



When the Regulator Violates the Rules: The Unlawfulness of Fines Imposed by the IMC for Media Violations



Out of time

**Without proper
competence**

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About KLI:

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

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List of abbreviations

KLI	Kosovo Law Institute
IMC	Independent Media Commission
LGAP	Law No. 05/L-031 on the General Administrative Procedure
MSP	Media Service Providers
AAMSP	Audio and Audiovisual Media Service Providers
IMC Regulation 2024/03	Regulation on the Obligations of Media Service Providers during Election Campaigns
IMC Regulation 2024/01	Regulation on the Procedure for Handling Complaints before the Independent Media Commission
IMC Regulation 2023/02	Regulation on Audio and Audiovisual Commercial Communications
Code of Ethics KKPM-2016/03	Code of Ethics for Media Service Providers

1. Executive Summary

The Independent Media Commission (hereinafter: IMC) is an independent constitutional institution responsible for overseeing audio and audiovisual media in Kosovo. During election campaigns, it is essential for this mechanism to be functional so that it can exercise its constitutional and legal powers and responsibilities. IMC's monitoring of the media directly contributes to strengthening media accountability and responsibility during the electoral process, informing citizens, ensuring equality among political entities, and safeguarding the integrity of the electoral process itself. For this reason, the Law on General Elections and IMC Regulation 2024/03 have established specific rules for media during election campaigns, as well as shortened deadlines for handling potential violations.

However, due to the failure of the Assembly to elect the necessary number of members to this institution precisely during the period when these rules were supposed to be implemented, the IMC was non-functional. From 21 January 2025 until 5 May 2026, due to the lack of quorum, the IMC was unable to exercise its decision-making powers. This period coincided with several electoral processes: the regular parliamentary elections of 9 February 2025, the local elections of 12 October 2025, the runoff elections of 9 November 2025, and the early parliamentary elections of 28 December 2025.

As a result of the failure of the Assembly of Kosovo to appoint the members of the IMC, this mechanism remained non-functional and unable to exercise its constitutional and legal powers and responsibilities.

The new composition of the IMC was voted by the Assembly on 24 April 2026.¹ The IMC held its first meeting in its new composition on 5 May 2026, when it elected its leadership.² After becoming functional, the IMC returned to the accumulated cases from the election campaigns of the previous year and imposed fines and warnings against media outlets, mainly for alleged violations of IMC Regulation 2024/03.

Following the election of its leadership, the IMC held four (4) meetings in its new composition, during which it reviewed 62 legal cases and imposed sanctions

¹ "The Assembly voted on the new composition of the Independent Media Commission." *Betimi për Drejtësi*. 24 April 2026. (See link: <https://betimiperdrejtesi.com/kuvendi-votoi-perberjen-e-re-te-komisionit-te-pavarur-per-media-kpm/>). (Last accessed on 6 June 2026).

² "Besnik Berisha is elected Chair of the IMC, Drita Morina Vice-Chair." *Betimi për Drejtësi*. 5 May 2026. (See link: <https://betimiperdrejtesi.com/besnik-berisha-zgjidhet-kryetar-i-kpm-se-drita-morina-nenkryetare/>). (Last accessed on 6 June 2026).

in 59 of them. Of these 59 sanctions, fines were imposed in 31 cases, in a total amount of EUR 67,000.00, while warnings were issued in 28 cases. In the first two meetings, the IMC reviewed cases related to the electoral processes of the previous year and imposed 46 sanctions. Of these, 21 were fines in a total amount of EUR 43,000.00, while 25 were warnings. In the following two meetings, the IMC reviewed cases related to the early parliamentary elections of 7 June 2026. In these two subsequent meetings, the IMC imposed 13 sanctions, 10 of which were fines in a total amount of EUR 24,000.00, while 3 were warnings.

However, this report finds that the IMC's sanctioning decisions in these cases are entirely unlawful. This is due to two fundamental reasons.

First, as regards the decisions related to election campaign cases under IMC Regulation 2024/03 during the previous year, these decisions were taken outside the specific deadlines set by that same Regulation. The Regulation provides for very short deadlines: an initial review within four hours, a response from the media outlet within 24 hours, a review after the response within 24 hours, and an IMC decision within five days during a regular election campaign, or within 60 hours in the case of extraordinary elections. These deadlines were not set arbitrarily. They were established because violations during an election campaign have an immediate effect and must be addressed in real time. A decision taken many months after the end of the elections can no longer remedy the electoral contest and cannot restore the regulatory function that the IMC is supposed to perform during the campaign. Moreover, decision-making after such a long period also places the media outlet itself in a procedurally unequal position. After many months, and especially after a year, the media outlet no longer has the same real opportunity to defend itself, to reconstruct the exact context of the broadcast, to obtain a prompt response from the responsible staff, or to clarify the circumstances of the case in real time. For this reason, the short deadlines were established, among other things, to protect parties from delayed proceedings in which responding becomes far more difficult and less effective.

Second, all decisions, including those concerning the election campaigns of the previous year and those concerning the campaign for this year's early elections, are without legal effect and unlawful due to the decision-making procedure. The Regulation on the handling of complaints makes the recommendation of the Executive Office an essential part of the procedure. However, the IMC has operated with an acting Chief Executive Officer since 2 July 2021. Initially, this position was held by Faruk Rexhaj, while from 24 September 2024 it has been held by Niman Racaj. Even under the most

favourable legal interpretation, a position cannot be held on an acting basis for more than two years. This period expired on 2 July 2023. After that date, the position was held in violation of the law.

