. Both UNMIK Regulation No. 2000/36 on the Licensing and Regulation of the Broadcast Media in Kosovo and UNMIK Regulation No. 2000/37 on the Conduct of the Print Media in Kosovo are described as temporary. Regulation No. 2000/36 is issued 'for the purpose of licensing and regulating the broadcast media... pending the establishment of a regulatory regime for broadcasting'. Regulation No. 2000/37

includes the purpose of addressing the conduct of the print media in special circumstances, ‘pending the establishment of an effective professional self-regulation by the print media in Kosovo.’⁸

UNMIK Regulation No. 2000/36 is the basis for the authority and the responsibility of the Temporary Media Commissioner [TMC] for ‘the implementation of a temporary regulatory regime for all media in Kosovo’ (section 1.1). Section 4 creates this Board and lays down its composition and responsibilities.

Section 1 of Regulation 2000/37 provides that the Temporary Media Commissioner, ‘in special circumstances’, may issue temporary codes of conduct. The Temporary Code of Conduct for the Print Media in Kosovo was enacted pursuant to this competence, and provides, *inter alia*, for the following obligations of publishers:

Section 2.1, on Provocative Statements,

“Publishers will not write, print, publish or distribute any material that encourages crime or criminal activities or which carries imminent risk of causing harm, such harm being defined as death, or injury, or damage to property or other violence.”

Section 3.1, on Privacy,

“Publishers will not write, print, publish or distribute any material, that by intent or effect attributes criminal responsibility to any individual prior to a finding of guilt by a lawfully constituted tribunal.”

Section 6.1 and 6.2, on False and Deceptive Material,

“Publishers will not write, print, publish or distribute material that they know or ought to know to be false or deceptive.”

“Publishers will not write, print, publish or distribute material unless they have undertaken a prudent and reasonable inquiry to ensure the veracity of the material.”

Section 2 of the Regulation provides for sanctions, as follows:

2.1 The Temporary Media Commissioner may impose one or more of the following sanctions on owners, operators, publishers, editors-in-chief, and/or those with ultimate and final editorial control of publications published and/or distributed within Kosovo, who operate in violation of the applicable law, or such code or codes of conduct as may be promulgated under section 1.2 hereof, or section 4.1:

- (a) a warning;
- (b) the requirement to publish a reply, correction or apology;
- (c) a fine of not less than DM 1,000 and not exceeding DM 100,000;
- (d) seizure of equipment and/or printed material;
- (e) suspension or close down of operations.

2.2 The imposition of any sanctions pursuant to the present regulation shall be without prejudice to any applicable criminal sanctions and civil causes of action.

2.3 The Temporary Media Commissioner shall give written notice of a violation and provide a reasonable opportunity for reply prior to the imposition of any sanction.

⁸ UNMIK Regulation 2000/37, Preamble

2.4 The Temporary Media Commissioner may request the assistance of the relevant law enforcement authorities in Kosovo and appropriate public officials in the enforcement of an imposed sanction.

Section 4 of the Regulation makes the following ‘special provisions’:

4.1 Owners, operators, publishers and editors shall refrain from publishing personal details of any person, including name, address or place of work, if the publication of such details would pose a serious threat to the life, safety or security of any such person through vigilante violence or otherwise.

4.2 Nothing in the present regulation in any way limits or restricts the authority of the Special Representative of the Secretary-General to take such action as he may deem necessary for security reasons, to protect life, or to maintain civil law and order

Section 3 of Regulation 2000/37 provides for a right of appeal to the Media Appeals Board by any person affected by, among others, a decision to impose sanctions. The Board itself is both international and independent, comprising two international members and one national (Kosovar) member. The Board has the power to ‘uphold, modify or rescind’ certain decisions of the Temporary Media Commissioner, including those on sanctions (Regulation No. 2000/36, section 4.5; Regulation No. 2000/37, section 3.3). It is therefore competent to review the legal basis of decisions by the Temporary Media Commissioner, and to consider an appeal on the facts and on the merits. The Board must give reasons for its decisions, and it shall ensure that the rules of procedure that it adopts ‘guarantee fair and impartial proceedings in accordance with internationally recognized human rights standards.’⁹

In regard to the law to be applied in matters before it, the Board is of the view that it is bound by the express terms of Regulation No. 1999/1 and Regulation No. 1999/24, and that, in reviewing the actions of the Temporary Media Commissioner, a public official, it should also seek to apply the provisions of the international instruments set out in section 1.3 of Regulation No. 1999/24, so far as relevant to the case.

As to the facts

On 18 April 2002 the newspaper *Bota Sot* published an article entitled “Syndrome Baton Haxhiu”. This article stated that Baton Haxhiu was a “tool of the UDB” (Serb Secret Service) and that he “acted in accordance with orders that he was receiving from UDB”. The article alleged that “Even when the Serb regime left Kosovo, Baton Haxhiu continued and still continues to cut Turkish heads with the sword of Stanisic” (former head of UDB) and that “Through his presence in the Albanian print media in Pristina, the “syndrome Baton Haxhiu or ‘sickness Baton Haxhiu’ continues to exercise repression against journalists and ‘friends’ about whom he possesses compromising facts provided by the UDB.”

On 12 April 2002 the newspaper *Bota Sot* published an article entitled “Miserable People of Journalism – Today’s “Patriots”. This article stated that Blerim Shala, the publisher of the newspaper *Zeri*, is a member of an “anti-national circle”. “These people, some more and some less, contributed to undermine the Kosovo Albanians demand for freedom, democracy and independence through their collaboration with the Serb regime”. The article alleged that Blerim Shala together with Vetton Surroi was “involved in important

⁹ On 31 August 2000 the Board adopted and issued two sets of rules, namely, the Rules of Procedure (Conduct of Hearings)–001/2000 and the Rules of Procedure (Filing of Appeals)–002/2000. In formulating these rules, the Board took account of the standards laid down in Article 14 of the 1966 International Covenant on Civil and Political Rights and in Article 6 of the 1950 European Convention on Human Rights, including the jurisprudence of the European Court of Human Rights.

missions of anti-national policy, thus contributing to pro-Serb issues,” and that Blerim Shala should therefore “be imprisoned for all the anti-national injustice committed while co-operating with the Belgrade regime during the occupation of Kosovo.”

On 24 May 2002 the TMC sent two “Letters of Concern” to the Editor-in Chief of *Bota Sot*, Mr. Abdulla Bytyqi, informing him that both Baton Haxhiu and Blerim Shala had lodged a complaint with the TMC against *Bota Sot* because of the above-mentioned articles. The TMC invited Mr. Bytyqi for his comments and any possible remedies towards the complainants he may wish to consider by 30 May 2002. In this letter the TMC explained that “If no amicable solution can be found and the TMC legal staff considers that the above-mentioned articles amount to a breach of the Temporary Code of Conduct for the Print Media in Kosovo, we shall without any further delay convene the Media Hearing Board who will advise the TMC on the question of possible sanctions against your newspaper and on the nature such sanctions could have.”

Although the same message was repeated to Mr. Bytyqi during a meeting with the TMC on 24 May 2002, the TMC Office received no response from *Bota Sot* by 30 May 2002.

On 12 June 2002 the Office of the TMC submitted two complaints to the Media Hearing Board [MHB] regarding the two above-mentioned articles. In the complaints it set out its legal assessment and requested that the MHB find that *Bota Sot* had violated Regulation 2000/ 37 and the Code of Conduct on both counts.

On 17 June 2002 the Office of the TMC issued a “Notice to Appear before the Media Hearing Board” to *Bota Sot* inviting the newspaper to answer the charge that *Bota Sot* had violated the above- mentioned Regulation by publishing the articles entitled “ Syndrome Baton Haxhiu “ and “Miserable People of Journalism – Today’s “Patriots”. *Bota Sot* did not answer the charge.

The hearing of the MHB took place on 1 July 2002 in the absence of *Bota Sot* as MHB noted that that *Bota Sot* had been duly notified, both orally and in written form of the date, place and time of the hearing of the MHB. Statements were taken from the complainants, Baton Haxhiu and Blerim Shala. These statements referred, among others, to the following facts:

- the systematic campaign by *Bota Sot* against Mr. Baton Haxhiu, as editor-in-chief of *Koha Ditore*
- the pattern of accusing people of collaborating with the Serb authorities
- the fact that both complainants were well known in Kosovo and therefore could be identified by mere mention of their names
- specific threats received by one of the complainants shortly after the publication of one of the articles
- the untruthfulness of the accusations made by *Bota Sot*
- information concerning a meeting in 1997 which formed the basis of the article of 18 April
- the fact that neither Baton Haxhiu nor other persons present at the above mentioned meeting were contacted in order to ascertain their versions of the events.

MHB gave its decision on the same day orally and on 15 July 2002 in writing.

In relation to article of 18 April 2002 the MHB held the following:

In its article of 18 April 2002, *Bota Sot* did publish the name of a person-Baton Haxhiu- and indicated that he was associated with the print media in Kosovo. Given the standing of Mr. Baton Haxhiu in Kosovo this information was sufficient to identify him in the eyes of the public. This information was given in relation to specific accusations made against Mr. Baton Haxhiu, such as “the syndrome Baton Haxhiu”, “acting in accordance with the orders he received from UDB, [...] he produced only poison against his colleagues and Albanian politicians causing fear and threats”. This type of accusations can pose a serious threat to the life, safety and security of Mr. Baton Haxhiu through vigilante violence or otherwise and, indeed since the publication of this article Mr. Baton Haxhiu has received such threats.

Therefore the panel concluded that *Bota Sot* committed a violation of Section 4.1 of UNMiK Regulation 2000/37

In its article of 18 April 2002, *Bota Sot* did publish material such as the excerpt quoted above and others such as “Baton Haxhiu, even when Serb regime left Kosovo, continued to cut Turkish heads with the swords of Stanistic” leaving the clear impression to the readers that Mr. Baton Haxhiu was a collaborator to the Serbian regime or its institutions, including the Secret Service and a traitor to the Albanians of Kosovo. This type of material encourages crime, namely the commission of offence against the integrity of the person, such as murder or threats, or carried the risk of causing harm, such as death or injuries, and, indeed, since the publication of this article, Mr. Baton Haxhiu has received such threats.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 2.1

The panel, after a review of the evidence, found that, in its article of 18 April 2002, *Bota Sot* did publish material, such as the excerpts quoted above, *Bota Sot* knew or should have know was, in all likelihood false and deceptive.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 6.1

The panel, after a review of the evidence, found that, in its article of 18 April 2002, *Bota Sot* did publish material without undertaking a prudent and reasonable inquiry to ensure the veracity of that material.

