

Progress and Challenges of the Independent Media Commission:

MONITORING REPORT 2024



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ABOUT KLI

Kosovo Law Institute is a nongovernmental and non-profit organization of public policy, a think tank specialized in the justice sector.

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ABBREVIATIONS

OSCE

Organization for Security
and Co – operation in Europe

IMC

Independent Media Commission

BoA

Board of Appeals

KLI

Kosovo Law Institute

AoK

Assembly of Kosovo

MSP

Media service provider

AMSP

Audiovisual Media Service Providers

SP

Service Provider

KBRA

Kosovo Business Registration Agency

EUAVMSD

Audio-visual Media Service Directive

AO

Audit Office

RTK

Radio Television of Kosovo

AJK

Association of Journalists of Kosovo

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1. Executive summary

The Kosovo Law Institute (KLI), with the support of the Organization for Security and Co – operation in Europe (OSCE) monitored the Independent Media Commission (IMC) from June to September 2024, observing its meetings and analyzing decisions related to licensing, regulatory enforcement, sanctions, and institutional developments. However, due to various developments, the report covers different periods of the year 2024. Whereas the drafting of the report was completed in September, some relevant updates were added prior to its publication. Through data collection, legal analysis, and stakeholder interviews, this report examines IMC’s transparency, independence, and challenges, highlighting both progress and areas requiring improvement in media regulation in Kosovo.

The IMC has taken steps to improve transparency, including launching a digital ownership map and enhancing access to media ownership data. However, decisions remain difficult to be accessed on its official website. From January to August 2024, the IMC held eight meetings and issued €1499,000 in sanctions. Despite this, not all decisions have been published.

Since regaining quorum with the election of a new member in May of 2023, the IMC has approved seven regulations, all of which were subject for public consultation before adoption. With the support of the Organisation for Security and Co-operation in Europe (OSCE) Mission in Kosovo, KLI drafted the Regulation on the Procedure for Handling Complaints at IMC, which has been approved by IMC. Also, new responsibilities for IMC have emerged following the adoption of Law No. 08/L-228 on General Elections in Kosovo, including the development of guidelines regulating the purchase of broadcast time by political entities. In response, KLI drafted the “Regulation on the obligations of media service providers during the election campaign” pro bono, which was approved by the IMC.

Despite these advancements, the IMC continues to face several challenges. The number of licensees has increased sixfold since its establishment, while staffing levels remained unchanged. This imbalance underscores the need for additional human and, especially, technological capacities, particularly in artificial intelligence. Debt collection remains an ongoing challenge, despite some efforts, with the outstanding debts currently standing at EUR 672,245.83¹.

Moreover, IMC members faced political pressure from deputies of the by ruling party. The new Law nr. 08/L-289 on IMC, currently under Constitutional Court review, contains provisions that may undermine IMC’s independence.

Key recommendations

- **Ensure transparency:** The IMC should publish all its decisions on its official website in official languages;
- **Allocate adequate resources:** The Assembly of Kosovo (AoK) should address the IMC’s budgetary requests, ensuring that expanded competencies are supported by sufficient budgetary resources to fulfil its legal obligations;
- **Protect institutional independence:** The AoK must safeguard the IMC’s constitutional independence through both the laws and its actions;

¹ Note: This figure reflects the time when the drafting of the report began – September 2024.

- **Strengthen debt collection efforts:** While some progress has been made, the IMC should continue its efforts to recover outstanding debts.

2. Methodology

To develop a comprehensive and analytical report on the competencies and functions of IMC, KLI adopted a mixed-method research approach. The purpose of this report is to provide a detailed evaluation of how IMC executes its legal and regulatory responsibilities, drawing upon a variety of data sources and research methodologies to ensure a holistic and nuanced analysis. A significant portion of the findings presented in this report is derived from KLI's ongoing and close monitoring of IMC's activities. As for this year, KLI has actively observed and analysed IMC's regular meetings since January, with detailed reports on these sessions being consistently published on the "Betimi për Drejtësi" (English: Oath for Justice) portal. This regular monitoring provided KLI with first-hand insights into IMC's decision-making processes, operational challenges, and responses to key regulatory issues.

To ensure the accuracy and breadth of the report, KLI did not rely solely on meeting data. In addition, it employed a diverse range of additional sources to paint a more complete picture of IMC's operations. Specifically, KLI closely monitored IMC's official website and its presence on social media platforms, particularly Facebook. By tracking IMC's use of these digital channels, KLI evaluated how effectively the commission communicates with the public, ensuring transparency about its activities and major developments. This analysis allowed for a better understanding of IMC's public engagement strategies and how they align with its legal obligations to inform and educate the public.

Moreover, KLI actively reported on significant events relevant to IMC's mandate, further contributing to the depth of the research. News updates covering notable developments in IMC's regulatory activities were published on "Betimi për Drejtësi" (English: Oath for Justice) portal, ensuring that the public remained informed and engaged with the commission's work. This real-time engagement with ongoing events further enhanced the accuracy and relevance of the report.

In addition to public monitoring, KLI submitted formal information requests to IMC's Public Communication Office. These requests sought specific data on IMC's progress in fulfilling its regulatory duties and updates on significant ongoing processes. The information received in response to these requests provided valuable insights that were integrated into the report, contributing to a clearer understanding of IMC's handling of regulatory responsibilities. These findings were crucial in assessing how IMC addresses challenges related to media regulation, ownership transparency, and content oversight.

Recognizing the importance of incorporating diverse perspectives, KLI has conducted a series of interviews with key stakeholders, both internal and external to IMC.

By gathering insights from a variety of actors, KLI has been able to paint a more complete picture of IMC's role, as well as the challenges it faces in regulating a dynamic and often contentious sector. The inclusion of external viewpoints also helps to contextualize IMC's work within the broader political and social environment, providing a more nuanced understanding of its effectiveness and limitations.

A key strength of this report lies in its use of a mixed-methods research approach, combining both quantitative and qualitative techniques. The quantitative aspect involved the collection and analysis of data related to IMC's public communications, the number of regulatory actions taken, and the statistical trends in media ownership and content violations.

On the qualitative side, KLI's analysis focused on understanding the deeper implications of IMC's actions, through document reviews, interviews, and case studies. This included examining the narratives surrounding IMC's regulatory decisions, and stakeholder perceptions of its effectiveness.

3. Analysis and findings

3.1. The composition of IMC

From October 2022, the IMC lacked a functional quorum, which was restored on May 24, 2023, when Luljeta Aliu was elected as a member, enabling the Commission to elect its chairperson². The dysfunctionality of IMC for approximately seven months created a backlog of cases that had remained unresolved. Beyond this, IMC emphasizes that the backlog has also been increased by several issues that have been created and unresolved for about 10 years³.

However, despite regaining quorum, the IMC still not operating at full capacity. According to the law,⁴ the IMC should have seven members, while at the time of reporting, only five have been elected.

In 2024, two calls for applications for IMC members were announced. However, both calls were unsuccessful, and Commission's full composition was not achieved⁵.

The fact that IMC has a quorum to hold meetings and make decisions should not serve as an excuse for leaving the remaining positions unfilled. A complete Commission with its full composition would be more appropriate.⁶ While IMC decisions are legally valid, they would carry greater legitimacy if made by a full composition of IMC, consisting of seven members.

At the time of publishing this report, the term of office of the IMC Chairman Mr. Jeton Mehmeti had expired.

3.2. The efficiency of IMC's work

From the beginning of the year until the end of August 2024, IMC has held eight regular meetings, thus fulfilling the legal obligation stemming from the Law on IMC, which stipulates that IMC chairperson must call a meeting at least once a month.⁷ In these meetings, IMC has reviewed various cases, including recommendations from the Executive Office regarding violations by licensees, licensing cases of different entities, license renewals, ownership change requests, etc.

² "Luljeta Aliu-Krasniqi zgjidhet anëtare e Bordit të KPM-së", *Betimi për Drejtësi*, 24 maj 2023, (see link: <https://betimiperdrejtesi.com/luljeta-aliu-krasniqi-zgjidhet-anetare-e-bordit-te-kpm-se/>), (Last accessed on 17 July 2023)

³ Interview with Besnik Berisha, IMC Member.

⁴ Law No. 04/l-044 on the Independent Media Commission, Article 10, paragraph 1.

⁵ "Dështon intervistimi për përzgjedhjen e dy anëtarëve të KPM-së, rekomandohet rishpallja e konkursit pasi një kandidatë u tërhoq nga gara", *Betimi për Drejtësi*, 4 mars 2024. (Shih linkun: <https://betimiperdrejtesi.com/njekandidate-terhiqet-nga-garadeshton-konkursi-per-perzgjedhjen-e-dy-anetareve-te-kpm-se/>). (Qasur për herë të fundit më 17 korrik 2024).; "Komisioni Ad-hoc: S'ka mjaftueshëm kandidatë, KPM të rishpallë konkursin për dy anëtarë", *Betimi për Drejtësi*, 12 qershor 2024. (Shih linkun: <https://betimiperdrejtesi.com/komisioni-ad-hoc-ska-mjaftueshemkandidate-kpm-te-rishpalle-konkursin-per-dy-anetare/>). (Qasur për herë të fundit më 17 korrik 2024).