The date of 2 July 2023 is not used to claim that a subsequent legal amendment has retroactive effect, but to show that even under the most favourable interpretation for the IMC, namely the maximum two-year limit for holding a position on an acting basis, this deadline had long been exceeded. This is also consistent with the standard established by the Supreme Court, according to which the time limit relates to the position as an institutional function, and not to the person appointed as acting office-holder; therefore, replacing the person does not restart the time limit.

In the case of the Civil Aviation Authority, the Supreme Court established a clear standard: the time limit for an acting office-holder relates to the position, not to the person, and replacing the person does not restart the time limit. According to this standard, acts issued from a position held on an acting basis beyond the legal deadline are invalid due to the lack of legal competence. This standard is also applicable to the case of the IMC. Therefore, all sanctioning decisions imposed by the IMC are based on unlawful recommendations, because they were issued without legal authority.

Responsibility for this situation is institutional. The Assembly left the IMC non-functional during electoral processes, while the IMC, for years, failed to appoint its Chief Executive Officer through a regular procedure. This is because, before the IMC became non-functional in January 2025, the institution had been functional for around a year and a half, specifically since May 2023. During this period, the IMC failed to appoint a Chief Executive Officer and merely replaced the acting office-holder. On 24 September 2024, the IMC replaced Faruk Rexhaj, who had been exercising this position since July 2021, with Niman Racaj, who continues to exercise this position to date.³

Therefore, these failures cannot be remedied through unlawful decisions against the media. The law must also be applied to the media, but it must first be applied by the institution that sanctions them.

³ "IMC still with an acting Chief Executive Officer after three years, now replaced by another one." *Betimi për Drejtësi*. 24 September 2024. (See link: <https://betimiperdrejtesi.com/kpm-edhe-pas-tri-vitesh-me-u-d-kryeshef-ekzekutiv-tani-e-zevendeson-me-nje-tjeter/>). (Last accessed on 6 June 2026).

2. IMC Sanctioning Decisions Regarding Election Campaigns

The Independent Media Commission is the institution responsible for regulating, managing and overseeing the field of audio and audiovisual media services. Under Law No. 04/L-44 on the IMC [Article 3], among other competences, this institution has the authority to impose sanctions on licensed entities that violate the Commission's regulations or the terms of their licences.

During election periods, this role becomes even more important. The media have a direct impact on the way citizens are informed about political entities, candidates, programmes and campaign activities. For this reason, the Law on General Elections and IMC regulations have established specific rules for the media during election campaigns. These rules are intended to preserve equality in the electoral race, ensure transparency in political advertising and provide citizens with accurate information.

In this regard, the IMC adopted Regulation 2024/03. This Regulation is a special act. It does not regulate an ordinary situation, but a specific period: the election campaign. For this reason, it sets out both specific obligations for the media and specific deadlines for handling alleged violations.

At this point, it should be emphasized that the Kosovo Law Institute (hereinafter: KLI) was directly involved in the process of drafting this Regulation.⁴ At the request and with the support of the IMC, KLI provided pro bono assistance in drafting the full text of IMC Regulation 2024/03, which was then reviewed and adopted by the IMC following a public consultation process with stakeholders, including the media and international partners.

For this reason, KLI is well acquainted not only with the text of this Regulation, but also with the purpose for which the procedural deadlines were jointly established with the IMC. These deadlines were not set as merely indicative or decorative time limits, but as a mechanism to ensure immediate response during the election campaign, when potential violations may produce real effects on the electoral process. Moreover, administrative justice functions in accordance with the principles of the rule of law only when the law, the purpose of the law, the procedure and the legally or administratively prescribed deadlines are respected.

However, the implementation of this Regulation during 2025 faced a fundamental institutional problem. From 21 January 2025 until 5 May 2026, when, after the appointment of its new composition, it elected its chairperson and deputy chairperson, the IMC was non-functional due to the lack of quorum. During this period, several electoral processes took place in Kosovo. The Assembly, meanwhile, failed to ensure the timely functionalization of the

⁴ Ibid.

IMC's composition. As a result, the body that was supposed to react during the election campaign was unable to take decisions within the deadlines set by this very Regulation.

This is not a technical procedural matter. If the regulator does not function at the time when the campaign is taking place, then potential media violations are not addressed in time. In a democracy, this creates a double harm: first, because oversight of the electoral process does not take place when it should, and second, because the institution then attempts to return to these cases many months later, when the deadlines and the electoral effect have already passed. Responsibility for this situation lies with the Assembly, which failed to keep the IMC functional, but also with the IMC, which, after its constitution, acted as though the deadlines it had itself established did not exist.

The new composition of the IMC was voted by the Assembly on 24 April 2026.⁵ The IMC held its first meeting on 5 May 2026, where it elected its new leadership.⁶ Besnik Berisha was elected Chairperson of the IMC, while Drita Morina was elected Deputy Chairperson. After this, the IMC began reviewing accumulated cases concerning alleged media violations during the electoral processes of 2025.