Therefore the panel concluded that *Bota Sot* committed a violation of Section 6.2

In relation to the article of 12 April 2002 the Hearing Board held:

In this article of 12 April 2002, *Bota Sot* did publish the name of a person (Mr. Blerim Shala) and indicated that he was associated with the print media in Kosovo. Given the standing of Mr. Blerim Shala in Kosovo, this information was sufficient to identify him in the eyes of the public. The information was given in relation to specific accusations made against Mr. Blerim Shala, such as “these individuals, some more some less, have undermined Kosovo Albanians’ demands for freedom, democracy and independence, through their collaboration with the Serb regime.” This type of accusation can pose a serious threat to the life, safety and security of Mr. Blerim Shala through vigilance or otherwise. The fact that Mr. Blerim Shala has not been subjected to such threat does not deter from the fact that such threat could objectively be the result of accusation of this nature.

Therefore the panel concluded that *Bota Sot* committed a violation of Section 4.1 of UNMIK Regulation 2000/37

In its article of 12 April 2002 *Bota Sot* did publish material such as the ones quoted above and others such as “these miserable people of journalism who today, with their false ‘patriotism,’ pretend to be ‘more Catholic than the Pope,’ are known in the Albanian public opinion as people who have always been in the service of anti-national forces.” Thus *Bota Sot* leaves the clear impression to the readers that Mr. Blerim Shala was a collaborator to the Serbian regime and a traitor to the Albanians of Kosovo. This type of material encourages crime, such as murder or threats, or objectively carried the risk of causing harm, such as death or injuries

Therefore the panel concluded that *Bota Sot* committed a violation of Section 2.1

In its article of 12 April 2002 *Bota Sot* did publish material such as “If there was any court institution in Kosovo, both these journalistic ‘patriots’ should have provided explanations, but they should have also been imprisoned for all the anti-national injustice that they committed while co-operating with the Serb regime of Belgrade during its occupation of Kosovo.” By intent or effect, that material attributes criminal responsibility to Mr. Blerim Shala prior to a finding of guilt by a lawfully constituted tribunal.

Therefore the panel concluded that *Bota Sot* committed a violation of Section 3.1

The panel, after a review of the evidence, found that, in its article of 12 April 2002, *Bota Sot* did publish material, such as the excerpts quoted above, *Bota Sot* knew or should have know was deceptive.

Therefore the panel concludes that *Bota Sot* committed a violation of Section 6.1

The panel, after a review of the evidence, found that, in its article of 12 April 2002, *Bota Sot* did publish material, without undertaking a prudent and reasonable inquiry to ensure the veracity of that material.

Therefore the panel concluded that *Bota Sot* committed a violation of Section 6.2

Further, the panel found, in relation to both complaints, that there were no mitigating circumstances. The MHB found aggravating circumstances stemming from several factors.

First was the repetitive pattern of conduct: despite warnings from the TMC, the newspaper continued to publish articles that carried the same kind of accusations against the complainants and other individuals. Evidence was presented that this is the way that *Bota Sot* treats political or commercial opponents. Moreover, *Bota Sot* was found in violation of UNMiK Regulation 2000/37 previously.

Second, *Bota Sot* ignores the TMC, as shown by the absence of response to the complaints and by their absence at the hearing of the MHB, to the point that the MHB inferred a general contempt, on the part of *Bota Sot*, for the institution of the TMC and its role, and general disregard for the law.

The MHB found the following aggravating factors, such as was the serious nature of the accusations made in the articles, including potential lethal consequences for both Mr. Baton Haxhiu and Mr. Blerim Shala, and the fact that threats against Mr. Baton Haxhiu had shortly followed the publication of the article of 18 April 2002.

In the end, the MHB held against the newspaper the fact of its high circulation in Kosovo in relation to the possibility that it might encourage a larger number of persons to act in relation to the accusations it carried, and the circulation of *Bota Sot* abroad in relation to the fact that it becomes more difficult for persons having been accused by *Bota Sot* to have their views known.

The Temporary Media Commissioner on 22 July 2002 issued the Sanctioning Decision on *Bota Sot*. The TMC stressed that even though *Bota Sot* had been already punished with fines in the past, the Commissioner still considered that more severe sanctions should not yet be applied. Further she stated that she required the owners and operators of *Bota Sot* to pay the amount of 2 500 Euro in respect of each of the publications of 18 and 12 April 2002 as punitive damages, moreover the amount of 5000 Euro in respect to the article of 18 April and the amount of 2 500 Euro in respect to article of 12 April as deterrent damages. The TMC accepted the findings of the Media Hearing Board and had taken into account, among other matters, the current atmosphere of violence in Kosovo, the financial situation of the newspaper, and the need to deter similar violations.

The TMC invoked the prevailing conditions in Kosovo, noting that ‘violence remains a regular means by which differences are resolved and scores settled and the fear of violence is self-evident across the whole spectrum of society.’ She further observed that ‘tensions are easily inflamed’, and that it is reasonable to infer that articles [such as those at issue] would result in violence or the threat or fear of such.’ In her view, the ‘flavour of much of the press... contribute(s) to the prevailing atmosphere of tension’¹⁰.

In the matter of disclosure and the financial situation of *Bota Sot*, the TMC referred to the difficulties she had experienced in obtaining necessary and relevant information. She noted that the declared average daily production of the newspaper was 4000 copies, which was 2000 less than figures available to TMC from other sources, and far less than 27 000 copies declared by *Bota Sot* in December 2000 and accepted as a base for calculation of the fine in the previous proceedings against *Bota Sot*. The TMC thus decided, favourably for the *Bota Sot*, to relate the calculation of fine to an estimate daily average of 5000 sold copies.¹¹

The TMC stated that the calculation of fines was ‘based on proportionality with respect to the information provided...’ and reflected ‘the appropriate standards of punitive and deterrent damages.’

The TMC explained her calculation in terms of ‘punitive’ and ‘deterrent’ damages. ‘Punitive’ damages were based on the estimated gross daily production of *Bota Sot*, that is, 5000 copies, constituting a potential gross daily revenue of 1 500 Euro, to which the amount of 1000 Euro should be added as an estimated income from advertisements.¹²

Deterrent damages of 5 000 Euro and 2 500 Euro were said to reflect the different degrees of damage caused by *Bota Sot* to the honour and reputation of the two complainants by the two articles. The TMC also expressed her concern about the levels of inflammatory and potentially dangerous accusations in Kosovo press, and apparent lack of understanding by editors that they were accountable for the contents of their publications¹³.

An appeal on behalf of *Bota Sot* was filed within the legal deadline.

¹⁰ Sanctioning Decision, para 7

¹¹ Sanctioning Decision, para 9

¹² Sanctioning Decision, para 11

¹³ Sanctioning Decision, para 7 and 12

Submissions to the Media Appeals Board

On behalf of the Appellant *Bota Sot*

In the appeal the Appellant argued that the TMC decision was “not consistent with the facts and reality published in the articles in question”; that the articles had not endanger the lives of the complainants and that the fines imposed were not proportionate to the alleged damage and to the economic standing of the newspaper.

Requested by the MAB to present evidence in support to the claim that facts alleged in the publications were true, the Appellant, in support of the allegation that Mr. Baton Haxhiu took part, as a mediator, in a meeting with the Serb Secret Service, deferred to unspecified articles in other newspapers and similarly unspecified statements by Mr. Baton Haxhiu. No concrete material was produced before the Board. The Appellant claimed that press articles he had relied upon were available only in Belgrade, and thus not accessible to the Appellant.

On behalf of the Respondent Temporary Media Commissioner

The Respondent Temporary Media Commissioner submitted that it was a well-known fact that even after three years of United Nations Interim Government Kosovo still bore all the signs of a traumatized, post-conflict society. According to the TMC, tensions continue between and within communities and allegations such as collaborator of the Serb Secret Service automatically generates hatred and the potential for revenge. In such a climate it is reasonable to infer that clearly identifiable individuals charged with such allegations may become the victims of vigilante violence. *Bota Sot* knew or ought to have known that the publication of such allegations would possibly serve as a direct or indirect catalyst to individuals and groups wishing and/or desiring to harm or kill Messrs. Blerim Shala and Baton Haxhiu. To support the statement about the continuing violence, the respondent submitted a set of press articles on political killings in Kosovo.

Further, the Respondent condemned the offensive and aggressive language used by *Bota Sot* in [e.g. “syndrome”, “sickness”, “charlatan”, “snake”, “a tool of the UDB, the sword of Stanisic with which Mr. Haxhiu still continues to cut Turkish heads]. The TMC therefore declared the readiness to continue to sanction *Bota Sot*, in the hope that ultimately by deterrence *Bota Sot* would stop with this dangerous and irresponsible form of journalism.

Regarding the imposed fines, the Respondent maintained its position and explanation set out in the Sanctioning Decision, and requested the Board to uphold the decision.

The view of the Board on applicable standards

In considering the appeal against the TMC’s decision, the Board has taken into account the terms of the applicable regulations, and also the internationally recognized human rights standards adopted by UNMiK as basic principles of good governance: see section 2, Regulation No. 1999/1 and section 1, Regulation No. 1999/24. In reaching a conclusion in the present case, the Board has therefore been guided by the following general principles in the matter of right to freedom of expression:

Art 10[1] of the European Convention of Human Rights [ECHR]:

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

The European Court of Human Rights [the Court] defined the two strongest theoretical bases for protecting expression – its essential part in the operation of the democratic political process and its necessity for self-realization of the individual. In *Handyside v. UK* the Court stated:

Freedom of expression constitutes one of the essential foundations of a [democratic] society, one of the basic conditions for its progress and the development of every man. Subject to para 2 of Article 10, it is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive but also to those that offend, shock or disturb the state or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no ‘democratic society’.¹⁴

As shown here and further developed in ECHR case law the widest scope of ideas and information, furthermore transmitted by the widest range of media, are embraced by the notion of expression in the Convention, thereby putting on the state the obligation to justify interference with them. One consequence of the extensive ambit of expression is that single generalizations about why particular exercises of freedom of expression should be protected and the extent to which a state might limit them are impossible to state. Instead, it is necessary to take into account the “kind” of expression (political, artistic, commercial), the medium through which it is delivered (among news media press or television), and the audience to which it is directed (the public at large or a special group), to calculate how extensive the protection should be given to particular items of protection.

Because political controversy can touch practically any aspect of life, the subject matter of the expression ought not to be a major consideration in determining whether it should be protected [see the discussion on limitations *infra*]. Content-based restrictions on the freedom of expression were found justified only where the expression is directed at undermining democracy and human rights themselves, the basis for doing so being Article 17 of the ECHR. The state is then not obliged to confer the same protection on it as would be the case of an orthodox political speech.

Article 10 distinguishes between “information” and “ideas” and makes it clear that the freedom of expression is not restricted to verifiable factual data. It includes also opinions, criticism, speculation: for these latter instances, in particular, there is no room in general for the argument that Article 10 extends only to “true” information.¹⁵

Article 10(2) of the European Convention sets out the permissible scope of restrictions.