⁶ Interview with Christian Bötcher - Head of Culture, Press and Communications at the German Embassy in Prishtina.

⁷ Law No. 04/l-044 on the Independent Media Commission, Article 15, paragraph 3.

KLI has closely monitored the meetings of IMC and their official website. During these eight meetings, IMC has reviewed a total of 49 cases related to licensing matters of entities and 53 cases involving allegations of violations by licensees.

During the period from 1 May to 15 August, 2024, in the three meetings held, IMC made 18 decisions—12 of which involved allegations of violations by licensees and six related to licensing matters. In 17 of these decisions, IMC approved the recommendation of the Executive Office, while in one case, it rejected the recommendation.

In addition, IMC had formed four subcommittees, which were established to analyse four issues, such as: 1) the issue of frequencies and especially those in the region, 2) the accumulated debts to IMC, 3) the change of ownership, and 4) the obligations arising from the Law on Copyright. Reports have been prepared for each of these subcommittees, which were approved by IMC.⁸

As mentioned in the previous chapter, a significant backlog of work was created at IMC that the Commission needed to address. According to some interviewees, IMC had been quite efficient in clearing that backlog and completing all the tasks that remained from that time, as well as those that arose over time.⁹ Meanwhile, in relation to the work objectives it was said that by mid – August 2024, 60% of them have already been fulfilled.¹⁰ External actors also emphasized their assessment of the work of the current composition of IMC¹¹, while it was noted as a concern that IMC has been operating with an Acting Chief Executive since July 2, 2021¹².

3.3. Transparency and accountability

Regarding transparency and accountability, KLI has continuously monitored both the official website of IMC and their official page on the social network ‘Facebook.’ As a result of this monitoring, KLI found that IMC through these two channels informs the public in advance about the scheduling of regular meetings and the agenda for those meetings. Additionally, IMC through press releases has always informed the public about decisions and other major events that occurred during those meetings. Furthermore, all these meetings have been open to the public, as stipulated by the Law on IMC.¹³

Meanwhile, a more problematic issue is the publication of decisions, which are not published yet (meetings held during May – August)¹⁴. However, the majority of the decisions in earlier meetings of this year have been published.

Another problematic aspect is the way decisions, which are already published, are made accessible, as accessing them is technically difficult. They are not published in a separate link or in another categorized manner, but are instead published only as hyperlinks within meeting announcements. This problem stems from the inadequate design of IMC's official website.

⁸ Written answer from the Office for Communication with the Public of IMC, 09.09.2024.

⁹ Interview with Jeton Mehmeti - Chairperson of IMC, Fitim Veliu - member in IMC.

¹⁰ Interview with Faruk Rexhaj - Acting CEO of IMC.

¹¹ Interview with Ardita Zejnullahu - Executive Director AMPEK; Interview with Flaka Surroi – “Koha”; Interview with Valon Ramadan - Chairperson of the Assembly Commission for Media.

¹² Interview with Isak Shabani - Member of Assembly Commission for Media.

¹³ Ibid, Article 7, paragraph 4.

¹⁴ IMC's press releases for meetings held during May-August period, without published decisions, (see links: https://kpm-ks.org/lajmi_i_plot/3711; https://kpm-ks.org/lajmi_i_plot/3699; https://kpm-ks.org/lajmi_i_plot/3688; https://kpm-ks.org/lajmi_i_plot/3711), (Last accessed on 13 September 2024).

Isak Shabani, a member of the Assembly of Kosovo (AoK) Committee on Media from the opposition party (Democratic Party of Kosovo, PDK), thinks that the official website should be designed in a way that enables even more effective transparency, with an adequate structure with proper categorization of archival information, and should include a more efficient module where parties could file complaints.¹⁵ However, through interviews, it was learned from IMC that the company for creating the new website has already been recruited, and it is expected to be functionalized eventually by the end of 2024.¹⁶

Thus, IMC has made improvements regarding transparency¹⁷ and most of the other interviewees state that transparency is not lacking in IMC.¹⁸ In fact, it was mentioned that IMC is one of the most transparent institutions¹⁹, highlighting the fact that IMC meetings are always open and are continuously monitored by civil society, in this case by KLI, as well as the importance that is given to responding to information requests directed to IMC.²⁰ Additionally, the launch of the digital map, which provides access to data on IMC licensees and their ownership, was also mentioned as a positive development in this regard.²¹

3.4. Short summary of the findings by the Audit Office

In June 2024, the Audit Office (AO) published the Audit Report for the Annual Financial Statements of the Independent Commission for Media for the year 2023.²² The report highlights as findings that the AO identified areas where performance could be improved, including internal controls. The report states that their tests revealed the need for improvements in human resource management.²³

Thus, from this report a new recommendation has resulted, which will be followed up during the audit of the next year. It is noted that there were no findings for the year 2022.

As for the above-mentioned finding of the AO's report for the year 2023, in December 2023, IMC approved Regulation No. 04_2023 on the Admission, Evaluation, and Discipline of the Chief Executive. In 2024, it announced the public competition for IMC Chief Executive twice in a row. The first time, the competition failed because there were no applicants/candidates who met the qualification criteria of the competition. In the second announcement, the process stalled midway, as some members of the Evaluation Commission resigned, leading to a situation where the procedure could not continue, and thus the competition was cancelled, but it is expected to be re-announced soon.

¹⁵ Interview with Isak Shabani - Member of Assembly Commission for Media.

¹⁶ Interview with Jeton Mehmeti – Chairperson of IMC; Interview with Besnik Berisha – IMC Member.

¹⁷ Interview with Imer Mushkolaj – Executive Director of the PCK; Interview with Ardita Zejnullahu - Executive Director AMPEK; Interview with Jarmo Feliks Helipinkingags, Head of Rule of Law & Legal, Human Rights, EU Special Representative.

¹⁸ Interview with Flaka Surroi – “Koha”; Interview with Valon Ramadani - Chairperson of the Assembly Commission for Media; Interview with Ardita Zejnullahu - Executive Director AMPEK; Interview with Faruk Rexhaj - Acting CEO of IMC; Interview with Jeton Mehmeti - Chairperson of IMC; Interview with Besnik Berisha - IMC Member.

¹⁹ Interview with Besnik Berisha - IMC Member.

²⁰ Interview with Besnik Berisha – IMC Member; Interview with Jeton Mehmeti - Chairperson of IMC; Interview with Faruk Rexhaj - Acting CEO of IMC.

²¹ Interview with/ Ardita Zejnullahu - Executive Director AMPEK; Interview with Jeton Mehmeti – Chairperson of IMC; Interview with Besnik Berisha – IMC Member.

²² General Audit Office, “*Audit Report on the Annual Financial Statements of the Independent Media Commission for 2023*”, June 2024, (see link: https://zka-rks.org/cms/ReportFiles/2024_f4d65c5b-08d4-4393-a0c9-5eae5edddccb.PDF). (Last accessed 13 September 2024).

²³ Ibid, Article 2, Page 7, (see link: https://zka-rks.org/cms/ReportFiles/2024_f4d65c5b-08d4-4393-a0c9-5eae5edddccb.PDF). (Last accessed 13 September 2024).

Meanwhile, in March 2024, the AO published a Performance Audit Report on the management of licensing at IMC.²⁴ According to this report, the audit findings show that issues related to license management by IMC require immediate improvement. In this regard, the AO has provided five recommendations.²⁵

The recommendations from this audit state that IMC needs to enhance the level of license management for entities and implement a better process for media management.²⁶ According to the report, the following options can be used to achieve this:

- The strengthening of the licensing and monitoring system is essential to ensure that distribution operators adhere to all licensing criteria and service delivery requirements;
- The implementation of clear timelines and concrete measures for delays or deviations from criteria is necessary to prevent risks associated with the renewal of licenses;
- Providing clear recommendations during the license renewal process to ensure standardization and consistency;
- Efficient utilization of mechanisms such as suspension, termination/revocation of licenses for Service Providers (SP) that do not conduct transmission activities, fail to fulfil financial obligations, or violate media-related criteria;
- Enhancing the monitoring of SP for their transmission activities by coordinating actions between departments within IMC to ensure effective oversight of licenses and payments.

Regarding this finding, IMC has acted in accordance with the recommendations of the AO. Specifically, all payments not made within the legal timeframe have been forwarded for enforcement procedures. Licensed entities with outstanding debts are unable to access various administrative services or renew their licenses until they fulfil their financial and other obligations to the IMC. In line with recommendations, the IMC has also applied mechanisms such as the suspension/revocation of licenses for licensees that do not carry out broadcasting activities. The implementation of these recommendations is ongoing, with the IMC planning to finalize the process by the end of 2024²⁷. Additionally, the audit report provides explanations regarding the outstanding debts owed to IMC, which will be elaborated in a later chapter of this report.