At its meeting of 15 May 2026, the IMC reviewed cases initiated ex officio, as well as complaints submitted by parties during the general elections of 9 February 2025.⁷ At this meeting, the IMC reviewed a total of 26 legal cases. Of these, 17 concerned violations of IMC Regulation 2024/03.

At this meeting, the IMC imposed a total of 11 fines in the amount of EUR 23,000, issued 12 warning measures, and rejected three (3) cases. However, not all of these fines were related solely to IMC Regulation 2024/03. According to the data, with respect to violations of IMC Regulation 2024/03, the IMC imposed nine (9) fines in the total amount of EUR 19,000, issued seven (7) warnings, and rejected one case.

Thus, the amount of EUR 23,000 refers to the total fines imposed at that meeting, while the amount of EUR 19,000 refers to fines related to the election Regulation.

⁵ "The Assembly voted on the new composition of the Independent Media Commission." *Betimi për Drejtësi*. April 2026. (See link: <https://betimiperdrejtesi.com/kuvendi-votoi-perberjen-e-re-te-komisionit-te-pavarur-per-media-kpm/>). (Last accessed on 6 June 2026).

⁶ "Besnik Berisha is elected Chair of the IMC, Drita Morina Vice-Chair." *Betimi për Drejtësi*. 5 May 2026. (See link: <https://betimiperdrejtesi.com/besnik-berisha-zgjidhet-kryetar-i-kpm-se-drita-morina-nenkryetare/>). (Last accessed on 6 June 2026).

⁷ "Notice from the meeting of the Independent Media Commission." Independent Media Commission. 15 May 2026. (See link: <https://www.kpm-ks.org/NewsDetails/23/814>). (Last accessed on 6 June 2026).

Furthermore, of the 17 cases concerning violations of IMC Regulation 2024/03, six (6) also included violations of other acts.

At the following meeting, the IMC reviewed violations identified during media monitoring, as well as complaints submitted by parties during the local elections, the runoff elections and the early general elections of 28 December 2025.⁸

At the following meeting, the IMC reviewed violations identified during media monitoring, as well as complaints submitted by parties during the local elections, the runoff elections and the early general elections of 28 December 2025.

At this meeting, a total of 23 cases were reviewed. Of these, 22 concerned alleged violations of IMC Regulation 2024/03, while in five (5) of them, in addition to this Regulation, violations of other acts were also alleged.

The total amount of fines imposed following the review of the 23 cases at this meeting was EUR 20,000, while 13 warnings were also issued. If only the 22 cases related to IMC Regulation 2024/03 are counted, the amount of fines is EUR 18,000.00.

In the two subsequent meetings,⁹ the IMC reviewed cases related to the early parliamentary elections of 7 June 2026. Of the 13 cases reviewed, 12 concerned IMC Regulation 2024/03, including two cases in which, in addition to violations of this Regulation, fines were also imposed for violations of other

⁸ "IMC imposes EUR 20,000 in fines and 12 warnings on media outlets for violations during the 2025 local and extraordinary elections." *Betimi për Drejtësi*. 25 May 2026. (See link: <https://betimiperdrejtesi.com/kpm-shqipton-20-mije-euro-gjoha-dhe-12-verejtje-ndaj-mediave-per-shkeljet-gjate-zgjedhjeve-lokale-e-atyre-te-jashtezakonshme-me-2025/>). (Last accessed on 6 June 2026). "Notice from the meeting of the Independent Media Commission." Independent Media Commission. 25 May 2026. (See link: <https://www.kpm-ks.org/NewsDetails/23/819>). (Last accessed on 6 June 2026).

⁹ "Media violations during the election campaign: IMC imposes EUR 12,000 in fines and one warning." *Betimi për Drejtësi*. 1 June 2026. (See link: <https://betimiperdrejtesi.com/shkejet-e-mediave-gjate-fushates-zgjedhore-kpm-shqipton-12-mije-euro-gjoha-dhe-nje-verejtje/>). (Last accessed on 6 June 2026). "IMC imposes fines totaling EUR 12,000 and two warnings." *Betimi për Drejtësi*. 5 June 2026. (See link: <https://betimiperdrejtesi.com/kpm-shqipton-gjoha-ne-vlere-totale-prej-12-mije-euro-dhe-dy-verejtje/>). (Last accessed on 6 June 2026). "Notice from the meeting of the Independent Media Commission." Independent Media Commission. 5 June 2026. (See link: <https://www.kpm-ks.org/NewsDetails/23/828>). (Last accessed on 6 June 2026). "Notice from the meeting of the Independent Media Commission." Independent Media Commission. 1 June 2026. (See link: <https://www.kpm-ks.org/NewsDetails/23/825>). (Last accessed on 6 June 2026).

acts. In these two subsequent meetings, the IMC imposed 13 sanctions in 13 cases, 10 of which were fines in the total amount of EUR 24,000.00, while 3 were warnings.

Thus, after its constitution, the IMC returned to cases concerning previous electoral processes, including the general elections of 9 February 2025, the local elections, including the runoff elections, and the early elections of 28 December 2025. Therefore, these are sanctioning decisions issued in 2026 for alleged violations that occurred during the election campaigns of the previous year.