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.¹⁶

¹⁴ *Handyside v UK* A 24 para 49 (1976) para 49

¹⁵ *Lingens v Austria*, A 103 (1986), *Thorgierson v Iceland* A 239 (1992)

¹⁶ *Article 19(3) of the 1966 International Covenant on Civil and Political Rights* provides: ‘The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For

In regard to the phrase “duties and responsibilities” the Court makes clear that such duties and responsibilities have a public, or community, dimension, and an individual rights dimension. However, the Court acknowledged that limited, rather than extended power of the state to interfere with their right to expression, should be enjoyed by particular categories of subjects: politicians, publishers¹⁷ and journalists¹⁸

The European Court of Human Rights has emphasized that exceptions to freedom of expression must be construed strictly, and the need for any restrictions must be established convincingly. The authorities which impose controls must show that they are prescribed by law in pursuit of a legitimate aim. They must also show the existence of a ‘pressing social need’, that the restriction on publication is ‘proportionate to the legitimate aims pursued’, that the reasons for restriction are ‘relevant and sufficient’, that the authorities have applied the appropriate standards, and that the decision reflects an acceptable assessment of the relevant facts.¹⁹

The interference that is permitted will depend upon the character of the expression involved. The requirement of “pressing social need” to limit political speech puts a high burden upon the state to show that its action was necessary. The privileged position of political speech is derived from the conception of its central feature of a democratic society, both in so far as it relates to the electoral process and to day-to-day matters of public concern. In the ECHR it is stressed that concern for political expression is not restricted to matters of high politics:

“There is no warrant in its case-law for distinguishing between political discussion and discussion of other matters of public concern”²⁰

Further, as stated in *Handyside*, the qualities of “tolerance and broadmindedness” which characterize a democratic society require not only that approved information and received ideas enter into circulation but the publications which “offend, shock and disturb” do also. The protection of the right of expression of politicians demands particular stringency, the more so for members of the opposition²¹. There is, though, a price to be paid; politicians are required to be tolerant of criticisms of themselves, even of sharp attacks, in the same democratic interest.²²

Political speech invariably involves questions of press freedom. The Court acknowledges that the role of the press is that of “public watch dog” and

“...it is ...incumbent on it to impart information and ideas on political issues just as on these other areas of public interest. Not only does the press have the task of imparting such information and ideas; the public also has a right to receive them...”²³

respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.’

¹⁷ Eg *Observer and Guardian v UK* A216 (1991)

¹⁸ Eg *Lingens v Austria* A103 para41 (1986)

¹⁹ *Zana v. Turkey* para. 51 (1997)

²⁰ *Thorgierson v Iceland* A 239 para 64

²¹ *Castells v Spain* A 236 para 42, 46 (1992)

²² *Lingens v Austria, Oberschlick v Austria* A 204 (1991), *Schwabe v Austria* A 242-B (1992)

²³ *Lingens v Austria* para 41

While the Court is more likely to protect moderately expressed sentiments in established journals, it has still conceded the legitimacy of vigorous and even hostile reporting and comment, however much it may be resented by those against whom it is directed. Politicians, especially, are fair game. In deciding where the line is to be drawn, the Court has leant in favour of the press. It has not expressly adopted the American “public figure” doctrine, which limits remedies in defamation to allegations made with malice if the person subject of them is a person in a public eye, but that approach seems to have influenced the jurisprudence. Specifically, the Court has found that the level of protection granted by the state to individuals is lesser in cases where they hold positions due to which other means are available for them for replying to unjustified attacks and criticism of their adversaries or the media²⁴.

Moreover, the Court has stressed that where the reason for the condemnation of a press report is that it is untrue, the defendant must be given the opportunity to prove the truth of the allegations and that it is not necessary to punish him for the publication of factual assertions which might be true²⁵. Regarding the opinions, the Court granted wide latitude by holding that a law requiring the proof of truth of opinions was not necessary in democratic society.²⁶ The Court also acknowledged that often fact and opinion conflate into a value-judgment for which no proof of truth is possible²⁷.

Further, a factor to be taken into account in deciding whether the interference was “necessary” within the scope of Article 10[2] may be whether the interference is prior to or after the publication. The impact of post-publication sanctions on future publishing policy increases the caution with which the interference with expression should be applied.

Clearly, there is often a tension in practice between freedom of expression and restraint. External controls and the threat of sanctions are rightly viewed with suspicion, for they can effectively frustrate the role of a free press. The question is, whether interference with freedom of expression, ‘one of the essential foundations of a democratic society and one of the basic conditions for its progress’,²⁸ can be justified in the limited circumstances recognized by Article 10(2) of the European Convention.

In determining the balance between the public interest in preventing and the public interest in allowing disclosure of information, it is relevant to consider the scope of any restraint in context. The Board accepts that tensions continue in Kosovo, and that violence continues to be used to settle differences, and is still reasonably to be feared. The Board, from the beginning of its functioning has also been conscious that this situation will likely change over time- indeed, that is one of the objectives of the interim administration- and that each assessment of the prevailing situation requires careful review particularly when it is claimed to justify restrictions on human rights and fundamental freedoms.

In its *Dita* decision, the Board emphasized the *temporary* character of the provisions on the regulation of the media, and that the evaluation of the balance between the freedom to publish and the maintenance of law and order is being done in each particular moment.

Evaluating the need and legitimacy of the intervention in the context of today’s Kosovo, the Board notes that in comparison to the year 2000 a great progress has been achieved in the establishment of institutions

²⁴ *Castells v Spain* A 236 para 46 (1992)

²⁵ *ibid.* para 48

²⁶ *Lingens v Austria* para 46, *Oberschlick v Austria* para 63, *Thorgierson v Iceland* para 65

²⁷ *Schwabe v Austria*, para 34

²⁸ *Zana v. Turkey, 1997, para. 51.*

of a democratic society. The creation of the Constitutional Framework, the election of the Assembly and territorial self-government, the gradual hand over of sectors of the public administration from UNMiK to local bodies, mark Kosovo's strive towards modern democracy. In the reality of late 2002, political dispute on matters of public concern must be considered a crucial factor in development of civil society. Inevitably, strengthening the free press must be seen a key issue in furthering this process. As a consequence, persons who make up the new political class of Kosovo must accept that their own past and present activities and opinions are publicly scrutinized and criticized, that the press is the main vehicle for this debate and that particularly wide latitude must be granted to opinions therein expressed.

In the end, in the interpretation of the Regulation 2000/37 and the Temporary Code of Conduct, this Board had in mind that the Regulation was promulgated for the purpose of addressing the conduct of print media in special circumstances and on a temporary basis *pending the establishment of an effective professional self-regulation by the print media in Kosovo*. Hence, competences and procedures foreseen in the Regulation should be seen as surrogate self-regulatory institutions, such as associations, ethic commissions and disciplinary boards. They are not designed, and should not be expected, to perform the functions of civil or criminal courts.

Decision of the Board

As to alleged violation of section 4.1

Regarding the purpose of restriction provided for in Section 4.1 of the Regulation 2000/37, the Board held in its decision in *Dita*,

while section 4 of Regulation No. 2000/37 prohibits the publication of certain data in certain circumstances, it does not restrict newspapers from pursuing a general campaign for the arrest and prosecution of suspected war or other criminals. It is thus not a restriction on political speech or debate on matters of public interest, but a restriction with a narrow focus and a narrow purpose.²⁹

The Board agrees with the Respondent that the fact that no actual harm had resulted for either individual does not *per se* preclude the occurrence of a violation of Section 4.1 of the Regulation 37/2000. At the same time the Board takes note of its decision in *Bota Sot*, where it held that for the purpose of the application of Section 4.1 of the Regulation 2000/37, what counts is not the fear of the individual, or the injury to honour, but rather the risk to the life and safety of those identified, and the risk to the public interest in security, public order, and the rule of law.

With these general considerations set forth, in the review of the appeal before it the Board further considered whether the need for restriction had been established convincingly and whether the decision reflected an acceptable assessment of relevant facts. Regarding the alleged violation of UNMiK Regulation 2000/37 Section 4.1, the issue thus has been whether sufficient proof was obtained that the publication could have caused a threat to the life, safety or security of persons concerned and whether the threat was serious.

As of yet the practice of the TMC and the MAB has not defined objective criteria for the purpose of establishing that a publication *poses a serious threat to life, safety or security of a person through*

²⁹ *Dita v. Temporary Media Commissioner*, 16 Sept. 2000, para. 75.

vigilante violence or otherwise. Obviously, the purport of the Regulation includes the prohibition of publicizing data that could advance organized and premeditated crime, such as, for example, details of witnesses in criminal cases, details of custodians of valuables. As concerns the protection against vigilante violence the case is more complicated. It appears that case law of MAB arose upon actual instances of assassinations that followed in close time proximity after press publications in year 2000. Although not explicitly stated, it can be inferred from these decisions that the following factual factors were accepted as indicators of the threat to life and safety of persons:

- the publication concerned persons of Serb ethnicity or persons who actually had worked for the Serb forces during the conflict,
- the publication alleged participation in war crimes committed against Kosovo Albanians,
- the information was delivered in an assertive and inflammatory language.

It further appears that in the cases reviewed so far the Commissioner and the MAB perceived the threat to be posed by unspecified extremists or a spontaneous revengeful reaction of the public.

While the above list of circumstances is certainly not exhaustive, based upon it the following objective criteria, altogether or in combination, can be tentatively proposed for the assessment of threat of vigilante violence:

- persons concerned belong to Serb or other ethnic minorities or are otherwise vulnerable to attacks, e. g. economically weak, children, women, elderly, living alone, etc.,
- the information appeals to basic emotions or obviously exacerbates ethnic tensions because of its political or historical context or relation to current events,
- the publication purports to state facts rather than to present opinions or suspicions,
- the information is for the first time introduced to the public and therefore might trigger a violent reaction.

However, the Board stresses that Section 4.1 of the Regulation does purport to be a tool for responding to danger to society posed by “hate speech” in general, as this is the function of the criminal law³⁰. The Regulation refers to a serious threat, which implies a concrete risk to life, safety or security, and to an individual person. Therefore, the findings of violation of Section 4.1 of the Regulation as a rule should be based upon analysis of the status and personal situation of the complainant, the content of the information and its possible impact on the occurrence of specific threat to such person and, at least in general terms, potential source of the threat.

In the case before it, when evaluating the scope of restraint of free speech applied by the TMC, the Board kept in mind that the complainants were public persons, active participants of the political disputes, and according to their own opinion – politicians. Hence, they are required to be “tolerant of criticisms of themselves, even of sharp attacks, in the ...democratic interest”. In addition, as editors of popular newspapers each of the complainants had the excellent possibility to reply to any information and opinion spread by his adversaries. These characteristics of the complainants cause that the intervention into the freedom of speech that the state can extend is lesser than in case of individuals not engaged in public activity.