3.5. Non-functioning and dissolution of the Board of Appeals (BoA)

Within IMC, there is also a Board of Appeals (BoA), which reviews appeals against IMC decisions²⁸. This board consists of three members²⁹. Although of great importance, due to the lack of quorum, this Board has been non-functional since October 29, 2023. By the end of August 2024, the BoA had only one member and lacks the quorum to make decisions³⁰. This situation has arisen due to the failure to complete the composition of this Board with the other members. During the conduction of the interviews for the purposes of this report, it was also mentioned that calls for applications for membership on this Board have been made several

²⁴ General Audit Office, “Audit Report of Performance”, March 2024, (see link: https://zka-rks.org/cms/ReportFiles/2024_c6180d99-2ce9-493e-9f43-303b7e5d1d03.pdf). (Last accessed 13 September 2024).

²⁵ Ibid, Page 2, (see link: https://zka-rks.org/cms/ReportFiles/2024_f4d65c5b-08d4-4393-a0c9-5eae5edddccb.PDF). (Last accessed 13 September 2024).

²⁶ Ibid, Article 5, Page 29, (see link: https://zka-rks.org/cms/ReportFiles/2024_f4d65c5b-08d4-4393-a0c9-5eae5edddccb.PDF). (Last accessed 13 September 2024).

²⁷ Written answer from the Communication with the Public Office of IMC.

²⁸ <https://www.kpm-ks.org/assets/cms/uploads/files/ORGANOGRAMI%20%202019.pdf>

²⁹ Law on IMC..

³⁰ <https://www.kpm-ks.org/kpm/329/perberja-e-bordit-per-ankesa/329>; Written answer from the Communication with the Public Office of IMC, 09/09/2024

times, but there have been very few applicants, even fewer who meet the criteria, and in some cases, applicants do not show up for the interview, leading to the failure of the competition³¹.

Regarding the non-functionality of this Board and its impact or consequences that it brings, there were varying opinions from the interviewees. Some viewed it as problematic³², noting that, in addition to its effect on the work of IMC³³, it also negatively impacts the media³⁴, and other parties involved.³⁵ It was also mentioned that every decision made by IMC should be subject to contestation before this body to avoid administrative conflicts in court.³⁶

Under the new Law on IMC, the BoA will be dissolved. Thus, under the new law, within the framework of administrative procedures, IMC decisions will be final, and there will be no mechanism within the administrative procedure to review appeals against IMC decisions. These decisions may only be challenged in court, in accordance with the Law on Administrative Conflicts.

Regarding appeals, the new law has defined the establishment of the Complaints Council. In this context. As for this Council, the new law states that it will address the complaints from parties regarding entities in accordance with this law and sub-legal acts. By reading this article, in relation to the overall functioning of the IMC, we can conclude that this Council has a different nature compared to the BoA. This is because the Complaints Council is an entity within the Executive Office that will handle appeals submitted by complainants. Following this review, the final decision will be made by the IMC. Against this decision, there will be no appeal mechanism, as was previously the case with the BoA. IMC decisions may only be challenged in court, in accordance with the Law No. 08/L-182 on Administrative Conflicts.

According to this law, IMC decisions will be final, and any appeals against them can only be made in court.

Some of the interviewees stated that the dissolution of this Board is a mistake, this due to the nature of working with media and the delays that can arise in judicial procedures. For example, if IMC makes a decision to close a broadcaster or even other cases, then the matter could be dragged out, whereas with the BoA, media access is much easier because decisions are taken more quickly, thereby facilitating a functioning free and independent media.³⁷ In fact, it was even mentioned that such a move violates Article 32 (Right to Legal Remedies) of the Constitution.³⁸ On the other hand, one opinion is that this Board should never have existed, as appeals can already be made to the competent court.

3.6. Secondary legislation and public involvement in decision-making

Since the functioning of IMC in May of 2023, IMC has approved seven regulations, all of which were also put out for public consultation before their adoption. With the support of the OSCE, KLI has drafted the Regulation on the Procedure for Handling Complaints at IMC, which has been approved by IMC. Also, new obligations for IMC also arise from the adoption

³¹ Interview with Ardita Zejnullahu - Executive Director AMPEK.

³² Interview with Imer Mushkolaj – Executive Director of the Press Council of Kosovo

³³ Interview with Ardita Zejnullahu - Executive Director AMPEK; Intervista me Faruk Rexhaj – Acting CEO of IMC.

³⁴ Interview with Flaka Surroi – “Koha”.

³⁵ Interview with Isak Shabani - Member of Assembly Commission for Media.

³⁶ Interview with Flaka Surroi – “Koha”.

³⁷ Interview with Faruk Rexhaj - Acting CEO of IMC.

³⁸ Interview with Isak Shabani - Member of Assembly Commission for Media.

of Law No. 08/L-228 on General Elections in Kosovo. One of these obligations is the approval of the guidelines for the regulation of the purchase of broadcast time by political entities in broadcast media. Regarding this, KLI has drafted the “Regulation on the obligations of media service providers during the election campaign” pro bono, which has been approved by the IMC.

The regulations approved by December 16, 2024 are:

- 1) Regulation on the Acceptance, Appointment, Evaluation, and Discipline of the Chief Executive Officer³⁹;
- 2) Regulation on the Ownership and Concentration of IMC Licensees⁴⁰;
- 3) Regulation on the Protection of Children and Minors in Audio and Audiovisual Media Services⁴¹; and
- 4) Regulation on Audio and Audiovisual Commercial Communications⁴², which are also published on the official IMC website.⁴³
- 5) Regulation on the Protection of Users in the Field of Providing Audio and Audiovisual Services;
- 6) Regulation on the Procedure for Handling Complaints in the IMC;
- 7) Regulation on the obligations of media service providers during the election campaign.

3.7. Monitoring and sanctioning

The monitoring of audiovisual media services and initiating and receiving complaints with regard to a failure to comply with its conditions of license, code of conduct and other legal acts in accordance with the present Law, is one of IMC’s competences⁴⁴.

Currently, IMC licenses 84 radio stations, 19 terrestrial television channels, 34 distribution operators, and 119 channels broadcasting through operators.⁴⁵ The system used for monitoring is the XentauriX Broadcast Logger - Media and Broadcast Recorder.⁴⁶ Additionally, considering technological developments, especially in the field of artificial intelligence, supported through capital projects, IMC is in the process of hardware and software upgrade of its monitoring system, for more effective monitoring of the licensees, including AI, speech to text, face recognition, etc.⁴⁷

³⁹ Regulation on the Acceptance, Appointment, Evaluation, and Discipline of the Chief Executive Officer (see link: https://www.KPM-ks.org/assets/cms/uploads/files/RregulloRE%20Nr.%2004_2023%20p%20C3%ABr%20Pranimin%2C%20Vler%20C3%ABsimin%2C%20dhe%20Disiplin%20e%20Kryeshefit%20Ekzekutiv.pdf), (Last accessed 13 September 2024).

⁴⁰ Regulation on the Ownership and Concentration of IMC Licensees; (see link: <https://www.KPM-ks.org/assets/cms/uploads/files/RREGULLORE%20PER%20PRONESIN%20DHE%20KONC.E%20TE%20LIC%20TE%20KPM%20%202023.pdf>), (Last accessed 13 September 2024).

⁴¹ Regulation on the Protection of Children and Minors in Audio and Audiovisual Media Services, (see link: [https://www.KPM-ks.org/assets/cms/uploads/files/RREGULLORE%20PER%20MBROJTJEN%20E%20FEMIJEVE%20DHE%20TE%20MITURVE%20NE%20SHMA\(1\).pdf](https://www.KPM-ks.org/assets/cms/uploads/files/RREGULLORE%20PER%20MBROJTJEN%20E%20FEMIJEVE%20DHE%20TE%20MITURVE%20NE%20SHMA(1).pdf)), (Last accessed 13 September 2024).

⁴² Regulation on Audio and Audiovisual Commercial Communications, (see link: [https://www.kpm-ks.org/assets/cms/uploads/files/RREGULLORE%20PER%20MBROJTJEN%20E%20FEMIJEVE%20DHE%20TE%20MITURVE%20NE%20SHMA\(1\).pdf](https://www.kpm-ks.org/assets/cms/uploads/files/RREGULLORE%20PER%20MBROJTJEN%20E%20FEMIJEVE%20DHE%20TE%20MITURVE%20NE%20SHMA(1).pdf)), (Last accessed 13 September 2024).

⁴³ Web-site of IMC (see link: <https://www.KPM-ks.org/al/legjislacioni/299/aktet-nenligjore-ne-fuqi/299>), (Last accessed 13 September 2024).

⁴⁴ Law on IMC, Article 29, Paragraph 1.

⁴⁵ Digital Map (see link: <https://regjistri.KPM-ks.org/>), (Last accessed 13 September 2024).

⁴⁶ Ibid.

⁴⁷ Interview with Jeton Mehmeti – Chairperson of IMC; Answer from the Office for Communication with the Public of IMC.

Monitoring was also one of the deficiencies which was highlighted in the AO report.⁴⁸ However, one of IMC members claims that the monitoring approach has been adjusted, now focusing where problems have been noted, and in those cases where more targeted monitoring has been requested.⁴⁹

During the period May 1 and August 15, 2024, as a result of monitoring, 79 cases were initiated against audiovisual media services.⁵⁰ During this period, sanctions were imposed during the fifth regular meeting held on May 10, 2024.⁵¹ These cases involved ongoing violations of the Regulation for Distribution Operators and the Regulation on Ownership and Concentration of Licensees. In these cases, fines totalling eight thousand euros were imposed on six licensees. Additionally, sanctions were imposed during the sixth regular meeting of IMC, held on June 10, 2024.⁵² All these cases involved changes in ownership without prior approval from IMC. A total of ten thousand euros in fines were imposed on six licensees.