The IMC has the legal competence to impose sanctions on licensed entities that violate its regulations. However, this competence cannot be exercised outside the law and outside the procedure. The competence to impose sanctions is not an unlimited power under the law and regulations. It must be exercised in accordance with the law, with the IMC's own regulations, with the deadlines set for the relevant procedure, and with the procedural guarantees that apply to the parties.

In the present case, these sanctioning decisions of the IMC concerning election campaigns are entirely unlawful for two fundamental reasons. First, as regards the campaigns from the electoral processes of 2025, the decisions are unlawful because they were issued after the expiry of the specific deadlines set by IMC Regulation 2024/03.

Moreover, all decisions, including those concerning alleged violations during the election campaigns of the previous year and those concerning the early parliamentary elections of 7 June 2026, are unlawful because they were issued on the basis of a decision-making procedure in which the Executive Office played an essential role, while for years it has been headed by an acting Chief Executive Officer beyond the time limits permitted by law.

Therefore, all these sanctioning decisions are manifestly unlawful.

Responsibility for this situation is twofold at the institutional level. The Assembly left the IMC non-functional during a period in which the country went through several electoral processes. Meanwhile, after becoming functional, the IMC failed to take effective measures to appoint the Chief Executive Officer, thereby leaving the IMC non-functional in terms of its day-to-day management and administration by public officials who, under the law, would have full legal authority to make decisions. With this approach, the IMC did not limit itself to drawing lessons from this situation, but decided to impose sanctions in cases that had not been handled within the specific legal and regulatory deadlines.

The Assembly's failure created the problem. The manner in which the IMC acted after its constitution generated unlawful fines against media service providers.

For these reasons, the issue is not whether or not the media bore responsibility for the alleged violations during election campaigns. The issue is whether the IMC could lawfully sanction them in this manner, at this time and on the basis of this procedure. As will be argued in the following chapters, the answer is negative. The decisions in question are manifestly unlawful because they are the result of out-of-time decision-making and of a procedure based on recommendations issued without legal authority. As such, they are manifestly unlawful decisions.

3. Untimely Decision-Making

From 21 January 2025 until 5 May 2026, when, following the appointment of its new composition, it elected its Chairperson and Deputy Chairperson, the Independent Media Commission was non-functional due to the lack of quorum.¹⁰ This situation coincided with a period during which Kosovo continuously went through electoral processes. During this period, the following elections were held:

1. the regular elections for the Assembly of the Republic of Kosovo, held on 9 February 2025;
2. the local elections held on 12 October 2025;
- a. the runoff elections held on 9 November 2025;
3. the early elections for the Assembly of the Republic of Kosovo, held on 28 December 2025.

Meanwhile, after the constitution of the IMC, the electoral process for the early parliamentary elections of 7 June 2026 also took place. Thus, with the exception of part of the campaign for the 9 February 2025 elections and the period after the IMC's constitution for the 7 June 2026 elections, the IMC was non-functional during the other electoral processes.

¹⁰ "Besnik Berisha is elected Chair of the IMC, Drita Morina Vice-Chair." *Betimi për Drejtësi*. 5 May 2026. (See link: <https://betimiperdrejtesi.com/besnik-berisha-zgjidhet-kryetar-i-kpm-se-drita-morina-nenkryetare/>). (Last accessed on 6 June 2026).

After its constitution, the IMC did not deal only with new cases. On the contrary, as noted above, it retroactively returned to cases accumulated during the election campaigns of the previous year, imposing fines and warnings for alleged violations of IMC Regulation 2024/03.

This course of action is contrary to IMC Regulation 2024/03 itself. This is a special regulation, issued in support of Chapter VIII of Law No. 08/L-228 on General Elections in the Republic of Kosovo. It sets out the specific obligations of MSPs during a specific period, namely the election campaign. Because of its specific nature, it regulates both the special obligations of Audiovisual Media Service Providers and the specific deadlines for giving effect to those obligations.

Pursuant to Article 19 of IMC Regulation 2024/03, the procedure for handling complaints concerning violations of this Regulation is conducted in accordance with the Regulation on the Procedure for Handling Complaints before the IMC, while for these complaints the IMC applies shortened deadlines under Article 20 of Regulation 2024/03. Article 20 then sets out these deadlines clearly and strictly:

1. the initial review must be carried out within four hours of receipt of the complaint;
2. the deadline for the MSP to respond is 24 hours;
3. the review after the response, or after the expiry of the deadline for response, must be carried out within 24 hours;
4. the review of the complaint and the IMC's decision must be completed no later than five days from receipt of the complaint during a regular election campaign. In cases of extraordinary elections, this deadline is shortened to 60 hours.

These deadlines were not set arbitrarily. They were established because violations during an election campaign have an immediate effect on the electoral race, on the equality of political entities and on citizens' access to information. For this reason, the IMC's response must take place in real time. A decision taken many months after the end of the elections cannot restore the equality that may have been undermined, cannot remedy inaccurate information, and can no longer affect the integrity of the electoral process. At that point, the decision is no longer an electoral regulatory tool, as reflected in the very spirit of the Law on General Elections, on the basis of which the Regulation in question was issued.

The IMC's argument that the deadlines are merely indicative,¹¹ since the Regulation does not expressly provide for the loss of decision-making competence, cannot stand. If this argument were accepted, then the entirety of IMC Regulation 2024/03 would be merely indicative and could not be used as a basis for sanctioning. There is no legal logic under which the substantive provisions of the Regulation would be binding on the media, while the procedural provisions of the same Regulation would be considered merely indicative for the IMC. The Regulation must either be applied as a whole, or it cannot be used selectively only to sanction the parties.