Further the Board finds that the contested articles criticize political poise and activity of the complainants, but they do not explicitly allege the commission of crimes or any other clearly reprehensible conduct. The publications use aggressive language in their value-judgment [“miserable people of journalism with their false patriotism”, “not better than his friend of the anti-nation ideals” “sickness Baton Haxhiu”, “ready to step on everything ...Albanian only in order to promote his career”], however on the factual plane the allegations are not specific and do not go beyond general allegations, such as: “undermining the Kosovo Albanians’ demand for freedom, democracy and independence through their collaboration with the Serb

³⁰ Art. 134 of the Criminal Law of the FRY

Regime”, “made an internal agreement with the Serb Secret Service”, “were involved in important missions of the anti-national policy, thus contributing to pro-Serb issues”. The article of 18 April 2002 refers to a concrete fact, Mr. Baton Haxhiu’s mediation in a secret meeting in Brezovica, but this fact was previously publicized and the article is openly speculative regarding Mr. Haxhiu role in it: “The exact role of Baton Haxhiu is not clear: whether he was a mediator, a loyal person or an employee of Stanistic”.

While the publications might discredit the complainants politically and professionally, the Board finds it difficult to accept that a speculation or mere accusation of political flirt with Serb authorities, of non-criminal character, might upset the public to a degree that would pose a danger of violence. The Board disagrees with the Commissioner in that the expression “collaboration with the Serbs” [as opposite to “mediation with the Serbs”] should be banned from the language of public debate as *per se* dangerous. Attributing such stigma to words would hinder the freedom of expression beyond acceptable limits, as the notion of “collaboration with the Serbs” is necessary in free discussion about the past and the future of Kosovo; moreover, the Board finds it unsupported to deny the public opinion of Kosovo basic ability to critically assess these words in context.

That one of the complainants, Mr. Haxhiu, received threatening phone calls might prove that a negative reaction of the public was indeed induced by the article, but such negative reaction is what public persons must take into account as risk imputed to public activity. Anonymous calls to public figures are common phenomenon [therefore many public figures have their private phone numbers unlisted], which does not automatically mean a serious threat to life, safety or security. The fact that the phone calls ceased immediately after Mr. Haxhiu had testified before the ICTY, first, proves the effectiveness of the balancing mechanism of public rebuttal, second, indicates that the community of Kosovo is capable of making critical choices among the flow of information.

The Board accepts the Temporary Media Commissioner’s assessment that inter-communal tension still continues as a consequence of the recent war, and that it includes a measure of criminal violence. At the same time the Board is aware that violent incidents motivated by ethnic hatred in year 2002 became much fewer than two years before. Political killings in 2001 and 2002 to which the Commissioner referred in her submission to support the existence of the threat, as seen from attached documents were likely to have been orchestrated by extremist groups and aimed at elimination of political adversaries among Kosovo Albanians, without ethnic motive involved. Accompanying press publications, as the Commissioner notes, were written by “highly political press to settle old scores and/or to pursue political interests of its political masters.” As such, the publications would appear to have been a part of the same political strife as the killings, aimed to discredit the victims politically, rather than the cause thereof. A mere theoretical possibility that “allegations would potentially serve as a direct or indirect catalyst to [unspecified] individuals and groups wishing /or desiring to harm or kill” is too remote to restrict political criticism, as it would apply to every form of it. Anyway, it does not suffice to establish the causality required for the purpose of Section 4.1 of the Regulation.

In sum, of the Board is not satisfied that the incriminated publications of *Bota Sot* posed a serious threat to the life, safety or security of the complainants.

As to alleged violation of Section 2.1 of the Temporary Code of Conduct for the Print Media in Kosovo

The now appealed decision of the Temporary Media Commissioner was based on the MHB’s finding that the published material left “clear impression to the readers that Messrs. Blerim Shala and Baton Haxhiu were collaborators of the Serb regime and traitors to the Albanians of Kosovo”. This type of material, according to MHB, “encourages crime, namely the commission of murder or threats, or carried the risk of causing harm, such as death or injuries to the complainants”.

The premises of the application of section 2.1 of the Temporary Code of Conduct by the MHB were the same as of their application of Section 4.1 of the Regulation, namely - automatic inference of the risk for the life or safety from the allegations of collaboration with the Serb regime. The Board is of the view that, given the level of protection that might be granted to the complainants based on their positions, the character of the publications and the requirement to prove a causal link, such assumption is ungrounded. The Board's opinion expressed in preceding paragraphs applies here by reference.

As to alleged violation of Section 6.1 of the Temporary Code of Conduct for the Print Media in Kosovo

A starting point for the consideration here is that the Code was enacted as a surrogate professional self-regulatory institution of the print media in Kosovo, i.e., its function is to positively establish and enforce standards of journalist professionalism and ethics. The Code, however, does not purport to be a main vehicle for the protection of the infringed rights of individuals. Section 6.1 prohibits dissemination of false and deceptive material, and as such is the statement of the principle of objectivity and reliability in journalist ethics. Yet, when it comes to sanctioning Section 6.1, it becomes apparent that the Commissioner and this Board were not designed to hurriedly resort to this Section, because they have neither legal tools nor logistical resources that would generally enable them to verify publications through ascertaining the facts - such like competencies to summons and hear witnesses, demand disclosure of documents and other procedural instruments meant for the collection of evidence for court procedures³¹. Also, court procedures – designed specifically for the protection of individuals against harmful press publications – place the burden of proof more favourably for the plaintiff, which is not the case under MAB's Rules of Procedure.

This is not to say that Section 6.1 of the Code is practically unenforceable. It means, however, that proving the case under Section 6.1 would be possible mainly in situations where it has been already objectively and convincingly established that the facts published were not true. Basically, resorting to this provision by the Commissioner is advisable in situations where untruthfulness of the publications is undisputable: it is notorious, or proven by a court verdict in a criminal or a civil case, or based upon reliable and binding public documents or otherwise obvious. In situations factually less clear, the focus should be on the issue whether the publisher has observed the duty of diligence and objectivism in collecting of the material, i.e., on the application of Section 6.2 of the Code.

In the case before it, based upon the decision of the Hearing Board and given that the publications interlard statements of facts with value-judgements, questions and opinions, the Appeals Board had difficulty finding out which specific statements had been found false. The Board assumed that the main allegation of collaboration with the Serb Secret Service was denied by either of the complainants, while Mr. Haxhiu admitted to participation in the meeting with Serb authorities in Brezovica, in the capacity of a mediator. The status of the remaining factual statements was unclear.

Notwithstanding the lack of precision in this part of the appealed decision, the Board has found that there was no evidence presented, neither before the Hearing Board nor in these appellate proceedings, which would categorically preclude the truthfulness of both publications. Therefore, pursuant to the rule 11 of the Rules of Procedure, which places the burden of proof upon the party which derives legal consequences from facts alleged, the Board has found that the Respondent did not prove the falsehood of the publications of *Bota Sot*.

³¹ The legal framework of Kosovo does not know the construction of affidavit, hence “lawfully authenticated statements of witnesses” referred to in para.14 of the MAB Rules of Procedure in practice may only mean a statement with an authenticated signature, not provided with criminal sanction and thus not bearing the legal significance of testimony.

As to alleged violation of Section 6.2 of the Temporary Code of Conduct for the Print Media in Kosovo

The Appellant was given an opportunity to demonstrate that he had undertaken measures to ensure the veracity of the published material: first before the Hearing Board, where he failed to appear, second before the Appeal Board, where he was specifically invited to submit materials on which he had relied. The Board wishes to stress that it expects, as a standard of journalist professionalism, that publishers who choose to release aggressive and accusatory articles be prepared to prove that they had instituted a prudent and reasonable inquiry in order to substantiate the information. *Bota Sot* should have documented allegations against the complainants before the release of the articles, and at the latest – after having been informed about the dispute, i.e. since May 24, 2002.

In the submission to the Appeals Board, in support of the allegation that Mr. Baton Haxhiu took part, as a mediator, in a meeting with the Serb Secret Service, the Appellant defers to unspecified articles in other newspapers and similarly unspecified statements of Mr. Baton Haxhiu. Such general reference, unsupported by any concrete material, cannot be accepted as a proof of professional diligence. Moreover, the fact of Mr. Haxhiu's participation in the meeting was not disputed. Regarding remaining factual allegations, concerning the continuing collaboration with the Serb Secret Service, exerting pressure on other journalists, and the negative reputation of Mr. Haxhiu, etc., the Appellant did not produce any evidence that they had been made upon "prudent and reasonable inquiry". As it concerns Mr. Blerim Shala's alleged collaboration with the Serb regime and his "internal agreement with the Serb structures of the Secret service", the Appellant did not demonstrate that these allegations had been substantiated upon any journalistic material.

In sum, the Board agrees with the Commissioner that through either one of the contested publications, *Bota Sot* violated Section 6.2 of the Temporary Code of Conduct for the Print Media in Kosovo.

As to alleged violation of Section 3.1 of the Temporary Code of Conduct for the Print Media in Kosovo

In its article of 12 April 2002 *Bota Sot* did publish material stating, in reference to Mr. Blerim Shala and one other person: "If there was any court institution in Kosovo, both these journalistic "patriots" should ... have been imprisoned, for all the anti-national injustice that they committed while co-operating with the Serb regime of Belgrade during its occupation of Kosovo." The Board agrees with the Commissioner that this material, by intent and effect, attributes criminal responsibility to Mr. Blerim Shala prior to a finding of guilt by a lawfully constituted tribunal, and as such obviously constitutes a breach to section 3.1 of the Code.

As to the calculation of fine

The Appellant argued that the fine was disproportionate to the alleged damage and to the economic standing of the newspaper.

In the view of the Board, had the Appellant intended to submit financial and other documents as the evidence of economic standing of the newspaper and other relevant figures, it had an ample time to do it - and indeed was urged to do so by the TMC. In the absence of any submission in that regard, the Board finds no grounds to question the data and the method applied by the Respondent in her calculation of the fine.

Adopting circulation income as a basis for calculating the fine is well established in the Board's jurisprudence³². It is said to be linked to the principle that no one should profit by their wrong; it also has the advantage of providing certainty for all concerned. Therefore, the Board is of the view that the sum of 2 500 Euro, being equivalent to the estimated gross revenue of the day of publication, is reasonable and proportionate as a punitive sanction for each of the publication.

The Board accepted that the sanctions available to the Temporary Media Commissioner could appropriately include a deterrence component. The factors relevant to deterrence in regard to the printed media may include previous conduct, such as earlier publications; the relationship between the newspaper and the Office of the Temporary Media Commissioner, as evidenced, for example, by the tenor of meetings and correspondence; the level of co-operation, for example, in disclosing relevant information, or in willingness to publish corrections and apologies; and the likelihood of repetition³³.

In the present case the Board considers that the deterrence component should be significantly reduced due to the reduced scope of violations attributed to *Bota Sot*. The Board, however, cannot fail to notice the recidivism of *Bota Sot* in irresponsible journalism, ineffectiveness of previously applied measures, persistent lack of cooperation with the Commissioner regarding the disclosure of data pertaining to the circulation and income. With this factors in mind, the Board decided that deterrent sanctions should be upheld up to the amount of 500 Euro in respect to the article of 12 April, and to the amount of 2 500 Euro in respect to the article of 18 April 2002.

The final written English version was rendered on 7 March 2003.

