

# Kosovo

by Ilir Deda

*Capital:* Pristina  
*Population:* 2.2 million  
*GNI/capita:* n/a

The data above was provided by The World Bank, *World Bank Indicators 2009*.

## Nations in Transit Ratings and Averaged Scores

	Yugoslavia				Kosovo					
	1999-2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Electoral Process	5.50	4.75	3.75	3.75	5.25	4.75	4.75	4.75	4.50	4.50
Civil Society	5.25	4.00	3.00	2.75	4.25	4.00	4.25	4.25	4.00	4.00
Independent Media	5.75	4.50	3.50	3.25	5.50	5.50	5.50	5.50	5.50	5.50
Governance*	5.50	5.25	4.25	4.25	6.00	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	5.75	5.75	5.75	5.50	5.25
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	5.50	5.50	5.50	5.50	5.25
Judicial Framework and Independence	5.75	5.50	4.25	4.25	6.00	5.75	5.75	5.75	5.75	5.75
Corruption	6.25	6.25	5.25	5.00	6.00	6.00	6.00	6.00	5.75	5.75
<b>Democracy Score</b>	<b>5.67</b>	<b>5.04</b>	<b>4.00</b>	<b>3.88</b>	<b>5.50</b>	<b>5.32</b>	<b>5.36</b>	<b>5.36</b>	<b>5.21</b>	<b>5.11</b>

\* Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.

NOTES: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

## EXECUTIVE SUMMARY

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The Assembly of Kosovo adopted the Declaration of Independence on February 17, 2008, designating Kosovo a sovereign and autonomous state. This ended the almost decade-long United Nations protectorate over the territory. Fifty-two countries have recognized the independence of Kosovo, 22 of which are European Union (EU) member states. Kosovo's authorities pledged to fully implement the provisions of the Comprehensive Status Proposal (CSP) of UN special envoy and former Finnish president Martti Ahtisaari. The Assembly invited the EU to deploy its rule of law mission (EULEX) and establish the International Civilian Office (ICO) to supervise the implementation of the CSP. Ban Ki-moon, secretary-general of the United Nations, announced that the UN and its Kosovo mission UNMIK would operate under a "status neutral" framework just days before Kosovo's Constitution entered into force in June 2008.

Serbia reacted to Kosovo's move by inciting Kosovo Serbs in northern Kosovo to burn nearby border posts and pressured them to leave Kosovo institutions, including the police. Belgrade organized "municipal elections" in Kosovo Serb areas on May 11, overriding protests of illegality from UNMIK and the government of Pristina. The radical forces, which won the elections in June 2008 created the Assembly of Association of Municipalities of the Autonomous Province of Kosovo and Metohija, a body envisaged to oppose possible moderation in Belgrade and maintain the status quo in northern Kosovo through parallel municipal structures of government. On October 8, the UN General Assembly (GA) adopted a resolution submitted by Serbia requesting the International Court of Justice to issue a nonbinding advisory opinion as to whether the declaration of independence of Kosovo is in accordance with international law. Seventy-seven members voted in favor, 74 abstained, and 6 voted against.

Reconfiguration of the international presence in Kosovo encountered many problems in 2008. Still, EULEX began its full deployment in early December, following months of negotiations between the UN, EU, and Serbia, and UNMIK transferred all of its authority in the area of rule of law to the new EU mission. Kosovo's governance shifted to the new central government, which was heavily assisted by the ICO and foreign embassies in Pristina. The new coalition government, composed of the Democratic Party of Kosovo (PDK) and the Democratic League of Kosovo (LDK) and led by Prime Minister Hashim Thaçi (leader of the PDK), succeeded in maintaining stability and preventing violence.

**National Democratic Governance.** The February 17 declaration of independence and subsequent recognition of Kosovo's statehood dominated events in 2008. Obligations coming from the CSP were highlights in the work of the Assembly of

Kosovo, which passed over 100 laws, more than 50 being linked directly with the provisions of Martti Ahtisaari's CSP. The new government, heavily assisted by the ICO and the U.S. and EU embassies in Pristina, succeeded in maintaining stability, preventing violence, and beginning the institutional consolidation process. The opposition vocally criticized the government of corruption and lack of vision during the second half of the year, demanding early elections. Three groups emerged within the Kosovo Serb community: radicals from the north opposing Pristina, moderate voices opposing the policies from both Belgrade and Pristina, and political parties cooperating with institutions that participate fully in the Kosovo government. The powerful Serbian Orthodox Church was divided on the next steps, part of it rejecting any cooperation with Pristina and the international community while the more moderate part advocated for cooperation with the international presence in Kosovo. *Given the challenges Kosovo faced in 2008, remaining stable while improving the functioning of institutions, Kosovo's rating for national democratic governance improves from 5.50 to 5.25.*