Another competence of IMC is the sanctioning of licensees for violations of licensing conditions, the code of conduct, and other legal acts in accordance with this law.⁵³ Within this competence, for violations of the conditions and terms of the license, the Law, or IMC's sub-legal acts, IMC may issue written warnings or impose fines in values ranging from a minimum of EUR 1,000 to a maximum of EUR 100,000.⁵⁴

During the interviews, it was stated that IMC has taken positive steps regarding the issue of imposing sanctions.⁵⁵

KLI finds that during this year, IMC has reviewed a total of 34 cases regarding violations by licensees, related to violations of licensing conditions and terms, the code of conduct, and other legal acts by IMC licensees, in accordance with the Law on IMC. Following the review of these cases, IMC imposed fines totalling EUR 149,000, issued one warning, and in three cases, sanctioned with license suspension. The highest fine imposed was EUR 64,000, while the lowest fine was the minimum amount that IMC can impose, which is EUR 1,000.

The highest fine imposed by IMC was issued at the first regular meeting of this year, held on January 19, 2024. A sanction was imposed against Artmotion (64,000 euros). In the same case, a fine was also imposed on Kujtesa (26,000 euros), IPKO (7,000 euros), and Telkos (3,000 euros)⁵⁶. The escalation of the fine was proportionate to the number of complaints that IMC received, against the above-mentioned operators. The nature of the complaints was similar, subscribers had alleged deceptive advertising, and failure to notify them of changes in packages, related to the non-transmission of channels such as "Digitalb," "Super Sport," "Top Channel," and "Klan TV." From the beginning of the year until that meeting, over 300

⁴⁸ Audit Office, "Audit Report of Performance", March 2024, Page 6, (see link: https://zka-rks.org/cms/ReportFiles/2024_c6180d99-2ce9-493e-9f43-303b7e5d1d03.pdf), (Last accessed 13 September 2024). (Last accessed 13 September 2024).

⁴⁹ Interview with Besnik Berisha, IMC Member.

⁵⁰ Written Answer from the Office for Communication with the Public of IMC, 09.09.2024

⁵¹ IMC's fifth regular meeting, (See link: https://kpm-ks.org/lajmi_i_plot/3688)

⁵² IMC's sixth regular meeting, (See link: https://kpm-ks.org/lajmi_i_plot/3699)

⁵³ Ibid, Article 30, Paragraph 1.

⁵⁴ Ibid, Paragraph 1.3.

⁵⁵ Interview with Jarmo Feliks Helipinkingags, Head of Rule of Law & Legal, Human Rights, EU Special Representative.

⁵⁶ "Artmotion dënohet me 64 mijë euro, Kujtesa më 26 mijë euro, IPKO me 7 mijë euro dhe Telkos me 3 mijë euro", Betimi për Drejtësi, 19 January 2024, (see link: <https://betimiperdrejtesi.com/artmotion-denohet-me-64-mije-euro-kujtesa-me-26-mije-euro-ipko-me-7-mije-euro-dhe-telkos-me-3-mije-euro/>), (Last accessed 13 September 2024).

complaints were lodged, with 221 against Artmotion, 87 against Kujtesa, 23 against IPKO, and 9 against Telkos.

In the specific case, IMC treated all the complaints as a single case, so for over 300 complaints against the licensees, it imposed only one sanction. Moreover, IMC distributed the maximum fine stipulated by law (100,000 euros) proportionally based on the number of complaints it had received. In this particular case, KLI finds that IMC did not apply the law correctly. Article 30 of Law No. 04/L-44 on the Independent Media Commission lists the measures that IMC can impose on each of the licensees, while the fine imposed by IMC is of an individual nature. Consequently, the maximum fine should not have been considered 100,000 euros for all the licensees against whom complaints were received, but this cap should have been considered separately for each of them. The fact that the complaints received were for the same issue does not imply that only one fine should be imposed for all, but rather that the responsibility of each is individual, and the sanction for one licensee is not connected to the sanction of another.

On the other hand, although IMC has reviewed these numerous cases regarding violations by licensees, not all the details of the process of handling the complaints from IMC were clearly defined. Therefore, given the significant importance of having such a regulation, with the support of the OSCE, KLI has drafted the Regulation on the Procedure for Handling Complaints at IMC.

3.7.1. IMC plans and resources to monitor online media during upcoming election campaign as per new [Law on General Elections](#)

According to the Law on General Elections, IMC is required to approve guidelines for regulating the purchase of airtime by political entities on broadcasting media.⁵⁷ Additionally, several other competencies are defined for IMC, including ensuring and receiving special daily logs required to be maintained by broadcasters, as well as implementing short deadlines for reviewing and deciding on complaints related to the electoral process.⁵⁸ Given that some interviewees believe IMC lacks sufficient human resources and considering that it currently oversees a total of 250 licensees, it can be concluded that IMC will need a significantly higher capacity to cover all these additional responsibilities during election periods, especially if the new Law on IMC comes into effect.

This is because, with the new Law on IMC passed in the Assembly of Kosovo (AoK), IMC's competencies now also include online media.⁵⁹ This Law specifies that IMC regulates the rights, obligations, and responsibilities of individuals and entities providing audio and audiovisual media services, including those offered online, video-sharing platform services, distribution operators, and other operators who, regardless of the technology used, distribute audiovisual media service providers.

However, the current capacities remain the same as those during the previous elections.⁶⁰ Therefore, the small number of staff relative to the large number of media outlets that need to

⁵⁷ Law No. 08/-228 for the General Elections in Kosovo, Article 48, Paragraph 2.

⁵⁸ Ibid, Article 51, Paragraph 5.

⁵⁹ Draft Law No.08/L-289 for the Independent Media Commission, Article 4, (see link: https://www.kuvendikosoves.org/Uploads/Data/Documents/289PLperKomisioninePavarurperMedia_hAuu8cVVuX.pdf). (Last accessed 13 September 2024).

⁶⁰ Written answer from the Office for Communication with the Public of IMC, 09.09.2024.

be monitored presents a challenge for IMC concerning the upcoming general elections, particularly if online media are included.

During the interviews, the risk that IMC will become non-functional at the time of elections was also mentioned, based on the fact that the mandates of the chairperson and the vice-chairperson, will expire on the January 2025⁶¹.

Nevertheless, IMC is now finalizing preparations for monitoring the media during the elections with its current capacities. Additionally, IMC is drafting the new media Guideline f/or the elections, in accordance with the legal obligations according to the Law on General Elections, and is also undertaking technical and staff preparations for this process.

In order to complete the relevant secondary legislation regarding the implementation of obligations arising from the Law on General Elections, IMC has sought professional assistance from the KLI for drafting these acts. In response to this request, the KLI has expressed its willingness to draft these acts pro bono and facilitate all IMC activities until the approval of these acts. Furthermore, on September 24, IMC also established a working group for drafting the secondary legislation related to fulfilling the obligations arising from the Law on General Elections.

3.8. Handling of complaints

One of IMC's responsibilities is also handling complaints submitted against its licensees. So far, exercising this competence has been quite problematic, primarily because IMC until now did not have any regulation outlining a detailed procedure for handling these complaints. Additionally, it has always been emphasized within IMC that the number of complaints is continuously increasing, which has made handling them even more challenging. Moreover, just at the beginning of this year, IMC received around 400 complaints, setting a new record for the number of complaints received.⁶² However, this record number of complaints was due to the removal and non-transportation of channels such as "Digitalb," "Super Sport," "Top Channel," and "Klan TV" from distribution operators, resulting in complaints of a similar nature, through which citizens alleged deceptive advertising and failure to notify them of package changes.⁶³

Meanwhile, from May until August 15 of 2024, in IMC three complaints against its licensed entities were received.⁶⁴ Two of these complaints concern unauthorized broadcasting, and one case involves a violation of the Code of Ethics.⁶⁵

According to some interviewees, including those from outside IMC, complaints are handled properly⁶⁶, especially in comparison to the past.⁶⁷

⁶¹ Interview with Jarmo Feliks Helipinkingags, Head of Rule of Law & Legal, Human Rights, EU Special Representative

⁶² Interview with Jeton Mehmeti.

⁶³ "Artmotion dënohet me 64 mijë euro, Kujtesa më 26 mijë euro, IPKO me 7 mijë euro dhe Telkos me 3 mijë euro", Betimi për Drejtësi, 19 January 2024, (see link:<https://betimiperdrejtesi.com/artmotion-denohet-me-64-mije-euro-kujtesa-me-26-mije-euro-ipko-me-7-mije-euro-dhe-telkos-me-3-mije-euro/>), (Last accessed 13 September 2024).

⁶⁴ Answer from the Office for Communication with the Public of IMC, 09.09.2024.

⁶⁵ Ibid.