³² *Bota Sot*, para 91

³³ *Ibidem*, para 94

APPENDIX 18: DATABASE OF LICENSED BROADCASTERS

The Legend:

L – p ----- Low power station (with 50 Watts output power of the transmitter)

K – l ----- Kosovo Local station

K – w ----- Kosovo – wide station

Freq. ----- Radio Frequency on FM band

Ch. ----- TV channel on UHF band

K – A ----Albanian Language

K – S ----- Serbian Language

K – B ----- Bosnian Language

K – T ----- Turkish Language

K – G -----Gorani Language

No.	Broadcaster	Location	Freq. Ch.	Category	Language	Notes
1	Radio 21	Prishtinë/Priština		K – w	K - A	
2	Radio 24	Kamenicë / Kamenica	95.3	K - l	K - A	
3	Radio ALBA	Klinë / Klina	91.2	K - l	K - A	
4	Radio AMADEUS	Gjakovë/Đakovica	97.5	K - l	K - A	
5	Radio ANTENNA	Çaglavica / Çagllavicë	89	L - p	K - S	
6	Radio AS	Zvečan/Zveçan	101.4	K - l	K - S	
7	Radio ASTRA	Ljubinjë e Epërme / Gornje Ljubinje	89.4	K - l	K - B	
8	Radio BAMBUS	Restelicë / Restelica	100	L - p	K - G	
9	Radio BESA	Prizren / Prizren	102.3	K - l	mixed	
10	Radio BLUE SKY	Prishtinë/Priština		K – w	mixed	
11	Radio BORZANI	Brezovicë / Brezovica	106.6	L - p	K - S	
12	Radio BUBAMARA	Leposavić/Leposaviq	102.3	K - l	K - S	
13	Radio CONTACT	Prishtinë/Priština	89.8	K - l	mixed	

14	Radio CONTACT PLUS	Mitrovicë/Mitrovica	101.9	K - 1	mixed	
15	Radio DARDANIA	Prizren / Prizren	97.1	K - 1	K - A	
16	Radio DODONA	Gllgovc / Gllgovac	88.2	K - 1	K - A	
17	Radio DRENASI	Gllgovc / Gllgovac	102	K - 1	K - A	
18	Radio DRENICA	Skënderaj/Srbica	107.6	K - 1	K - A	
19	Radio DRIJONA	Klinë / Klina	98	K - 1	K - A	
20	Radio DUKAGJINI	Pejë/Peć		K - w	K - A	
21	Radio ENERGJI	Gjilan / Gnjilane	103.3	K - 1	K - A	
22	Radio ENIGMA	Fushë Kosovë / Kosovopolje	104.3	L - p	K - S	
23	Radio FERIZAJ	Ferizaj/Uroševac	92.6	K - 1	K - A	revoked as of September 2, 2002
24	Radio FESTINA	Ferizaj/Uroševac	102	K - 1	K - A	
25	Radio FOCUS	Rahovec / Orahovac	99.4	K - 1	K - S	
26	Radio FONTANA	Istog/Istok	98.8	K - 1	K - A	
27	Radio FURTUNA	Ferizaj/Uroševac	101.2	K - 1	K - A	
28	Radio GJAKOVA	Gjakovë/Đakovica	100	K - 1	K - A	
29	Radio GJILANI	Gjilan / Gnjilane	93.5	K - 1	K - A	
30	Radio GLOBI	Mitrovicë/Mitrovica	104.6	K - 1	K - A	
31	Radio GORAZDEVAC	Goraždevac / Gorozhdec	89.5	L - p	K - S	
32	Radio GRAČANICA	Gračanica / Graçanicë	90.7	K - 1	mixed	
33	Radio HAJAT	Vitimiricë / Vitimirica	95.4	K - 1	K - B	
34	Radio HELIX	Prizren / Prizren	104.4	K - 1	K - A	
35	Radio HERC	Štrpce/Shtërpçë	98.9	L - p	mixed	
36	Radio HIT LASER	Pasjan / Pasjane	104.8	K - 1	K - S	
37	Radio ILIRIA	Viti / Vitina	104.1	K - 1	K - A	
38	Radio IMPULS	Leposavić/Leposaviq	100.3	K - 1	K - S	
39	Radio INDEX	Kamenicë / Kamenica	96.8	K - 1	K - S	

40	Radio K	Fushë Kosovë / Kosovo Polje	106	K - 1	mixed	
41	Radio KACANIKU	Kaçanik / Kacanik	95.4	K - 1	K - A	
42	Radio KAMENICA	Kamenicë / Kamenica	98.8	K - 1	mixed	
43	Radio KENT FM	Prishtinë/Priština	95.2	K - 1	K - T	
44	Radio KIM	Çaglavica / Çagllavicë	93.9	K - 1	mixed	
45	Radio KISS	Mitrovicë/Mitrovica	92.2	K - 1	K - S	
46	Radio KLOKOT	Kllokot / Klokot	101.6	L - p	K - S	
47	Radio KOLASIN	Zubin Potok	89.1	K - 1	K - S	
48	Radio KOMPAS	Pasjan / Pasjane	100.4	L - p	K - S	
49	Radio KOSOVA	Prishtinë/Priština		K - w	K - A	
50	Radio KOSOVA E LIRË	Prishtinë/Priština	94.2	K - 1	K - A	
51	Radio KOSOVSKA MITROVICA	Zvečan/Zveçan	103.3	K - 1	K - S	
52	Radio LIRIA	Shtime/Štimlje	92.2	K - 1	K - A	revoked as of 18 September, 2002
53	Radio LLAPI	Podujevë / Podujevo	103.2	K - 1	K - A	
54	Radio M	Zubin Potok	102.5	K - 1	K - S	
55	Radio MALISHEVA	Malisheva / Malisevo	90.4	K - 1	K - A	
56	Radio MAX	Shillovë / Šilovo	102.4	K - 1	mixed	
57	Radio MEGA VOX	Gjilan / Gnjilane	100.9	K - 1	K - A	
58	Radio MIR	Leposavić/Leposaviq	92.9	K - 1	K - S	
59	Radio MITROVICA	Mitrovicë/Mitrovica	99	K - 1	mixed	
60	Radio MIX	Priluzhë/Priluzhje	97.2	L - p	mixed	
61	Radio OMEGA 3	Prizren / Prizren	91.7	L - p	K - B	
62	Radio OSOJANE	Osojan/Osojane	96	L - p	K - S	
63	Radio PANDORA	Gjakovë/Đakovica	102.1	K - 1	K - A	
64	Radio PEJA	Pejë/Peć	93	K - 1	mixed	

65	Radio PLUS	Prishtinë/Priština	102.2	K - 1	K - A	
66	Radio PREMIERA	Kamenicë / Kamenica	101.1	K - 1	K - A	
67	Radio PRISHTINA 1	Prishtinë/Priština	98.2	K - 1	K - A	revoked as of 2 August 2002
68	Radio PRIZRENI	Prizren / Prizren	88.4	K - 1	mixed	
69	Radio RILINDJA	Prishtinë/Priština	92.8	K - 1	K - A	
70	Radio RINIA	Gjilan / Gnjilane	98.4	K - 1	K - A	
71	Radio SHARRI	Dragash / Dragas	100.1	K - 1	mixed	
72	Radio SOČANICA	Soqanicë/Sočanica	100.9	K - 1	K - S	
73	Radio SPECTAR	Brezovicë / Brezovica	94.3	K - 1	K - S	
74	Radio STAR	Gjilan / Gnjilane	96.4	K - 1	K - A	
75	Radio START	Rahovec / Orahovac	106.3	K - 1	K - A	
76	Radio TEMA	Ferizaj/Uroševac	94.9	K - 1	K - A	
77	Radio THERANDA	Suhareka / Suvareka	105.2	K - 1	K - A	
78	Radio TOPILIRIA	Deçan/Deçani	90.8	K - 1	K - A	
79	Radio URBAN FM	Prishtinë/Priština	103.5	K - 1	K - A	
80	Radio VALA 2000	Suhareka / Suvareka	98.3	K - 1	K - A	
81	Radio VALA RINORE	Prishtinë/Priština	94.7	K - 1	K - A	
82	Radio VICIANUM	Vushtrri / Vuçitrn	105.7	K - 1	K - A	
83	Radio VICTORIA	Gjilan / Gnjilane	98.1	K - 1	K - A	
84	Radio VITEZ	Preoqe/Preoce	104.9	K - 1	mixed	
85	Radio VIZIONI	Podujevë / Podujevo	88.1	K - 1	K - A	
86	Radio YENI DÖNEM	Prizren / Prizren	95.1	K - 1	K - T	
87	Radio YJET	Gjakovë/Đakovica	105.6	K - 1	K - A	
88	Radio YLBERI	Mitrovicë/Mitrovica	94.9	K - 1	K - A	
89	Radio ZERI POZHERANIT	Pozharan/Požorane	105.9	K - 1	K - A	

90	Radio ZËRI SHARRIT	I Kaçanik / Kacanik	93.4	K - 1	K - A	
91	Radio ZËRI SHTIMES	I Shtime / Štimlje	89.6	K - 1	K - A	
92	RTK	Prishtinë/Priština		K - w	mixed	
93	TOP KOSOVA Radio	Prishtinë/Priština	91.1	K - 1	K - A	
94	TV 21	Prishtinë/Priština		K - w	K - A	
95	TV 3K	Soqanicë/Sočanica	ch. 52	K - 1	K - S	
96	TV A1	Prizren / Prizren	ch. 26	K - 1	K - A	
97	TV AA	Prishtinë/Priština	ch. 25	K - 1	K - A	
98	TV BESA	Prizren / Prizren	ch.30	K - 1	K - A	
99	TV CHILDREN'S CHANNEL	Gjilan / Gnjilane	ch. 36	K - 1	K - S	
100	TV DUKAGJINI	Prishtinë/Priština	ch.52	K - 1	K - A	revoked as of 2 July, 2002
101	TV DUKAGJINI	Pejë/Peć	ch. 36	K - 1	K - A	
102	TV FESTINA	Ferizaj/Uroševac	ch. 40	K - 1	K - A	
103	TV HASI	Zym / Zum	ch. 28	K - 1	K - A	
104	TV HERC	Štrpce/Shtërpçë	ch.35	L - p	K - S	
105	TV ILIRIA	Viti / Vitina	ch.28	L - p	K - A	
106	TV KOHA VISION	Prishtinë/Priština		K - w	K - A	
107	TV LIRIA	Ferizaj/Uroševac	ch. 30	K - 1	K - A	
108	TV MEN	Gjilan / Gnjilane	ch. 47	K - 1	K - A	
109	TV MIR	Leposavić/Leposaviq	ch. 23	K - 1	K - S	
110	TV MITROVICA	Mitrovicë/Mitrovica	ch.42	K - 1	K - A	
111	TV MITROVICA 1 (M1)	Mitrovicë/Mitrovica	ch.50	K - 1	K - A	revoked as of 31 May 2002
112	TV MOST	Zvečan/Zveçan	ch.61	K - 1	K - S	
113	TV PRIZREN	Prizren / Prizren	ch. 60	K - 1	K - A	
114	TV SAS	Mitrovicë/Mitrovica	ch. 30	K - 1	K - S	revoked as of 18 December 2002