**Electoral Process.** General, municipal, and mayoral elections were held on November 17, 2007, and were considered free and fair by observers. Some 40 percent of the Kosovar electorate voted, but there was virtually a complete boycott by the Kosovo Serb community. These elections changed the political landscape of Kosovo. Hashim Thaçi and his PDK garnered 34.3 percent of the ballot. The late president Ibrahim Rugova's LDK won 22.6 percent, losing for the first time after 18 years as the largest Kosovo Albanian political party. With the declaration of independence, Kosovo authorities assumed responsibility over the Central Election Commission (CEC), whose 11 members were appointed by the president in August 2008. The adoption of new electoral laws—the Law on Local Elections and Law on General Elections in the Republic of Kosovo—and the entry into force of the Constitution in June 2008 ended Organization for Security and Cooperation in Europe (OSCE) executive responsibility for elections in Kosovo. However, frictions between PDK and LDK prevented the election of the new CEC president. The next municipal elections are scheduled for November 2009, while there is wide speculation that general elections will be organized at the same time. Serbia organized “municipal elections” in 26 of Kosovo's 30 municipalities on May 11, 2008; the elections took place despite protests of illegality by UNMIK. *Between ongoing frictions and boycotts on the one hand, and the adoption of new electoral laws in line with international standards on the other, Kosovo's rating for electoral process remains at 4.50.*

**Civil Society.** In the first half of the year, civil society groups presented agendas organized around thematic issues, which is seen as a direct impact of Kosovo's declaration of independence. This specialization can be characterized as the fifth phase in the development of Kosovo's civil society and opens a space for a stronger and more credible role. However, civil society and nongovernmental organizations are still challenged to develop their own strategic vision. Civil society groups continued with their activities in policy analysis and recommendations, review

and oversight of corruption in the government and the implementation of laws (especially the Law on Access to Official Documents), and compliance with human rights statutes. *Kosovo's civil society rating remains at 4.00.*

**Independent Media.** Freedom of the media in Kosovo is well protected by the legislative framework, but legal and institutional mechanisms do not prevent political pressure on the media. The OSCE accused Kosovo politicians and political parties of regarding the media as a “mouthpiece” and criticized the Assembly of Kosovo for increasingly misusing its authority to exercise oversight of independent institutions, particularly the broadcast regulator and the public broadcaster. Media dependence on political forces undermined the sustainability of the media, especially when factoring in the reliance on public advertising as one of print media’s primary financial sources. Regular and disproportionate paid advertising by the government and its agencies to newspapers close to selected political parties was a common practice, while independent newspapers were often threatened with exclusion from such advertising if they published critical reports. *Owing to political pressure on the media by the government, Kosovo's independent media rating remains at 5.50.*

**Local Democratic Governance.** Kosovo’s legislative framework for decentralization has developed substantially, and the Assembly has amended applicable legislation and adopted a number of new laws, drafted with significant ICO support, including the Law on Local Self-Government, Law on Administrative Municipal Boundaries, Law on Local Elections, and Law on Local Government Finance. This new legal framework provides for a large degree of local governance and for clearer municipal competences. It also envisages increasing the number of municipalities from 30 to 38. In April 2008, an interministerial working group was established and an action plan for the implementation of decentralization in 2008–2010 was approved. Out of 30 municipalities, 26 are fully functional and report to Pristina. Parallel administrative structures sponsored from Belgrade were strengthened and are operating in most of the predominantly Kosovo Serb municipalities, including in the fields of justice, education, health care, and the postal service. The situation in Kosovo Serb municipalities became more complex on May 11, when Serbia organized municipal elections in 26 municipalities where Kosovo Serbs reside; these were declared illegal by UNMIK and the international community. *Given improvements in the functioning of municipalities, as well as the completion of the legislative process for decentralization, the rating for local democratic governance improves from 5.50 to 5.25.*