Nor can the argument be accepted that the IMC's non-functionality suspended the running of the deadlines. No such exception is provided for either by law or by regulation. Legality cannot depend on the internal organizational circumstances of an administrative body.

In this regard, under Article 52.1.1.3 of Law No. 05/L-031 on the General Administrative Procedure, an administrative act is unlawful if it is the result of a violation of provisions relating to administrative procedure. In the present case, the IMC's decisions are the result of a procedure conducted outside the specific deadlines set by the IMC in days and hours. For this reason, the sanctioning decisions in question, under Article 52 of Law No. 05/L-031 on the General Administrative Procedure, are clearly unlawful decisions.

It should be emphasized that, in order to ensure compliance with these very deadlines, IMC Regulation 2024/03 itself provides for special measures. Article 23 provides that, for the purpose of implementing the provisions of the Regulation within the prescribed deadlines, the IMC shall undertake special measures. These measures enter into force one week before the start of the election campaign and end after the closure of the electoral process. Moreover, paragraph 4 of this Article provides that the special measures are valid and applicable only during the election period and cannot be applied or have legal effect after the closure of the electoral process. This provision once again confirms that the entire logic of this Regulation is linked to the time of elections, not to retroactive decision-making after the expiry of legal deadlines.

Finally, it should be emphasized that this situation was not created by the media. It was created by the failure of the Assembly to keep functional the independent constitutional institution tasked with overseeing the media during election campaigns. When the IMC lacks quorum and cannot decide at the time when the campaign is taking place, potential media violations remain

¹¹ Acting Chief Executive Officer of the IMC – IMC Meeting held on 15 May 2026.

unaddressed in real time. This is a loss for the electoral process and for democracy. Not because the media necessarily acted correctly in every situation, but because the institution that was supposed to respond in time was unable to do so.

However, the Assembly's failure to make the IMC functional cannot be remedied through unlawful IMC decisions many months later. If violations occurred during the campaign, they should have been addressed within the deadlines set by the Regulation and at a time when the decision would have had meaning for the electoral process. Where this did not happen, responsibility is institutional. But this responsibility does not entitle the IMC, after the expiry of the deadlines, to create a new procedure and impose sanctions as though the deadlines had never existed, thereby shifting the responsibility of the Assembly onto the media through unlawful action.

4. Unlawfulness of the Decision-Making Procedure

In addition to out-of-time decision-making, the IMC's sanctioning decisions have another independent legal problem. This problem relates to the very procedure on the basis of which these decisions were issued. More specifically, it relates to the role of the Executive Office and of the Chief Executive Officer in preparing, handling and recommending cases before the Commission.

Pursuant to Article 19 of IMC Regulation 2024/03, the procedure for handling complaints concerning violations of this Regulation is conducted in accordance with the Regulation on the Procedure for Handling Complaints before the IMC, with shortened deadlines under Article 20 of the election Regulation. Thus, the election Regulation itself makes Regulation No. 2024/01 on the Procedure for Handling Complaints before the IMC part of its own procedure. For this reason, the lawfulness of sanctioning decisions cannot be assessed only on the basis of the operative part of the final decision, but also on the basis of the lawfulness of the procedure that preceded that decision.

Regulation No. 2024/01 clearly defines the role of the Executive Office in this procedure. Under Article 4 of this Regulation, submitted complaints are handled by the Executive Office, respectively by the Legal Department and the Complaints Division, while decisions are taken by the IMC. The same Article provides that, at IMC meetings, complaints and findings are presented by the Chief Executive Officer of the Executive Office. Likewise, under Article 22 of this Regulation, after reviewing a complaint, the official of the Complaints Division

prepares a recommendation on the outcome of the complaints procedure. The recommendation contains information related to the complaint, the procedure followed, the actions undertaken, the facts and evidence reviewed, the findings, the final assessments, and the proposal for the decision to be taken by the IMC. Moreover, the recommendation on the handling of the complaint is sent to the IMC members through the Chief Executive Officer.

Therefore, the recommendation is not a formal or insignificant document. It is an integral part of the decision-making procedure. It is the document on the basis of which the IMC reviews the case and decides. This is also confirmed by Article 23 of Regulation No. 2024/01, according to which, during its meeting, the IMC reviews the recommendations received under Article 22 of that Regulation. Accordingly, the IMC procedure cannot be artificially divided into two parts: one part in which the Executive Office prepares the case, and another in which the Commission decides. The final decision is the product of the entire procedural chain.

In this context, the legal status of the IMC Chief Executive Officer becomes important. The IMC has operated with an acting Chief Executive Officer since 2 July 2021. Initially, Faruk Rexhaj was appointed to this position.¹² On 24 September 2024, the IMC replaced Faruk Rexhaj with Niman Racaj, appointing the latter as acting Chief Executive Officer.¹³ Thus, this is not a temporary situation lasting only a few months, but a senior managerial position that has been held on an acting basis for years.