115	TV STUDIO PRIZRENI	Prizren / Prizren	ch. 52	K - 1	mixed	
116	TV SYRI	Gjakovë/Đakovica	ch.57	K - 1	K - A	
117	TV VALI	Gjilan / Gnjilane	ch. 39	K - 1	K - A	
118	TV ZOOM	Gornje Kusce	ch.43	L - p	K - S	

Summing up 2002 Licensing status of Broadcast Media in Kosovo

Albanian Language Media		Serbian Language Media		Bosniak Language Media		Turkish Language Media		Gorani Language Media		Mixed Language Media	
Radios	Televisions	Radios	Televisions	Radios	Televisions	Radios	Televisions	Radios	Televisions	Radios	Televisions
50	17	20	7	3	None	2	None	1	None	16	2
<i>Total: 67 stations</i>		<i>Total: 27 stations</i>		<i>Total: 3 stations</i>		<i>Total: 2 stations</i>		<i>Total: 1 station</i>		<i>Total: 18 stations</i>	

Overall number

Radio Stations	TV Stations
92	26
<i>118 licensed stations</i>	

Revocations

Radio Stations	TV Stations
3	3
<i>6 licenses revoked during 2002</i>	

APPENDIX 19: Broadcast Media Addresses

Broadcaster	Location	Address	Phone / Fax	Email
Prishtinë/Priština based stations				
Radio KIM	Çaglavica / Çagllavicë	Culture House	038 548 770, 548 771; 063 8278900	www.kimradio.net info@kimradio.net
Radio ANTENNA	Çaglavica / Çagllavicë	Çaglavica		antena_radio@hotmail.com
Radio DRENASI	Glllogoc / Glogovac			
Radio GRAČANICA	Graçanicë / Gračanica	Culture House 38205	038 64 866	radioGraçanica@yahoo.com
Radio K	Fushë Kosovë / Kosovo Polje	Rr. Nena Tereze, 2nd Floor No.8	038 66 004, 044 158 165	radiok6@hotmail.com
Radio LLAPI	Podujevë / Podujevo	Rr. Zahir Pajaziti p.n.	044 222 425	bajrush_bali@hotmail.com
Radio VIZIONI	Podujevë / Podujevo	Rr.Zahir Pajaziti	038 571 235; 044 162 424; 163 507	vizioni@hotmail.com
Radio ZËRI I SHTIMES	Shtime/ Štimlje	Rruga e Prishtines No.217	044 20 60 80	rzeri@hotmail.com
Radio VITEZ	Preoqe/Preoce	Preoce	063 844 35 32	None
Radio 21	Prishtinë/Priština	Annex Media House	241 522, 525 & 529	office@radio21.net
Radio BLUE SKY	Prishtinë/Priština	Rr. Nena Tereze p.n	038 243 028, fax: 038 249 074	none
Radio CONTACT	Prishtinë/Priština	Lagjeja Universitare, 74/10	038 512 398, 044 160 952	llapjani@hotmail.com
Radio VALA RINORE	Prishtinë/Priština	Ulpiana P+8 / 1 No.56	038 548 461	radio_students@hotmail.com
Radio KOSOVA	Prishtinë/Priština	Rr. Nena Tereze p.n	038 249 074	none
Radio KOSOVA E LIRË	Prishtinë/Priština	Dregu i Diellit, Rr. Thimi Mitko N.G	038 244 345 038 249 237	none
TOP KOSOVA Radio	Prishtinë/Priština		038 545 070	kosovasot2001@yahoo.com
Radio PLUS	Prishtinë/Priština	Rr.Dubrovnikut, No.44	038 243 534	ehasimja@hotmail.com
Radio RILINDJA	Prishtinë/Priština	Media House - Rilindja	038 249 022; 249 021	behluljashari@hotmail.com

Radio URBAN FM	Prishtinë/Priština	Rr. Ganimete Terbeshi No.2	038 244 499	urban_fm@europe.com
Radio DODONA	Glllogoc / Glogovac	Drenas, in front of the Trade Center	038 548 317	radiododona@yahoo.com
Radio ENIGMA	Fushë Kosovë / Kosovo Polje	Prizrenska No.16 38210	063 410 832	enigmaradio@hotmail.com
Radio KENT FM	Prishtinë/Priština	Aktash II, No.45	044 169 304	ebegolli@yahoo.com
TV AA	Prishtinë/Priština	Rr. Xhavit Mitrovica 26	044 124 724	tvaa@hotmail.com
TV KOHA VISION	Prishtinë/Priština	Mother Teresa street	248 015	kohavision@yahoo.com kohavision@kohavision.net
RTK	Prishtinë/Priština	Zejnel Hajdini No.12	038 230 119; 235 336	info@rtklive.com
Radio 21	Prishtinë/Priština	Annex Media House	241 522, 525 & 529	office@radio21.net
Mitrovicë/Mitrovica based stations				
Radio IMPULS	Leposavić/Leposaviq	24 November b.b. 38218	028 83 790	pekom@verat.net
Radio BUBAMARA	Leposavić/Leposaviq	24 November b.b	028 84 146	banestra@ptt.yu
Radio MIR	Leposavić/Leposaviq	Str. Vojske Jugoslavije b.b.	028 83 275	mirtvgo@hotmail.com
Radio MITROVICA	Mitrovicë/Mitrovica	Center of Mitrovica town	028 29 905	r_mitrovica@yahoo.com
Radio GLOBI	Mitrovicë/Mitrovica	Agim Hajrizi Square, Department Store "Lux", 2nd floor	044 200 458; 028 30 145, 146	radio_globi@hotmail.com
Radio KISS	Mitrovicë/Mitrovica	Str. Vardarska No.1	028 424 350, 064 241 50 44	None
Radio CONTACT PLUS	Mitrovicë/Mitrovica	Kralja Petra I 138/4	028 425 023 064 23 51 644	valentinacukic@hotmail.com
Radio SOČANICA	Soqanicë/Sočanica	Sočanica	028 / 86 826	None
Radio DRENICA	Skënderaj/Srbica	Sheshi "Adem Jashari"	028 82 522; 044 192 242	radiodrenica@hotmail.com
Radio VICIANUM	Vushtrri / Vuçitrn	Rr. Deshmoret e Kombit No.2.	028 70 400, 028 70 500; 044 196 709	ckvicianum_v@hotmail.com radiovicianum@hotmail.com
Radio KOLASIN	Zubin Potok	Str. Arsenija Carnojevica No.48	028 460 850; 063 8479403	none

Radio M	Zubin Potok	Arsenija Carnojevic b.b.	063 8547 706, 028 460 080	radiom@ptt.yu
Radio AS	Zvečan/Zvečan	Str. Nemanjica No.47	028 665 005	none
Radio YLBERI	Mitrovicë/Mitrovica	Sheshi "Agim Hajrizi"	028 36 900	radioylberi@hotmail.com
Radio KOSOVSKA MITROVICA	Zvečan/Zvečan	Kralja Milutina	028 665 619	none
Radio MIX	Priluzhe/Priluzje	38213 Priluzje	028 467 363	none
TV MIR	Leposavić/Leposaviq	Str. Vojske Jugoslavije b.b.	028 83 275	mirrtvgo@hotmail.com
TV MITROVICA	Mitrovicë/Mitrovica	Center of Mitrovica town	028 29 905	r_mitrovica@yahoo.com
TV 3K	Soqanicë/Sočanica	38217 Sočanica	028 86 746; 063 8297 727	none
TV MOST	Zvečan/Zvečan	Nemanjica 14 Zvecan	028 665 115	tvmost@ppt.yu
Pejë/Pec based stations				
Radio PEJA	Pejë/Peć	Culture House p.n.	039 32 861; 044 137 697	radio_peja@hotmail.com
Radio DUKAGJINI	Pejë/Peć	Fehmi Agani, No.16	039 32 025 (Central fax)	dukagjini2000@yahoo.com dukagjini@hotmail.com
Radio GJAKOVA	Gjakovë/Đakovica	Culture House "A.Vokshi" - "N.Tereze" p.n.	0390 22 383	radiogjakova@yahoo.com
Radio YJET	Gjakovë/Đakovica	Marin Barleti, p.n.	0390 30 009 ; 30 012	radio_yjet@hotmail.com
Radio AMADEUS	Gjakovë/Đakovica	Rr. UÇK, No.9	0390 26 049, Fax:0390 20 667	amadeusradio@hotmail.com
Radio ALBA	Klinë / Klina	Klinë, p.n.	039 71 591, 71 592; 044 161 183	radio_alba@hotmail.com
Radio DRIJONA	Klinë / Klina	Ymer Berisha Street No.25	039 71 471	radiodrijona@hotmail.com
Radio TOPILIRIA	Deçan/Dečani	Culture House "Jusuf Gervalla", rr. Deshmoret e Kombit	0390/61 886; 044 149 456 / 282 941	topiliriaradio@hotmail.com
Radio PANDORA	Gjakovë/Đakovica	Rr. "Nene Tereza" LC/1	030 20 000; 22 136	radiopandora@yahoo.com
Radio HAJAT	Vitimiricë / Vitimirica	Vitimirica	044 205 409	none

Radio GORAZDEVAC	Gorozhdec / Gorazdevac	no information		
Radio FONTANA	Istog/Istok	Istog	039 51 125; 044 201 576	none
Radio OSOJANE	Osojan/Osojane	no information		
TV DUKAGJINI	Pejë/Peć	Fehmi Agani, No.16	039 32 025 (Central fax)	dukagjini2000@yahoo.com dukagjini@hotmail.com
TV SYRI	Gjakovë/Đakovica	Rr. Sadik Pozhegu 28	0390 / 26 311; 27 722	tv_syri@yahoo.com
Prizren based stations				
Radio HELIX	Prizren / Prizren	Hysen Rexhepi, p.n.	029 44 009	hk_helix@hotmail.com
Radio DARDANIA	Prizren / Prizren	Rr. Arberit p.n.	029 42 844	none
Radio PRIZRENI	Prizren / Prizren	Rr. Zahir Pajaziti p.n.	029 43 542	none
Radio BESA	Prizren / Prizren	"Kater Kullat" p.n.	029 22 998 (31 696)	rtvbesa@hotmail.com
Radio SHARRI	Dragash / Dragaš	Rr. Sheshi I Deshmoreve p.n.	029 81 016, 044 201 072	gamilkolloni@hotmail.com
Radio THERANDA	Suhareka / Suvareka	Rr. "Nene Tereza" - 9	029 71 125; 044 140 038	radiotheranda@hotmail.com
Radio VALA 2000	Suhareka / Suvareka	Shiroke	029 72 004; 044 128 198	radiovala2000@hotmail.com
Radio FOCUS	Rahovec / Orahovac	Dragutin Jankovic Street No.1	029 76 947	radiofocus029@yahoo.com focusradio029@hotmail.com
Radio MALISHEVA	Malisheva / Mališevo	Rr. Adem Jashari p.n.	044 178 077	none
Radio YENI DÖNEM	Prizren / Prizren	Gjeravica 13/A	029 44 788, 30 230; 44 779	yenidonem@hotmail.com
Radio ASTRA	Ljubinjë e Epërme / Gornje Ljubinje	Gornje Ljubinje	044 255 711	radioastra@Prizren.de
Radio OMEGA 3	Prizren / Prizren	Ortakol III LAM A5/39	029 42 865; 044 152 917	ramqe@kosovaonline.net
Radio BAMBUS	Restelicë/Restelica	no information		
Radio START	Rahovec / Orahovac	Rahovec	029 77 699	startradio@hotmail.com