⁶⁶ Interview with Imer Mushkolaj – Executive Director of the Press Council of Kosovo; Interview with Valon Ramadani – Chairman of the Assembly Commission for Media

⁶⁷ Interview with Valon Ramadani - Chairperson of the Assembly Commission for Media.

However, regarding the handling of complaints, there was another opinion, emphasizing that there is a possibility of double standards, suggesting that a kind of internal manoeuvring may occur within the executive office concerning the handling of complaints and the economic power of the media.⁶⁸

3.9. Collection of debts⁶⁹

The collection of debts owed to IMC continues to be a challenge for the institution, despite efforts to address this issue. It is worth noting that last year, on June 27, 2023, during the presentation of the annual report for 2022 before the Assembly Commission for Public Administration, Local Government, Media, and Regional Development, IMC highlighted the accumulated debt against them as one of its major challenges.⁷⁰ In this presentation, it was revealed that by the end of 2022, IMC had accumulated a debt totalling approximately EUR 800,000, of which around EUR 500,000 was related to licensing fees.

Meanwhile, on July 17, 2023, during a regular meeting, IMC decided that all licensees with outstanding debts were required to submit an agreement to IMC within 30 days, according to which evidence would be provided that the licensees had scheduled debt payments over a 12-month period.⁷¹

At the time this decision was made, the accumulated debt was EUR 796,020.04. Meanwhile, 12 months after that decision, excluding invoices issued after July 19, 2023, the current debt stands at EUR 672,245.83. Based on this, it means that approximately 84.45% of debts remains unpaid. All cases of non-compliance with this decision have been forwarded to enforcement proceedings. IMC assesses that this approach has been positive, as it has resulted in the collection of old debts and has also had a positive impact on the fulfilment of new payment obligations for the subsequent year.

IMC assesses that this method has proven to be positive, as they claim to have successfully collected old debts, and in addition, it has had a positive impact on the fulfilment of obligations for new payments, specifically for the following year.

During the interviews conducted for the purpose of drafting this report, it was stated that IMC was active regarding this issue⁷², and the above-mentioned decision was viewed very positively⁷³, as it would not have been possible for the debts to be paid without giving media outlets the opportunity to schedule their payment in instalments.⁷⁴ Additionally, another decision by IMC was highlighted, which prevents the challenge of IMC's invoices in court.⁷⁵

⁶⁸ Interview with Ardita Zejnullahu - Executive Director AMPEK.

⁶⁹ Note: The data in this article corresponds to the period during which this report was being drafted.

⁷⁰ “KPM prezanton raportin vjetor për 2022-ën: Borxhet e grumbulluara ndër vite ndaj KPM-së, sfida kryesore”, Betimi për Drejtësi, 27 June 2023, (see link: <https://betimiperdrejttesi.com/KPM-prezanton-raportin-vjetor-per-2022-en-borxhet-e-grumbulluara-nder-vite-ndaj-KPM-se-sfida-kryesore/>). (Last accessed 13 September 2024).

⁷¹ “KPM refuzon kërkesën për ndryshim të pronësisë nga “Radio Shqip FM” tek “Klan Kosova””, Betimi për Drejtësi, 17 July 2023, (see link: <https://betimiperdrejttesi.com/KPM-refuzon-kerkesen-per-ndryshim-te-pronesise-nga-radio-shqip-fm-tek-klan-kosova/>), (Last accessed 13 September 2024).

⁷² Interview with Jarmo Feliks Helipinkingags, Head of Rule of Law & Legal, Human Rights, EU Special Representative.

⁷³ Interview with Ardita Zejnullahu - Executive Director AMPEK; Interview with Jeton Mehmeti – Chairperson of IMC; Interview with Besnik Berisha – IMC Member; Interview with Faruk Rexhaj – Acting CEO of IMC; Interview with Fitim Veliu – IMC Member; Flaka Surroi – “Koha”.

⁷⁴ Interview with Jeton Mehmeti – Chairperson of IMC.

⁷⁵ Ibid.

Meanwhile, there were also opinions that there has not been sufficient progress in this area and that there is a stagnation.⁷⁶

3.9.1. Challenges in collecting RTK debts⁷⁷

The collection of debts owed by Radio Television of Kosovo (RTK) to IMC remains a challenge in itself.⁷⁸ As mentioned earlier, a significant portion of the accumulated debts owed to IMC consists of licensing fee debts, specifically amounting to EUR 507,000. Of this, 32% of the licensing fee debt is attributed solely to RTK's outstanding obligations.⁷⁹

RTK has an outstanding debt to IMC for unpaid license fee and fines amounting to EUR 252,618.70. Additionally, the decision made on July 17 of the previous year, which required the planning of debts⁸⁰, also applied to RTK.⁸¹

Regarding this challenge, IMC has held several meetings, including discussions in the Assembly Committee, but a solution to overcome this issue has not yet been found. According to IMC, RTK claims it does not have the budget to pay the accumulated debts over the years. Regarding the issue of debts to IMC, RTK's records show a debt of only EUR 55,000, while IMC's records indicate the amount to be EUR 255,000.⁸² As revealed during an interview with one of IMC members, this discrepancy in debt calculation remains because RTK only considers as debt the portion for which there is a court decision. Additionally, according to the interviewee, during a meeting between IMC and members of RTK Board, the latter have stated that RTK will record the remaining debts in their accounting books, once there is a court decision in favour of IMC regarding those amounts.⁸³

3.10. Transparency of Media ownership and concentration

Media ownership and concentration, as one of the key issues which should be addressed from a media regulator, was highlighted as a concern in the European Commission's Progress Report for Kosovo, for the year 2023.⁸⁴ The report noted that the lack of information on media ownership was one of the reasons why IMC had not imposed effective sanctions on broadcasters. Meanwhile, it was also mentioned that the current Law on IMC provides sufficient regulatory, enforcement, and monitoring powers to ensure pluralism and competition in the market.⁸⁵

Regarding the media ownership and concentration, IMC has undertaken several actions. The current IMC law does not regulate the issue of media ownership. Therefore, the approval of a regulation governing the issue of media ownership and their concentration was highly

⁷⁶ Interview with Isak Shabani - Member of Assembly Commission for Media.

⁷⁷ Note: The data in this article corresponds to the period during which this report was being drafted.

⁷⁸ Interview with Faruk Rexhaj – Acting CEO of IMC.

⁷⁹ “Rreth 507 mijë euro borxh subjektet e licencuara KPM-së, 32% vetëm nga RTK”, *Betimi për Drejtësi*, 4 August 2023, (see link: <https://betimiperdrejtesi.com/rreth-507-mije-euro-borxh-subjektet-e-licencuara-KPM-se-32-vetem-nga-rtk/>), (Last accessed 13 September 2024).

⁸⁰ *KPM refuzon kërkesën për ndryshim të pronësisë nga “Radio Shqip FM” tek “Klan Kosova”*, *Betimi për Drejtësi*, 17 July 2023, (see link: <https://betimiperdrejtesi.com/KPM-refuzon-kerkesen-per-ndryshim-te-pronesise-nga-radio-shqip-fm-tek-klan-kosova/>), (Last accessed 13 September 2024).

⁸¹ Written answer from the Office for Public Communication of IMC, 09.09.2024.

⁸² Interview with Fitim Velu – IMC Member.

⁸³ European Commission, Report for Kosovo, Brussels 08 November 2023, (see link: https://integrimievropian.rks-gov.net/wp-content/uploads/2023/12/Kosovo-2023-Report_SQ.pdf), (Last accessed 13 September 2024).

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*, Page 103.

necessary. On December 21, 2023, the Regulation on Ownership and Concentration of IMC licensees came into force⁸⁶, which according to interviews, had been sitting in a drawer for years.⁸⁷

This regulation aimed to establish standards related to media pluralism and diversity, as well as transparency in media ownership.⁸⁸

Meanwhile, IMC also took steps to enhance media ownership transparency⁸⁹ and prevent media concentration. On March 8, 2024, IMC launched a digital map of media ownership⁹⁰, a project realized in collaboration with OSCE. During the launch, among others it was announced that this platform provides detailed data on the percentage of shareholders of specific media outlets, highlighting that in the future historical ownership data, meaning previous owners would also be included.⁹¹ The map includes all IMC-licensed entities, and their data are verified through annual reports submitted by the licensees, their ownership data provided to the Kosovo Business Registration Agency (KBRA), as well as field measurements related to coverage, etc.⁹² The launch of this map was seen as a significant step towards improving transparency in media ownership.⁹³

On the other hand, on September 6, 2024, IMC signed a co-operation agreement with the KBRA. According to this agreement, the KBRA will require commercial companies holding a license from IMC to provide evidence of prior approval of the ownership change by IMC when making ownership changes⁹⁴.

The improvement of the transparency, in the context of these two developments was also mentioned by the EU Office in Kosovo⁹⁵.

Unlike the current law, which does not address the issue of media ownership, the new law does, incorporating essentially the same definitions as the regulation approved by IMC.⁹⁶

In both cases, it is stipulated that any change in ownership exceeding 10% of the value must receive prior approval from IMC. It is also similarly stipulated that no licensee can broadcast more than 30% of the total market value of audiovisual commercial communications, and no licensee can hold more than 10% of the shares in another licensee.