Under Law No. 08/L-197 on Public Officials, a public official may not be appointed as acting official for longer than six months. Where the position cannot be filled within this period, it may be extended for no more than an additional six months. Thus, under the basic law, the maximum period was 12 months. Subsequently, Law No. 08/L-294 amending and supplementing Law No. 08/L-197 on Public Officials changed this regime, providing that a public official may not be appointed as acting official for longer than 12 months, except in cases where the recruitment procedure has been announced but, for objective reasons, the position has not been filled. Nevertheless, even under

¹² "The IMC, even after three years with an acting Chief Executive Officer, now replaces him with another one." *Betimi për Drejtësi*. 24 September 2024. (See link: <https://betimiperdrejtesi.com/kpm-edhe-pas-tri-vitesh-me-u-d-kryeshef-ekzekutiv-tani-e-zevendeson-me-nje-tjeter/>). (Last accessed on 6 June 2026).

"Three days after the arrest of the IMC Chief Executive Officer, his replacement is appointed." *Ekonomia Online*. 2 July 2021. (See link: <https://ekonomiaonline.com/tre-dite-pas-arrestimit-te-kryeshefit-te-kpm-se-emerohet-zevendesues-i-tij/>). (Last accessed on 6 June 2026).

¹³ *Ibid.*

this law, a vacant position cannot be filled on an acting basis for more than two years.

Under both legal regimes, the situation at the IMC is unlawful. Before the amendment of the law, the maximum limit was 12 months. After the amendment, even under the interpretation most favourable to the IMC, the maximum limit for the position is two years. Since the position of IMC Chief Executive Officer has been held on an acting basis since 2 July 2021, even under the most lenient legal interpretation, the maximum two-year period was exceeded on 2 July 2023. This means that all procedural actions and recommendations issued after that date were carried out in a situation where the relevant position was held in violation of the law.

At this point, the judgment of the Supreme Court, P.A. No. 07/2025, dated 10 June 2025, is of particular importance. In that case, the Supreme Court assessed the lawfulness of a regulation issued by the Acting Director of the CAA at a time when the position had been held on an acting basis beyond the legal deadline. The Supreme Court emphasized that, under the law, any legal act issued by a manager acting in that capacity after the expiry of the legal deadline is invalid due to the lack of legal competence to exercise the functions deriving from that position.

The Supreme Court further clarified another important issue: the time limit is linked to the position, not to the person. According to the Supreme Court, the law refers to the position as an institutional function and not to the individual as a person. For this reason, replacing the person does not interrupt or restart the six-month, respectively one-year, period of temporary exercise of the position. This means that the replacement of Faruk Rexhaj with Niman Racaj did not “cure” the unlawfulness and did not restart the time limit from zero.¹⁴

This standard of the Supreme Court is directly applicable to the case of the IMC as well. If a managerial position is held on an acting basis beyond the period permitted by law, then the person exercising that position cannot undertake any act or procedural action with legal effect. In the present case, all actions undertaken within the framework of this position, including the recommendations of the Executive Office sent through the Chief Executive Officer, are unlawful. This is because, after the expiry of the legal deadline, that position can no longer be legally exercised, as occurred in the present case.

¹⁴ Judgment of the Supreme Court – P.A. No. 07/2025.

Consequently, after the expiry of this deadline, no valid legal action can be undertaken from that position.

Meanwhile, as emphasized above, the recommendations of the Executive Office are an essential part of the IMC decision-making procedure. If the position through which these recommendations are processed and sent to IMC members is held in violation of the law, then such recommendations are also unlawful. Consequently, all sanctioning decisions addressed in this analysis were issued on the basis of an unlawful procedure and, for this reason, are themselves unlawful.

As noted, without a recommendation, the Commission would not have been able to decide. For this reason, the unlawfulness of the recommendation renders the IMC decision unlawful, because it is based on an unlawful recommendation.

This is directly supported by Article 52 of Law No. 05/L-031 on the General Administrative Procedure. According to this Article, an administrative act is unlawful if it is issued in the absence of authorization by law, if the public body issuing it acted without competence, or if it is the result of a violation of provisions relating to administrative procedure. In the present case, the IMC decisions are affected by all three grounds. They:

1. were issued on the basis of recommendations that cannot be considered lawful, because they passed through a position held in violation of the law;
2. are the result of a procedure in which an essential link did not have regular legal competence to exercise the functions of the position; and
3. are the result of violations of the procedural provisions governing the handling and recommendation of cases.

In this regard, according to the standard of the Supreme Court, a recommendation originating from a position held on an acting basis beyond the legal deadline cannot be treated as a legally valid recommendation. It cannot produce effect as a legally regular procedural act. Consequently, a decision based on such a recommendation is built on an unlawful foundation.

For these reasons, all IMC sanctioning decisions taken on the basis of recommendations of the Executive Office after the expiry of the legal deadline for holding the position of Chief Executive Officer on an acting basis are unlawful. Even under the interpretation most favourable to the IMC, namely by

applying the maximum two-year limit, this period ended on 2 July 2023. After that date, recommendations issued through this position are recommendations produced in violation of the law. This is the second, independent ground why all IMC sanctioning decisions concerning election campaigns are unlawful.

It should be emphasized that this situation, too, was not created by the parties to the proceedings. It was created by the IMC itself, which for years failed to appoint the Chief Executive Officer through the regular legal procedure. This inaction by the IMC led to the current situation, in which the IMC Executive Office is unlawfully managed.