TV PRIZREN	Prizren / Prizren	Rr. Leke Dukagjini No.14	029 41 332; Fax: 41 336	tvprizreni@yahoo.com
TV A1	Prizren / Prizren	Çerçiz Topulli - 42	044 191 362	none
TV STUDIO PRIZRENI	Prizren / Prizren	Culture House "Xhemajl Berisha"	029 44 792; 044 237 502	none
TV HASI	Zym / Zum	Rr. Adem Jashari (Hotel Theranda)	029 24 134; 044 243 336	tv_hasi@yahoo.com
TV BESA	Prizren / Prizren	"Kater Kullat" p.n.	029 22 998 (31 696)	rtvbesa@hotmail.com
Gjilan/Gnjilane based stations				
Radio FERIZAJ	Ferizaj/Uroševac	House of Culture	044 155 327	toni9dr@hotmail.com
Radio SPECTAR	Brezovicë / Brezovica	Hotel Junior, Brezovica	063 80 25 666 063 823 7316	none
Radio RINIA	Gjilan / Gnjilane	Building Skenderbeu, 6/20	0280 23 950	none
Radio MEGA VOX	Gjilan / Gnjilane	Memin Beqiri Street, No.1	0280 23 320; 044 154 483	radiomegavox@hotmail.com radiomegavox@yahoo.com
Radio VICTORIA	Gjilan / Gnjilane	Dardania I, Radio=12/9	0280 23 200	Radiovictoria_2001@yahoo.com
Radio GJILANI	Gjilan / Gnjilane	Rr.Adem Jashari No.114	0280 20 073, 24 175; 044 125 673	radio_gjilani@hotmail.com
Radio ENERGI	Gjilan / Gnjilane	Rr.A Zhitia, No.63	0280 20 014; 22 300 044 132 516	energji102@yahoo.com
Radio KAÇANIKU	Kaçanik / Kačanik	Rr. Vellezerit Çaka p.n.	044 225 290, 0290 80 511, 80 660	elezi24@hotmail.com
Radio INDEX	Kamenicë / Kamenica	Kos.Kamenica - D.Korminjane B .B	0280 75 323	none
Radio PREMIERA	Kamenicë / Kamenica	Rr. "Z. Hajdini" No.116	0280 71 790	radiopremiera@hotmail.com
Radio ZERI I POZHERANIT	Pozharan / Požorane	Pozharan	044 177 106; 0280 85066 044 194 490	radio_zeri@yahoo.com
Radio MAX	Shillovë / Šilovo	Silovo	0280 22 222	maxradio102_4@yahoo.com
Radio FESTINA	Ferizaj/Uroševac	Rr. Deshmoret e Kombit p.n.	0290 21 523, fax.0290 22 722	rtv_festina@hotmail.com
Radio FURTUNA	Ferizaj/Uroševac		0290 22 640, 044 274 070	r_furtuna@hotmail.com

Radio TEMA	Ferizaj/Uroševac	Deshmoret e Kombit, 36 / Public Library 1st floor Ferizaj	0290 22 870, 22 470 Fax: 0290 20 940	visartema@yahoo.com radio@radiotema.net
Radio ILIRIA	Viti / Vitina	Hoxhë Jonuzi, p.n.	0280 81 190	rtv_iliriaviti@hotmail.com
Radio 24	Kamenicë / Kamenica	Kamenicë	0280 70 742; 044 144 050	
HIT Radio LASER	Pasjan / Pasjane	Pasjan 38266	0280 26 762	none
Radio ZËRI I SHARRIT	Kaçanik / Kačanik	Hani i Elezit	022 227 721; 044 235 679	none
Radio STAR	Gjilan / Gnjilane	Lagja Dardania 1, XV/1	0280 24 076	radiostar_gjilan@hotmail.com
Radio BORZANI	Brezovicë / Brezovica	Brezovica b.b 38157	0290 70 314	borzani2000@yahoo.com
Radio KOMPAS	Pasjan / Pasjane	no information		
Radio KLOKOT	Kllokot / Klokot	Klokot	0280 85 016	none
Radio HERC	Štrpce/Shtërpçë	Strpce	063 436 723; 0290 70 774	bokiherc@yahoo.com
Radio KAMENICA	Kamenicë / Kamenica	UNMIK Building	0280 72 130	radiokamenica@hotmail.com
TV VALI	Gjilan / Gnjilane	Kodra e Deshmoreve p.n	0280 20094	tv_vali@hotmail.com
TV MEN	Gjilan / Gnjilane	Nene Tereza No.52	0280 20 199; 044 133 311	tvmengjilan@hotmail.com
TV CHILDREN'S CHANNEL (DTV)	Gjilan / Gnjilane	Silovo	0280 25 977	dtvyu@yahoo.com
TV FESTINA	Ferizaj/Uroševac	Rr. Deshmoret e Kombit p.n.	0290 21 523, fax.0290 22 722	rtv_festina@hotmail.com
TV LIRIA	Ferizaj/Uroševac	Rr. Reçakut, p.n	0290 20 460, 27 459, Fax:0290 27 666	tv_liria@yahoo.com
TV HERC	Štrpce/Shtërpçë	Strpce	063 436 723; 0290 70 774	bokiherc@yahoo.com
TV ZOOM	Gornje Kusce	Gornje Kusce	0280 20 947 Fax. 0280 22 456	None
TV ILIRIA	Viti / Vitina	Hoxhë Jonuzi, p.n.	0280 81 190	rtv_iliriaviti@hotmail.com

APPENDIX 20: Print Media Addresses

DAILY NEWSPAPERS

No	Newspaper	Place of Publication	Status Coverage	Managerial staff	Contact Address
1	Bota Sot	Pristina	Daily – Informative /K- wide	Publisher: Xhevdet Mazrekaj Editor-in-chief: Skënder Buçpapaj; Editor-in-chief: Avdullah Bytyqi, Editor-in-chief: Hasan Salihu Comentator: Mero Baze, Columnist: Elida Buçpapaj; Editor-Columnist: Bardhyl Ajeti	Address: 18 "Jakov Xoxa" Str. Pristine Tel: 038/ 249- 846; 249- 847; 249- 489. Fax: 038/ 249 845; E-mail: botasot@dardanet.net
2	Epoka E Re	Pristine	Daily – Informative /K- wide	Publisher & Editor –in Chief: Muhamet Mavraj, Editors: Lulëzim Etemaj, Xhevdet Fetahu, Arsim Sinani (Macedonia), Ahmet Bilalli (Sports), Technical Editor: Shkëmbim Krasniqi, Secretary of the Newspaper: Sadik Zeqiri	Address: Pristine, In front of the UNMiK- HQ Tel.Mob.:044 127 434 E-mail: Epokaere_mm@hotmail.com mm_epokaere@yahoo.com
3	Koha Ditore	Print House "Koha" Pristine	Daily – Informative /K- wide	Publisher & Editor-in-Chief: Veton Surroi Co-Editor-in-Chief: Agron Bajrami Assist.Editor-in-chief: Ibrahim Rexhepi, Naser Miftari, Adriatik Kelmendi, Aradian Arifaj	Address: Fahu Postar 202 Tel: 038/249-104; 249-105; 243-875; Fax: 038/249-106; E-mail: redaksia@kohaditore.com .

				(Kosovo) Brikenda Rexhepi	
4	Kosova Sot	Print House “Interpress R. Company” – Pristine	Daily – Informative /K- wide	Editor: Ruzhdi Kadriu Director & Editor-in-Chief: Margerita Kadriu	Address: Industrial Zone- Pristine Tel & Fax: 038/ 545 070 E-mail: kosovasot2001@yahoo.com kosovasot@ipko.org
5	24 Orë	Print House “Rilindja” Pristine (It is not published for the moment)	Daily – Informative /K- wide	Publisher and Editor: Rasim Selmanaj Manager-Director: Luljeta Berisha, Halil Berisha, Co-Editor-in-Chief: Feim Tahirsylaj Editorial staff: Nazmi Misini, Rushit Ramabaja, Rizah Reshani, Fahri Axhanela (Caricaturist), Jahja Tmava, Besnik	Address: 45 “Bulevardi i Dëshmorëve” Str. Pristine Tel/Fax: 548-323 Mob: 044/189-669, 044/ 194-825 E-mail: redaksia24@yahoo.com
6	Rilindja	Print House “Rilindja” Pristine	Daily – Informative (published only on special occasions)	Editor-in-Chief & President of the Managerial Council: Behlul Jashari	
7	Zëri	NPIB “Zëri” Pristine	Daily – Informative /K- wide	Publisher & Editor: Blerim Shala Editor-in-Chief: Bardh Hamzaj Co-Editor-in-Chief: Zenun Çelaj Editorial staff: Safet Zejnullahu (National news); Binak Kelmendi (International news); Gani Mulliqi (Regional news); Mehmet Gjata (Economy); Ibrahim Kadriu (Culture, Feuilleton);	Address: Media House, Pristine Tel/Fax: 038/ 249-071, 243 875 Marketing: 549-751 E-mail: zeri_d@yahoo.com & zeri_d@hotmail.com Bank Account: MEB-Pristina – No.-1110-046234

MAGAZINES

No.	Magazine	Place of publication	Status Coverage	Managerial Staff	Contact Address
1	Alem	“Koha Print” Pristine	Independent Magazine in Bosnian Language	Editor-in-Chief: Nadira Avdic-Vllasi, Deputy Editor in Chief: Mustafa Balje, Editors: Raif Kasi (reports, culture) Refki Alia (Chronicles) Technical Editor: Amir Jakupi,	Address: 33 Nëna Tereze, Pristine mob: 044/ 185 100 E-mail: alemmagazine@hotmail.com Bank account: MEB-1110219254000134
2	Argumenti	Publishing House “Mirësia”- Skopje	Monthly/ youth magazine	Editor-in-chief: Drita Berisha Editor- Language: Hasan Arllati Editorial staff: Berzat Sadiku, Luljeta Doshllani, Hasan Arllati, Ismail Lutolli, Samire Ademi, Selatin Shala, Valbona Sokoli.	Address: F.P. 154- Pristina E-mail: argumenti@hotmail.com Revistaargumenti@yahoo.com
3	Bis	Print house “Cinom” Skopje	Biweekly/culture, enigmatic, amusement	Publisher: Publishing House “Pavoda”- Skopje Editor-in-chief: Hajri Shaqiri	Address: “Nikola Petrov” 46 Skopje. Tel: 02 60 00 83; 070 616 871; E-mail: bis@mt.net.mk Bank account: 40120-603-16616 (denars) 40100-620-16-2573522-20603 (foreign currency)
4	Bota E Re		Monthly/students magazine	Editor-in-chief: Ahmet Jashari Editor in charge: Milaim Shefkiu Editorial staff: Arben Atashi, Bekim Ajdini, Arben Veselaj, Mirsad Kuteli	Address: Student Union; block no.1. –Pristina. Tel: 044/ 199 984
5	Dëshira	“Çabej”	Monthly/	Publisher: NPP	Address: Dëshira, P.O.Box 90,