⁸⁶ “*Miratohet Rregullorja për pronësinë dhe koncentrimin e mediave, parandalon monopolin dhe dominimin në treg*”, Betimi për Drejtësi, December 21, 2024; (see link: <https://betimiperdrejtesi.com/miratohet-rregullorja-per-pronesine-dhe-koncentrimin-e-mediave-parandalon-monopolin-dhe-dominimin-ne-treg/>). (Last accessed on July 17, 2024).

⁸⁷ Interview with Besnik Berisha – IMC Member.

⁸⁸ Regulation KPM-2023/03 on Media Ownership and Concentration, Article 1.

⁸⁹ Interview with Jarmo Feliks Helipinkingags, Head of Rule of Law & Legal, Human Rights, EU Special Representative

⁹⁰ “*KPM lanson hartën digjitale të pronësisë së mediave*”, Betimi për Drejtësi, 08 March 2024, (see link: <https://betimiperdrejtesi.com/KPM-lanson-harten-digjitale-te-pronesise-se-mediave/>); Digital map, (see link: <https://regjistri.KPM-ks.org/>). (Last accessed 13 September 2024).

⁹¹ “*KPM lanson hartën digjitale të pronësisë së mediave*”, Betimi për Drejtësi, 08 March 2024, (see link: <https://betimiperdrejtesi.com/KPM-lanson-harten-digjitale-te-pronesise-se-mediave/>), (Last accessed 13 September 2024).

⁹² Written answer from the Office for Communication with the Public of IMC, 09.09.2024; Interview with Jeton Mehmeti – Chairperson of IMC.

⁹³ Interview with Fitim Velu – IMC Member; Interview with Jeton Mehmeti – Chairperson of IMC.

⁹⁴ https://www.kpm-ks.org/lajmi_i_plot/3714 .

⁹⁵ Interview with Jarmo Feliks Helipinkingags, Head of Rule of Law & Legal, Human Rights, EU Special Representative.

⁹⁶ Report with recommendations on the new IMC Law, Article 43, (see link: https://drive.google.com/file/d/1Xe5rQs3565fGTnDqZc2e8bKIXIziZE5X/view?fbclid=IwY2xjawFNv8JleHRuA2FbQIxmAABHczxBwGgCftX_l6hqsXt6z9Lr_g62xZU4Jzf8FI08h74exfzjtd8h-CISO_aem_UvYaYWjw5FBbFQgrzHBRZO. (Last accessed on 13 September 2024).

The inclusion of definitions concerning media ownership issues was not initially planned in this draft law but was incorporated during its amendment in the AoK. Furthermore, the new IMC Law mandates IMC to establish specific sub-legal acts to regulate ownership and concentration, pluralism and diversity, as well as media transparency⁹⁷.

3.11. Availability of data on distribution of advertising funds

The issue of the distribution of advertising funds was highlighted as a concern in the European Commission's Progress Report for Kosovo, for the year 2023. According to this report, the lack of information regarding the allocation of advertising funds was one of the reasons why IMC was unable to impose effective sanctions on broadcasters.⁹⁸

However, from the conducted interviews results another issue. The distribution of advertising funds is not exclusively under IMC's jurisdiction, because the advertising industry as a whole gives different advertisements for televisions and there are various advertising agencies that mediate between the business and television based on the recommendations that they provide.⁹⁹ Therefore, IMC relies on the annual reports submitted by the media, where only the total advertising revenue is visible, but it is not known beyond that, and it is not within IMC's competence to know who are the advertisers.¹⁰⁰

Thus, KLI assesses that this emerging issue must be addressed by IMC, and actions should be taken regarding how to approach this problem.

3.12. Digitalization

The process of digitalization involves transitioning from analogue broadcasting to digital broadcasting. Digital broadcasting offers numerous advantages over analogue broadcasting technology, including: higher quality images and sound; a greater number of television programs available to viewers at no additional cost; the ability to choose programs on demand; interactivity; and enhanced accessibility for individuals with hearing and visual impairments to follow television programs, etc.¹⁰¹

IMC has initiated the digitalization process by submitting a Transition Strategy to Digital Broadcasting to the Government of Kosovo in December 2019.¹⁰² However, according to a response from the Strategic Planning Office of the Prime Minister's Office, this strategy was not approved by the Government due to several issues it faced, one of the main ones being the high cost of implementing the strategy, a cost that was not accounted for in the budget. Whereas, in this response, it is stated that despite the suggestions of this office at the time to reduce costs and rearrange activities, this did not happen, and as a result, the strategy remained unapproved.¹⁰³

⁹⁷ Ibid, Article 42, Paragraph 2.

⁹⁸ European Commission, Kosovo Report, Brussels 08 November 2023, Page 103, (see link:https://integrimievropian.rks-gov.net/wp-content/uploads/2023/12/Kosovo-2023-Report_SQ.pdf), (Last accessed 13 September 2024).

⁹⁹ Interview with Jeton Mehmeti – Chairperson of IMC.

¹⁰⁰ Ibid.

¹⁰¹ IMC's web-site, "Digitalization", (see link: <https://www.IMC-ks.org/aktivitete/301/digjitalizimi/301#systemsetting1>), (Last accessed 13 September 2024).

¹⁰² Strategjia për Kalimin në Transmetim Digjital Tokësor në Kosovë, 16 December 2019, (see link: https://www.IMC-ks.org/assets/cms/uploads/files/Strategjia%20p%C3%ABr%20kalim%20n%C3%AB%20transmetim%20digjital%20tok%C3%ABsor_%20dhjetor%202019.pdf), (Last accessed 13 September 2024).

¹⁰³ Written answer from the Strategic Planning Office of the Prime Minister's Office, January 31, 2024.

Furthermore, it is stated that another attempt to approve the strategy was made by IMC in September 2021. At that time, during one of the meetings held with IMC, the Strategic Planning Office recommended several steps to revise the draft strategy in order to enable its approval. where three steps were proposed.

Meanwhile, it is stated that after this communication from the Prime Minister's Office, there was no other initiative from IMC to address these points and to approve the strategy.¹⁰⁴ IMC also confirms that there has been no development in this regard, however according to them this process has stagnated due to the lack of budget.¹⁰⁵

3.13. Resources of IMC

The issue of human and technological resources depends on the policies of the institution, specifically the objectives it sets to achieve. However, with the current tasks and objectives, where the number of licensees has increased sixfold since the establishment of the institution, while the number of staff has remained almost the same, there is a need to enhance human and especially technological capacities due to rapid developments, particularly in artificial intelligence.

Additionally, the duties of IMC are expanded under the new law, which includes the regulation of online media, as well as taking into account the continuous increase in the number of complaints received by IMC. Therefore, the need to increase the capacities of IMC is uncontested by any of the interviewees.¹⁰⁶

From the conducted interview with the representative of the EU office in Kosovo, it is stated that AoK should provide budget and resources to IMC, since they are adding more tasks from them¹⁰⁷. According to this interview, it is questionable if the AoK has foreseen the necessary resources while they have been adding tasks for IMC.¹⁰⁸

IMC has requested a budget increase for enhancing these capacities. Specifically, it requested 27 officials, but this request was not approved, with the justification of a budget shortage. The request was only granted for five officials, who will be distributed across different departments depending on the workload. Regarding the functioning of IMC, especially with the aim of expanding the competencies of this institution according to the new law, it is essential to conduct an adequate analysis of IMC's needs for properly exercising its mandate. Otherwise, the approval of laws without adequate budgetary support risks the improper implementation of the approved legislation and consequently the failure to achieve the intended goals.

On the other hand, IMC is not lacking support from external donors, and this support is provided in various areas. Mainly in areas where the need for support is more urgent and where there was previously no budget, such as in drafting new legislation, supporting the empowerment of media and the public in protecting children and minors in media, and increasing transparency regarding facilitating public access to the media ownership register.¹⁰⁹

¹⁰⁴ Ibid.

¹⁰⁵ Written answer from the Office for Communication with the Public of IMC.

¹⁰⁶ Interview me Christian Bötcher; Faruk Rexhaj; Besnik Berisha; Valon Ramadani; Imer Mushkolaj; Isak Shabani; Jeton Mehmeti; Flaka Surroi; Fitim Veliu; Imer Mushkolaj.

¹⁰⁷ Interview with Jarmo Feliks Helipinkingags, Head of Rule of Law & Legal, Human Rights, EU Special Representative

¹⁰⁸ Imid.

¹⁰⁹ Written answer from the Office for Communication with the Public of IMC.

3.14. Attack against the IMC's independence

Chapter XII of the Constitution guarantees the independence and functionality of independent institutions. Within this chapter, the Independent Media Commission is included. According to the Constitution [Article 141] “1. The Independent Media Commission is an independent body that regulates the Broadcast Frequency Spectrum, licenses public and private broadcasters, sets and implements broadcasting policies, and exercises other powers as defined by law. 2. The members of the Independent Media Commission are elected according to the law, through a transparent process.” However, the independence of IMC has been compromised in several cases and in various ways, such as with attacks from the AoK regarding decisions taken by the IMC that fall within the remit of this constitutional independent institution. Additionally, this independence is further undermined by the Law on IMC, the constitutionality of which is currently being reviewed by the Constitutional Court.