The IMC cannot demand respect for the law from the media through decisions issued without legal authority, while it itself has failed for years. The law cannot be applied only to the entities being sanctioned. It must first be applied by the institution imposing the sanctions. If the IMC has failed to fulfil its obligation to appoint the Chief Executive Officer in a regular manner and within legal limits, then the consequences of this failure cannot be covered up through sanctioning decisions. For this failure, the IMC itself must provide public accountability, rather than violate the law to the detriment of media service providers.

5. Conclusions

1. The IMC was non-functional from 21 January 2025 until 5 May 2026, during a period in which several electoral processes took place in Kosovo. Due to the lack of quorum, the institution responsible for overseeing the media during election campaigns was unable to take decisions at the time when potential violations should have been addressed.
2. After becoming functional, the IMC returned to cases accumulated from the 2025 election campaigns and imposed fines and warnings in 2026. Thus, the sanctioning decisions were taken many months after the elections had ended and after the time when such decisions would have had a real effect on the electoral process had already passed.
3. IMC Regulation 2024/03 is not an ordinary regulation, but a special election regulation that sets out not only the obligations of the media during election campaigns, but also specific deadlines for handling violations. These deadlines were established to ensure an immediate response during the campaign, not retroactive decision-making many months later.
4. The deadlines set by IMC Regulation 2024/03 cannot be treated as indicative for the IMC and binding for the media. If the Regulation is used as a basis for sanctioning, then it must be applied in its entirety. The IMC cannot rely only on the punitive part of the Regulation while disregarding its procedural part.
5. The IMC's sanctioning decisions are unlawful because they were taken outside the specific deadlines and as a result of a procedure conducted in violation of IMC Regulation 2024/03. Within the meaning of the Law on the General Administrative Procedure, an administrative act is unlawful when it results from a violation of procedural provisions.
6. The sanctioning decisions are also unlawful due to the decision-making procedure. The recommendations of the Executive Office are an essential part of the procedure, while the IMC Executive Office has for years been headed by an Acting Chief Executive Officer beyond the deadlines permitted by law.
7. According to the standard established by the Supreme Court, the time limit for an acting office-holder is linked to the position and not to the person. Therefore, the replacement of Faruk Rexhaj with Niman Racaj

did not restart the time limit and did not cure the unlawfulness of holding the position of Chief Executive Officer on an acting basis beyond the legal deadline. Consequently, all actions undertaken by the acting office-holder after the expiry of the legal deadline, including the recommendations that form the basis of the sanctioning decisions, are decisions without legal effect. Thus, the sanctioning decisions were based on recommendations issued without legal effect.

8. This situation is the result of institutional failure. The Assembly failed to keep the IMC functional during the election period, while the IMC failed to appoint the Chief Executive Officer through a regular procedure. Nevertheless, these failures cannot be covered up through unlawful fines against the media. The law must first be applied by the institution imposing the sanctions.

6. Recommendations

1. The IMC should review *ex officio* the sanctioning decisions taken for alleged violations during the 2025 election campaigns.
2. The IMC should annul or repeal the decisions that were issued outside the specific deadlines set by IMC Regulation 2024/03 and on the basis of a procedure grounded in unlawful recommendations.
3. The IMC should abandon the interpretation that the deadlines set by IMC Regulation 2024/03 are merely indicative. The deadlines of the election procedure must be applied equally to the media and to the IMC itself.
4. The Assembly of the Republic of Kosovo should ensure that the IMC is never left without a functional quorum.
5. The IMC should complete, without delay, the procedure for appointing the Chief Executive Officer and discontinue the long-standing practice of managing the Executive Office through an acting office-holder.
6. The IMC should publish a full institutional clarification explaining why the 2025 election cases were not handled within the deadlines and why the position of Chief Executive Officer continues to be held on an acting basis beyond the legal deadlines.
7. If the IMC fails to reflect, the sanctioned media outlets should pursue the available legal remedies to challenge the unlawful sanctioning decisions issued by the IMC.

Annex 1 – IMC Decisions Related to the 2025 Election Campaigns

Nr	Date of meeting	Media	Violation of the Legal Act	Decision
1	15/05/2026	TV Arbëria	KPM-2024/03	Warning
2	15/05/2026	ATV	KPM-2024/03	Warning
3	15/05/2026	DTV	Kodi i etikës KKPM-2016/03	Warning
4	15/05/2026	Kanal 10	KPM-2024/03	Warning
5	15/05/2026	Kanal 10	KPM-2024/03	Fine 3,000 EUR
			Rregullores KPM-2023/02	
6	15/05/2026	Klan Kosova	Kodi i etikës KKPM-2016/03	Fine 1,000.00 EUR
7	15/05/2026	Klan Kosova	Kodi i etikës KKPM-2016/03	Warning
8	15/05/2026	Klan Kosova	KPM-2024/03	Fine 3,000.00 EUR
			KPM-2023/02	
			Kodi i etikës KKPM-2016/03	
9	15/05/2026	KTV	KPM-2024/03	Rejected
10	15/05/2026	Plus TV	Kodi i etikës KKPM-2016/03	Rejected
11	15/05/2026	RTK1	KPM-2024/03	Fine 2,000.00 EUR
12	15/05/2026	RTK2	Kodi i etikës KKPM-2016/03	Warning
			KPM-2024/03	
13	15/05/2026	RTV21	KPM-2024/03	Fine 1,000.00 EUR
			KPM-2023/02	
14	15/05/2026	TE7	Kodi i etikës KKPM-2016/03	Warning
15	15/05/2026	TE7	KPM-2024/03	Fine 4,000.00 EUR
			KPM-2023/03	
			Kodit të Etikës KKPM-2016/03	
16	15/05/2026	TëVë1	KPM-2024/03	Fine 2,000.00 EUR