		Tetovo-Macedonia	independent youth magazine	“Shëndeti-5” Establisher: Rami Ramadani, Naser Ismaili Editorial staff: Lulzim Murtezzani, Sami Beqiri, Mirela Sula, Mujdin Sulejmani, Elmira Muja, Ramadan Ajdini...	1200 Tetovo, Macedonia Tel.: ++389 44 337-248 Mob.cel.: ++389 70 224- 356 E-mail: cabej@mt.net.mk ; rdeshira@yahoo.com
6	Dituria Islame	“Koha Print” Pristina	Monthly/religious, cultural, scientific	Publisher: The Presidency of Islam Society Editor-in-chief: Ahmet Sadriu Lecturer: Isa Bajqinca Technical Editor: Bashkim Mehani	Address: “Dituria Islame” Str.:“Vellusha”, no.84. 38000 Pristina. F>P. 46 Tel & Fax: 038/ 224- 024 Website: www.dituriaislame.com E-mail: dituriaislame@hotmail.com Dituriaislame@yahoo.com
7	Ekskluzive	Graphischer Betrieb Henke GmbH 50321 Bruhl	Monthly/activities, science, culture, sport	Publisher: atv media company Editor-in-Chief: Skënder Blakaj Editors: Jusuf Buxhovi, Ibrahim Berisha, Fadil Hysaj Photo reporter: Ruzhdi Pacolli	Address: Atv media company EKSKLUZIVE 38000 Pristine Media House VII floor Tel:+381 38 248 132 / 248 133 Fax: + 381 38 248 133 E-mail: ekskluzive@atv.ipko.org Ekskluzivepr@hotmail.com
8	Glas Juga	Gracanica	Serbian Magazine	Publisher: Zivojin Rakocevic	
9	Identiteti		Monthly/National, cultural, social	Editor: Ndue Ukaj Director: Dedë Abazi Editor-in-chief: Sarë Gjergji Lecturer: Sabit Jaha	Tel: 044/194-378 044/132-368 E-mail: magazina_identiteti@hotmail.com
10	Intuita 102		Crosswords, puzzle, entertainment		
11	Java	“Koha Print”- Pristina	Weekly/politic, social,	Publisher & editor-in-chief: Migjen Kelmedi	Address.: “Rexhep Luci” (ish-Goleshi) Tel & Fax.: ++381(0)38 221

			cultural, business	Marketing Director: Fadil Dragaj Editor in charge: Arlinda Desku Editor of Java On line: Shkumbin Kryeziu Columnists: Elvira Dones, Bernard Zeneli, Visar Zhiti, Tomislav Novovic, Alma Bejtullahu, ...	806 E-mail: info@gazetajava.com Web-site: www.gazetajava.com
12	Jeta E Re	Magazine Publishing House- Pristina	Monthly/ Literary scientific magazine	Diretor: Demë Topalli <i>Editor-in-chief:</i> <i>Sali Bashota</i> Editorial staff: Ali Podrimja, Din Mehmeti, Mehmet Kraja, Ibrahim Berisha, Ali D. Jasiqi, Hasan Hasani.	Address: Print House "Rilindja" 2 nd floor, Pristina. E-mail: sbashota@hotmail.com
13	Kosovarja	Grafika Rizniqi" Pristina	Biweekly/ family- woman magazine	Editor: Blerim Shala Editorial Staff: Zekeria Cana (honourable member) Isa Ilazi, Nafije Latifi, Arbëreshë Aliçkaj, Vjollcë Islami.	Address: Str.: "Ilaz Kodra" no. 5 , Fahu Postal 18/ 3800-Pristina Tel: 038 542- 242 Fax: 038/ 240 071 E-mail: kosovarja@bluemail.ch
14	Kosova Invest		Economy, Business	Publisher: Basri Ibrahimi Editor-in-chief: Naim Gashi Translator: Artan Loxha Design: INFOGRAPH	Address: Kosova Invest "Dardania" SU 6/2 Block. II No.28.- Pristina Tel: ++ 377 44 257 783 www.kosova-invest.com e-mail: kosova_invest@hotmail.com
15	Kosova Sport	"Rilindja"- Pristina	Weekly/sports	Publisher: Besim Kajtazi Editor-in-chief: Xhavit Kajtazi Photography: Mirsad Krasniqi	Address: Aktash I, Str.: Dibra 25,-Pristina Tel & Fax: 038/ 245-246 Mob.: 044 115 932 E-mail: kosovasport@hotmail.com

16	Miss	“Artgrafika” Gjakovë	Monthly/cultural	Publisher & Editor-in-chief: Zeki Vehapi Editorial staff: Halil Haxhosaj, Shkëlzen Rexha, Admir Polloshka.	Kosovasport@yahoo.com Address: Gjakove Tel. 0390/21 835 (Arfis design) Mob. 044 127 381(Shkëlzen Rexha-editor of photo.) E-mail: revista_miss@hotmail.com
17	Mollë E Ndalume		Erotic magazine		
18	Morri		Monthly/satiric	Publisher: Ali Mehmetaj Editor-in-chief: Kujtim Rrahmani Editorial staff: Dritëro Mehmetaj, Albana Mehmetaj, Vali, Dugi, Kasi.	Address: Sofali 21 A-Pristina www.morri.cjb.net E-mail: morri@hehe.com
19	Oferta –Suksesi	“Artemen”-Pristina	Economy, Business, advertisements	<i>Publisher:</i> “Artemen” Editor-in chief: Nexhmedin Kahrmani	Address: Dardania-Kurrisz, Green building, BL.9, No.15-Pristina Tel & Fax: 038/ 540 550 www.ofertasuksesi.com info@ofertasuksesi.com
20	Top Sport	“Rilindja”-Pristina	Biweekly/sports	Publisher: Jeton Govori Editorial staff: Agim Binaku, Kemajl Çarkaxhiu, Hivzi Krasniqi, Afrim Pasjaqa, Blerim Vula. Design: Mumin Nexhibi Marketing: Hasime Bardhi	Address: Str.:”Pal Paluca” 58-Pristina Tel: ++381(0)38 540 090 E-mail: topsporti@yahoo.co.uk Topsportmagazine@yahoo.com
21	Shqipëri Etnike	“SiPrint” Prizren	Bimonthly/informative, cultural, politic	Editor-in-chief: Kadri Mani Editor-in charge: Agim Gashi Lecturer: Maxhun Tishuku	Address: “Shqipëria Etnike”, c/o Kadri Osmani Loosli-Str.58/7 3027 Bern, Schëeiz E-mail: kadri.osmani@freesurf.ch Bank acc.: 3—517726-4 (code: POFICHBE)
22	Skandi 55		Crosswords, puzzle, entertainment		

23	Teuta	“Grafoprint” Pristina	Monthly/family-woman magazine	Publisher & Editor-in-chief: Sanije Gashi Editorial staff: Burbuqe Rushiti, Ibrahim Kadriu, Ymrane Hajra, Nerimane Kamberi, Sulejman Dermaku, Besim Rexhaj, Blerina Gashi.	Address: Str.: “19 Nëntori” No. 21/1.-Pristina Tel.: ++381/38/223 086 Fax.: ++381/38/541 393 E-mail: teutamagazine@hotmail.com
24	Vlera	Print House “Çabej” Tetovo	Monthly/ art, literature, social	Publisher: Literary club 94 Tetovo Editor-in-chief: Iljaz Osmani Editorial staff: Murat Isaku, Abdylaziz Islami, Alush Kamberi, Baki Ymeri, Hamit Xhaferi	E-mail: vlera_il@yahoo.com
25	Zëri Javor	“Koha Print” Pristina	Weekly/ politic, social, cultural, business	Editor: Blerim Shala Editor-in-chief: Halil Matoshi Editor in charge: Bexhet Haliti, Agron Shala, Dush Gashi Columnist: Muhamedin Kullashi Editorial Staff: Agim Zogaj, Arben Idriizi, Antigona Uka, Naser Mekolli, Blerim Latifi, Luljeta Tahiraj.	Address: Print House-Pristina Tel: 038 222- 451 Fax: 038/ 240 071 E-mail: zeri_j@hotmail.com

THE MAGAZINES THAT CEASED THE PUBLICATION FOR MONTHS

No	Magazine	Place of publication	Managerial Staff	Contact Address
1	Abc	Crosswords-puzzle-entertainment		
2	Albi	Besianë/	Publisher: Bajrush Behrami	Tel: 044 113 924; 044 162 118
3	Arena	Pristina /Youth LDK		Tel: 500 428; 500 197 e-mail:

				FRLDK_arena@yahoo.com
4	Argëtohu	Crosswords-puzzle-entertainment		
5	Astra	Prizren/Astrology	Publisher: Hasan Hamëzbala	Tel: 029/ 44 683
6	Auto Tempulli	Pristina		
7	<u>Demokracia</u>	Gjakova	Publisher: Bashkim Rrahmani	Tel: 0390/ 23 172; 20 146; 20 283; 25 343;
8	F Plus	Gjakova/ crosswords-puzzle-entertainment	Publisher: Zeki Vehapi	Tel: 044/ 154 972
9	Gjeni	Gjilan/ Crosswords-puzzle-entertainment	Publisher: Ismail Gagica	Tel: 044 189 868
10	Horizonti	Gjilan/ Crosswords-puzzle-entertainment		Tel: 0280 20 678
11	Koktej Enigmatik	Presevo/ Crosswords-puzzle-entertainment	Publisher: Ymer Shabani	Tel: 017 69 935 e-mail: koktejenigmatik@hotmail.com
12	Mix	Tetovo/ Crosswords-puzzle-entertainment	Publisher: Remzi Emshiri	Tel: 070 209 805
13	Për Ty			
14	Post Pesimistët	Pristina/ Youth	Publisher: Agon Maliqi	e-mail: pospes_gazeta@yahoo.com
15	Rinia N'rrjedha	Pristina/ Youth		Tel: 038/ 549 027/028/029
16	Ritmi Rinor	Pristina/Youth PDK		
17	Super Argëtuesi	Tetovo/ Crosswords-puzzle-entertainment	Publisher: Sadri Husmoni	Tel: 094 333 085
18	Vizioni	Peja /Youth	Publisher: Veton Mujaj	
19	Zëri I Kosovës			
20	Zgjimi			