3.14.1. Pressure from Members of the Assembly of Kosovo

On the meeting held on February 6, 2024, IMC made a decision allowing the return of Arena Sport channels to broadcast.¹¹⁰ However, for this decision, IMC was invited several times to report to the AoK, where the Chairperson and members of IMC faced unacceptable attacks, including accusations of public betrayal.¹¹¹ IMC's courage to make decisions despite the pressure they had, was mentioned during the interviews also¹¹². The regulator being summoned over specific decisions was not unusual, particularly as it shifted the discussion from a professional to a political issue, impacting the independence of IMC¹¹³. However, the “police-like” control approach, rather than a parliamentary oversight - towards an independent institution in absolutely unacceptable.¹¹⁴ These meetings were closely monitored by the German Embassy in Kosovo. According to them, the AoK's actions were “very harsh”, intended to discredit someone.¹¹⁵ Interviewees within IMC also described the AoK's actions as excessive¹¹⁶, noting that their approach was aggressive, insulting, and defamatory.¹¹⁷ Similar responses were given by other actors, who characterized this approach as brutal and a direct interference in the work of the members, as pressure an attempt to influence the members' decision-making.¹¹⁸

Meanwhile, a member of the opposition party (PDK) stated that the independence of IMC has been compromised, and that recently it was not possible for anyone to be appointed as a member in IMC if it did not have support from the political party in power.¹¹⁹ The opposite is stated by the member of the Assembly from the ruling party, stating that the discussions were held publicly and that there was no influence or attempt to influence IMC by anyone, but that somebody could have had a harsher discourse due to the sensitivity of the issues that were being discussed.¹²⁰ That the AoK had the a right in their reactions was said even from one of

¹¹⁰ Announcement from the second meeting of the Independent Media Commission, 07 February 2024, (see link: https://www.IMC-ks.org/lajmi_i_plot/3664), (Last accessed 13 September 2024).

¹¹¹ “*Politizimi i KPM (Analizë e Ligjit për Komisionin e Pavarur për Media*”, Kosovo Law Institute, July 2024, Prishtina, Page 7, (see link: [file:///C:/Users/KLI20/Downloads/Raporti-Politizimi-i-IMC-se-Analize-e-Ligjit-per-Komisionin-e-Pavarur-te-Mediave-1%20\(6\).pdf](file:///C:/Users/KLI20/Downloads/Raporti-Politizimi-i-IMC-se-Analize-e-Ligjit-per-Komisionin-e-Pavarur-te-Mediave-1%20(6).pdf)), (Last accessed 13 September 2024).

¹¹² Interview with Jarmo Feliks Helppikangas - Head of Rule of Law & Legal, Human Rights, EU Special Representative.

¹¹³ Interview with Ardita Zejnullahu - Executive Director AMPEK.

¹¹⁴ Interview with Flaka Surroi – “Koha”.

¹¹⁵ Interview with Christian Bötcher - Head of Culture, Press and Communications at the German Embassy in Prishtina.

¹¹⁶ Interview with Faruk Rexhaj – Acting CEO of IMC.

¹¹⁷ Interview with Jeton Mehmeti – Chairperson of IMC.

¹¹⁸ Interview with Imer Mushkolaj – Executive Director of the PCK.

¹¹⁹ Interview with Isak Shabani - Member of Assembly Commission for Media.

¹²⁰ Interview with Valon Ramadani - Chairperson of the Assembly Commission for Media.

IMC members within IMC, as according to which, the return of Arena Sport channels appeared to be an additional problematic issue, and that they are deputies and have a right to express their opinions, adding that those reactions were not influential, because IMC members and the deputies have separate responsibilities.¹²¹

3.14.2. New Law on IMC

The new law on IMC, which is only partially in compliance with the EUVAMSD, sparked widespread reactions from international partners, media, and civil society organizations, highlighting that most of the recommendations from international experts, in the name of Council of Europe, European Union and OSCE, were not considered¹²², and that the independence of IMC is compromised.¹²³ It was generally considered to be a very good draft law up until November 2023 when a new draft emerged which raised concerns.¹²⁴ It was stated that the EU Office managed to convince the Council of Europe to provide an expertise in this matter, but that in some cases it was done completely from what was recommended by the expert¹²⁵. Also, EU Office in Kosovo emphasized that they would like to see the procedure of public consultations to be followed strictly, where comments have to be read one by one and justifying why “this is not accepted”, stating that the committees of AoK have to take their tasks seriously¹²⁶.

During the interviews, it was stated that with the new IMC Law there is a risk that the freedom of the media will be violated right before the time of the general elections, so there won't be any criticism towards the government¹²⁷.

Additionally, the Association of Journalists of Kosovo (AJK) viewed this law as an attack on media freedom and an attempt to discipline and control the media¹²⁸ and this law was also challenged in the Constitutional Court by the two opposition parties, PDK and LDK¹²⁹, and comments on the law were submitted by the AJK.¹³⁰

¹²¹ Interview with Fitim Veliun – IMC Member.

¹²² “OSCE: Most of the recommendations of international experts have not been taken into account in the Law on IMC”, Oath of Justice, July 11, 2024. (See link: <https://betimiperdrejtesi.com/osbe-shumica-e-rekomandimeve-te-eksperteve-nderkombetare-nuk-jane-marre-parasysh-ne-ligjin-per-kpm-ne/>); OSCE Mission in Kosovo statement on the new Law on the Independent Media Commission. OSCE. July 11, 2024. (See link: <https://www.osce.org/mission-in-kosovo/572641>). (Last accessed 13 September 2024).

¹²³ “The draft law on IMC should not enter into force”, Human Rights Network, July 13, 2024. (See link: <https://www.facebook.com/share/R8bYscb3hsf63ZEC/>); (Last accessed 13 September 2024).

¹²⁴ Interview with Jarmo Feliks Helipinkingags, Head of Rule of Law & Legal, Human Rights, EU Special Representative.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Interview with Christian Bötcher - Head of Culture, Press and Communications at the German Embassy in Prishtina.

¹²⁸ “AJK: Adoption of the Law on IMC, attack on freedom of the media and attempt to discipline and control them”, July 11, 2024. (See link: [AGK: Miratimi i Ligjit për IMC-në, goditje ndaj lirisë së medias dhe tentim për disiplinim e kontroll të tyre | Asociacioni i Gazetarëve të Kosovës - AGK \(agk-ks.org\)](https://www.agk-ks.org/miratimi-i-ligjit-per-IMC-ne-goditje-ndaj-lirisese-medies-dhe-tentim-per-disiplinim-e-kontroll-te-tyre-Asociacioni-i-Gazetarëve-te-Kosovës-AGK-agk-ks.org)). (Last accessed 13 September 2024).

¹²⁹ “PDK-ja i dërgon në Kushtetuese Ligjin për KPK-në, KPM-në dhe Statutin e UP-së”, Betimi për Drejtësi, 18 July 2024, (see link: <https://betimiperdrejtesi.com/pdk-ja-i-dergon-ne-kushtetuese-ligjin-per-kpk-ne-IMC-ne-dhe-statutin-e-up-se/>); “Edhe LDK-ja kërkon vlerësim nga Kushtetuesja për Ligjin e KPM-së, KPK-së dhe Statutit të UP-së”, Betimi për Drejtësi, 19 July 2024, (see link: <https://betimiperdrejtesi.com/edhe-ldk-ja-kerkon-vleresim-nga-kushtetuesja-per-ligjin-e-IMC-se-kpk-se-dhe-statutit-te-up-se/>), (Last accessed 13 September 2024).

¹³⁰ “AGK dorëzon në Kushtetuese komentet lidhur me Ligjin për KPM-në”, Betimi për Drejtësi, 20 August 2024, (see link: <https://betimiperdrejtesi.com/agk-dorezon-ne-kushtetuese-komentet-lidhur-me-ligjin-per-IMC-ne/>).

Meanwhile, KLI analysed the new law and published a detailed report regarding the politicization of IMC by the political party in power¹³¹, which was made public through a press conference.¹³²

In this report, KLI among others emphasizes that the need for the adoption of the new Law on IMC does not imply the AoK's possibility to undermine the constitutional independence of IMC. The new Law on IMC should adapt to its needs and new developments. If this does not happen, the new Law on IMC itself could risk undermining the work of this constitutionally independent institution. Additionally, by increasing the number of members to eleven, there is a risk to undermine the current five members, since the decisions could be made by the new six members, without the votes of the initial five members. Though no reasons were given for this, and under what circumstances, the increase of the number of members of IMC might resemble an attempt for complete and rapid politicization of IMC.¹³³

In the aforementioned report KLI found a problematic issue regarding the appointment and dismissal of the Chairperson and members of IMC, as the new Law on IMC allows the AoK not only to appoint but also to dismiss IMC members, in any case where the Assembly Committee loses the trust in them. Regarding dismissal of IMC members, in the new draft of this Law, Assembly Committee is not allowed to dismiss all members at once. However, these criteria enable the Assembly majority to change the composition of IMC at any time. This situation puts all IMC members under pressure. Additionally, the AoK's role in IMC extends to the point of electing its chairperson, unlike with other collegial institutions, and despite the fact that electing its own chairperson is a natural competence of a collegial institution. Thus, as long as each Government holds an Assembly majority, it means that the Government can fully politicize IMC at any time. This, by easily appointing and dismissing its members and Chairperson.¹³⁴

The new Law on IMC is also seen as a concern by the German Embassy in Kosovo, which participated in the EU comments. They expressed dissatisfaction and emphasized that they find it difficult to understand why such a thing had happened, adding that if the aim is to advance Kosovo towards the European Union, the comments and recommendations of the EU should be taken into account.¹³⁵

Additionally, other stakeholders also described the new Law on IMC as problematic, highlighting concerns about the number of members and the duration of their mandates.¹³⁶ It was also noted that this Law severely undermines the independence of IMC.¹³⁷

Meanwhile, the regulation of online media under the new Law was also seen as unclear.¹³⁸

¹³¹ "Politizimi i KPM (Analizë e Ligjit për Komisionin e Pavarur për Media", Kosovo Law Institute, July 2024, Prishtina, (see link: <https://kli-ks.org/wp-content/uploads/2024/07/Raporti-Politizimi-i-KPM-se-Analize-e-Ligjit-per-Komisionin-e-Pavarur-te-Mediave-1.pdf>), (Last accessed 13 September 2024).