			KPM-2023/03	
17	15/05/2026	RTV21	Kodi i etikës KKPM-2016/03	Rejected
18	15/05/2026	TV Dukagjini	Kodi i etikës KKPM-2016/03	Warning
19	15/05/2026	TV Dukagjini	Kodi i etikës KKPM-2016/03	Warning
20	15/05/2026	TV Dukagjini	Kodi i etikës KKPM-2016/03	Fine 3,000.00 EUR
21	15/05/2026	TV Dukagjini	KPM-2024/03	Fine 2,000.00 EUR
22	15/05/2026	TV Most	KPM-2024/03	Fine 1,000.00 EUR
23	15/05/2026	TV Opinion	KPM-2024/03	Warning
24	15/05/2026	Puls TV	KPM-2024/03	Fine 1,000.00 EUR
25	15/05/2026	TV Syri Vision	KPM-2024/03	Warning
26	15/05/2026	TV Zëri	KPM-2024/03	Warning
27	25/05/2026	Rtv Malisheva	KPM-2024/03	Warning
28	25/05/2026	TV Llapi	KPM-2024/03	Warning
29	25/05/2026	Kanal 10	KPM-2024/03	Fine 3,000.00 EUR
			KPM-2023/02	
			Kodi i etikës KKPM-2016/03	
30	25/05/2026	Klan Kosova	KPM-2024/03	Fine 3,000.00 EUR
			KPM-2023/02	
			Kodi i etikës KKPM-2016/03	
31	25/05/2026	Klan Kosova	KPM-2024/03	Fine 2,000.00 EUR
32	25/05/2026	KTV	KPM-2024/03	Warning
33	25/05/2026	KTV	KPM-2024/03	Warning
34	25/05/2026	RTK1	KPM-2024/03	Fine 1,000.00 EUR
35	25/05/2026	RTK2	KPM-2024/03	Warning
36	25/05/2026	TëVë1	KPM-2024/03	Fine 1,000.00 EUR
37	25/05/2026	TV21	KPM-2024/03	Fine 1,000.00 EUR
38	25/05/2026	TV Dukagjini	KPM-2024/03	Fine 2,000.00 EUR
			KPM-2023/02	
			Kodi i etikës KKPM-2016/03	

39	25/05/2026	TV Dukagjini	Kodi i etikës KKPM-2016/03	Fine 2,000.00 EUR
40	25/05/2026	TV Dukagjini	KPM-2024/03	Warning
41	25/05/2026	TV Dukagjini	KPM-2024/03	Warning
42	25/05/2026	TV Dukagjini	KPM-2024/03	Warning
43	25/05/2026	TV Mir	KPM-2024/03	Warning
44	25/05/2026	TV Most	KPM-2024/03	Warning
45	25/05/2026	TV Puls	KPM-2024/03	Warning
46	25/05/2026	TV Syri Vision	KPM-2024/03	Warning
47	25/05/2026	TE7	KPM-2024/03	Fine 4,000.00 EUR
			KPM-2023/02	
			Kodi i etikës KKPM-2016/03	
48	25/05/2026	TV Syri Vision	KPM-2024/03	Fine 1,000.00 EUR
			KPM-2023/02	
			Kodi i etikës KKPM-2016/03	
49	25/05/2026	ATV	KPM-2024/03	Warning

Annex 2 – IMC Decisions Related to the 2026 Election Campaign

Nr	Date of meeting	Media	Violation of the Legal Act	Decision
1	01/06/2026	TE7	KPM-2024/03	Fine 2,000.00 EUR
2	01/06/2026	Kanal 10	KPM-2024/03	Fine 4,000.00 EUR
3	01/06/2026	Klan Kosova	KPM-2024/03	Fine 3,000.00 EUR
4	01/06/2026	TV Dukagjini	KPM-2024/03	Fine 2,000.00 EUR
			KPM-2023/02	
5	01/06/2026	TëVë1	KPM-2024/03	Fine 1,000.00 EUR
			KPM-2023/02	
6	01/06/2026	ATV	KPM-2024/03	Warning
7	05/06/2026	Kanal 10	KPM-2024/03	Fine 3,000.00 EUR
8	05/06/2026	TV Dukagjini	KPM-2024/03	Warning
9	05/06/2026	TV Syri Vision	KPM-2024/03	Warning
10	05/06/2026	Klan Kosova	KPM-2024/03	Fine 1,000.00 EUR
11	05/06/2026	TE7	KPM-2024/03	Fine Fine 3,000.00 EUR
12	05/06/2026	TV21	KPM-2024/03	Fine 2,000.00 EUR
13	05/06/2026	TV Most	Kodi i etikës KKPM-2016/03	Fine 3,000.00 EUR