¹³² "IKD: Ligji për KPM shkatërron tërësisht pavarësinë kushtetuese të këtij institucioni" Betimi për Drejtësi, 19 July 2024, (see link: <https://betimiperdrejttesi.com/KLI-ligji-per-IMC-shkaterron-teresisht-pavaresine-kushtetuese-te-ketij-institucioni/>), (Last accessed 13 September 2024).

¹³³ Ibid, Page 13-15

¹³⁴ Ibid, Page 19.

¹³⁵ Interview with Christian Bötcher - Head of Culture, Press and Communications at the German Embassy in Prishtina.

¹³⁶ Interview with Imer Mushkolaj - Executive Director of the PCK; Intervista me Ardita Zejnullahu - Executive Director AMPEK.

¹³⁷ Interview with Isak Shabani - Member of Assembly Commission for Media.

¹³⁸ Interview with Ardita Zejnullahu - Executive Director AMPEK.

A completely different opinion was given by the Chair of the Assembly Committee on Media, which comes from the ranks of the ruling party, who does not see the new Law as undermining the independence of IMC. According to him, there is no basis for any provision in this law that could be said to undermine the independence of the institution; on the contrary, he stated that the new Law only enhances the independence of IMC.¹³⁹

4. Lessons learned

IMC has made efforts to decrease the backlog of work, which was accumulated as a result of its non-functionality for approximately seven months (October 2022 – May 2023).

Whereas the BoA has remained non-functional since October 29, 2023, due to having only one member, who was appointed in June of that year. The new IMC Law includes the dissolution of this Board, with dissatisfied parties directed to appeal to the competent court.

As for the transparency, the IMC announces its scheduled meetings and publishes statements post-meetings on its official website, informing the public of key developments. However, decisions from these meetings (from May to August) have not been published.

Also, IMC has introduced a digital map allowing public to access all IMC licensees and related ownership data. This map has been a significant positive step towards media ownership transparency.

IMC's human and technical resources are insufficient to perform its duties, especially given that the number of licensees has increased by six times till now, while the staff count remains unchanged. The increase in staff becomes even more necessary at a time when the expansion of IMC's competencies is being pursued.

The Law No. 08/L-228 on General Elections sets additional obligations for IMC. In order to implement these obligations, IMC had to approve the relevant secondary legislation. For this, IMC has requested assistance from the KLI in drafting the secondary legislation in this area. KLI provided pro bono support to IMC in drafting the secondary legislation related to the implementation of obligations deriving from the Law on General Elections. Regarding this, IMC approved the Regulation on the obligations of media service providers during the election campaign, on December 2024.

IMC conducts more adequate and specific monitoring based on the complaints received. The institution is also finalizing preparations to monitor its licensees during the general elections scheduled for February 2025. In terms of sanctions, IMC imposed a total of €149,000 in fines over the past eight months, with the highest fine being €64,000. Between May 1 and August 15, 2024, IMC initiated 79 cases against broadcasters. Meanwhile, during this period, there were imposed fines in a total of 10,000 euros.

In the future, IMC should not treat cases where complaints are consolidated as a single disciplinary decision but instead handle fines as individual decisions for each licensee.

Sanctions are individual and are not linked to other sanctions, simply because the complaints are of the same nature and accepted within a relatively similar timeframe. The consolidation of the procedure represents a procedural action and not a connection between sanctions. For this reason, IMC should impose individual sanctions for each subject of the complaint that is found

¹³⁹ Interview with Valon Ramadani - Chairperson of the Assembly Commission for Media.

to have committed a violation, and not a single sanction for multiple subjects. Thus, the maximum ceiling should be considered €100,000 for each violation and not as a ceiling for all violations collectively. The way in which this provision has been interpreted by IMC constitutes an inadequate application of the Law, the implementation of a non-legal punitive policy, and potentially causes damage to the budget.

Regarding the remaining debts, a decision by IMC in July 2023 led to a debt repayment of €123,774.21. However, the main challenge remains the accumulated debt of RTK, which constitutes the majority of the debts.

Since the re-functionality of IMC, around the half of the year 2023, until December 2024, the institution has approved seven regulations: 1) The Regulation on the Appointment, Evaluation, and Discipline of the Chief Executive Officer; 2) The Regulation on the Ownership and Concentration of IMC Licensees; 3) The Regulation on the Protection of Children and Minors in Audio and Audiovisual Media Services; 4) The Regulation on Audio and Audiovisual Commercial Communications; 5) the Regulation on the Protection of Users in the Provision of Audio and Audiovisual Media Services; 6) the Regulation on the Procedure for Handling Complaints at IMC; and, 7) Regulation on the obligations of media service providers during the election campaign.

IMC signed a co-operation agreement with KBRA, stipulating that KBRA will not allow IMC licensees to change ownership without prior approval from IMC.

Meanwhile, regarding the digitalization process, no action has been taken.

IMC members faced various attacks from ruling party deputies. IMC was summoned three times to report to the Assembly Committee on Media regarding certain decisions. The attacks included various forms of disparagement, including accusations of national treason.

In addition to these attacks, IMC's independence was also undermined by the new IMC Law, constitutionality of which is being reviewed by the Constitutional Court.

5. Recommendations

5.1. Recommendations to IMC

1. IMC should publish all its decisions on their official website in official languages.
2. IMC should ensure that the digital map remains continuously functional.
3. IMC should not treat complaints of the same nature through a single disciplinary sanction (dividing proportionality the amount of fine) for several entities, but as an independent sanction imposed for each licensee in relation to the other licensees.
- 4.
5. Although there has been some progress in collecting long-standing debts owed to IMC, it should continue its efforts to recover the remaining debts.

5.2. Recommendations to AoK

1. To complete its composition and enhance the legitimacy of IMC decisions, the AoK should elect the remaining IMC members.
2. The AoK must address the budgetary requests of IMC. The expansion of IMC's competencies should be accompanied by the necessary budgetary resources to enable the implementation of its legal obligations.
3. The AoK should work towards the functionalization of the BoA, as the current IMC law is still in effect and the new law is awaiting a decision from the Constitutional Court.
4. The AoK should cease applying pressure and attacks on IMC members, ensuring there are no attempts to influence them.
5. The AoK must preserve the constitutional independence of IMC, both through the laws passed and through the actions undertaken.

5.3. General recommendations

1. Plans and actions should be undertaken to implement the digitalization process.
2. Efforts should be made to reach an agreement between IMC and RTK for settling debts, considering that the budgets of both institutions are derived from the Kosovo Budget.

6. Annexes

6.1. Annex 1. Data collections instruments and key documents consulted

- IMC regular meetings;
- IMC's official website & Facebook page;
- Written answers from IMC on requests for information;
- Kosovo Constitution;
- European Commission Report for Kosovo, 2023;
- Kosovo Law Institute report "Politicization of IMC";
- New Law on IMC;
- Law on IMC;
- Regulations of IMC;
- Law on General Elections in Kosovo.

6.2. Annex 2. Interview list:

Name	Occupation
Jeton Mehmeti	Chairperson of IMC ¹⁴⁰
Besnik Berisha	IMC Member
Faruk Rexhaj	Acting Chief Executive Officer at IMC
Valon Ramadani	Chairperson of the Commission for Local Government, Public Administration, Regional Development and Media
Isak Shabani	Member of the Commission for Local Government, Public Administration, Regional Development and Media
Ardita Zejnullahu	Executive Director at AMPEK
Flaka Surroi	Director of the publishing and media company “Koha Group”
Imer Mushkolaj	Executive Director at PCK
Christian Bötcher	Head of Culture, Press and Communications at the German Embassy in Prishtina
Jarmo Feliks Helppikangas	European Union Office in Kosovo - Head of Rule of Law & Legal, Human Rights, EU Special Representative
Fitim Veliu	IMC Member

¹⁴⁰ *Note:* At the time of publishing this report, the term of office of the IMC Chairman Mr. Jeton Mehmeti had expired.