**Judicial Framework and Independence.** The judiciary is considered one of the weakest links in Kosovo’s rule of law. This was recognized in the Ahtisaari CSP with the plan to establish EULEX. As a legacy of the previous nine years, Kosovo’s body of applicable laws remains a series of divided areas between UNMIK regulations, laws adopted by the Assembly of Kosovo in accordance with the new Constitution, certain former Yugoslav laws, and the laws of Serbia through Belgrade’s parallel

structures in Kosovo Serb areas, especially in northern Kosovo. This has continued to hamper the delivery of justice, as judges are not always certain of the legal basis for their decisions, and there is no system in place to promote judges and hire new ones. Also, there is an insufficient number of judges and prosecutors in Kosovo. Procedures were not respected during the election of a Kosovar ombudsperson, a process that was annulled for the third time in the last two years. *Kosovo's rating for judicial framework and independence remains at 5.75.*

**Corruption.** Corruption is still widespread and remains a major problem in Kosovo. This is due to insufficient legislative and implementation measures, a lack of political will, and the weakness of the judicial system. The legal framework is inconsistent in the definition of corruption between the Law on Suppression of Corruption and the provisional penal code. A report from the Office of the Auditor General showed unexplained losses to the Kosovo budget of €0.5 million–1.5 million (US\$0.8 million–2 million) per ministry per year. The government's anticorruption efforts were insufficient in 2008 according to an EU progress report. Nevertheless, some steps were taken to combat corruption. *Despite the improvement in legislation, there is a general lack of political will to fight corruption in Kosovo; thus the corruption rating remains at 5.75.*

**Outlook for 2009.** Kosovo will face its biggest challenge in 2009 as it enters a new phase of institutional consolidation. The successful implementation of the CSP will either strengthen the functionality of the state or increase the possibility of the partition of Kosovo along the Ibar River, through the city of Mitrovica. The functionality of EULEX will play a direct role in the state's institutional consolidation and determine whether the EU mission will be successful in the area of rule of law throughout Kosovo. Further challenges will lie in addressing widespread corruption, strengthening institutions, establishing an integrated Kosovo, and laying the foundation for Kosovo's economic development.

# MAIN REPORT

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## National Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				n/a	5.75	5.75	5.75	5.50	5.25

The near decade-long pending resolution of the final status of Kosovo ended on February 17, 2008, with the adoption by the Assembly of the Declaration of Independence, which designated the Republic of Kosovo a sovereign and autonomous state; 109 out of 120 members of Parliament (MPs) voted in favor of the declaration, while Kosovo Serb MPs did not participate in the vote. As of December 1, 2008, Kosovo's independence had been recognized by 52 countries, 22 of which are European Union (EU) member states. The authorities in Pristina pledged to unilaterally implement the Comprehensive Status Proposal (CSP) of UN special envoy Martti Ahtisaari, who received the 2008 Nobel Peace Prize for his role as mediator.

The Assembly invited the EU to deploy its rule of law mission (EULEX) and welcomed the establishment of the International Civilian Office (ICO) to supervise and monitor the implementation of the CSP, both missions deriving from the plan. The consolidation of the new state continued with the adoption on April 9, 2008, of the Constitution, which entered into force on June 15. Over 50 laws deriving from the CSP, which also ended UNMIK powers, were assumed by the Kosovo government. Meanwhile, the European Commission organized a Donor's Conference for Kosovo on July 11 in Brussels, where participants pledged €1.236 billion (US\$1.643 billion). Kosovo also applied for membership in the International Monetary Fund and the World Bank.

Nevertheless, Kosovo's transition did not go smoothly. Supported by Belgrade, Kosovo Serbs in northern Kosovo burned several border posts in February, and violent clashes with UNMIK police and the Kosovo Force over the court in northern Mitrovica occurred in March. Serbia took control of the railway in the north, while nearly half of the Serb members of the Kosovo Police left the service. Also, Kosovo Serbs left most of their public administration posts and withdrew from the municipalities, customs, the correctional service, and other functions.

In the immediate aftermath of the adoption of the Declaration of Independence, three Kosovo Serb groups emerged: a radical group in northern Kosovo, supported by the Democratic Party of Serbia (DSS) and Serbian Radical Party (SRS) and led by Marko Jaksic and Milan Ivanović; a moderate group organized around Rada Trajkovic in Gračanica representing the enclaves south of Mitrovica and opposing the policies of both Belgrade and Pristina; and the Kosovo Serb Independent Liberal Party (SLS), which participates in Kosovo institutions. Parallel administrative

structures sponsored from Belgrade were strengthened in predominantly Kosovo Serb municipalities, including the justice system, education, health care, and the postal service. These areas were further enhanced by the holding of “municipal elections” on May 11 in which the DSS and SRS triumphed; the elections were declared illegal by UNMIK and Kosovo institutions.

While the Democratic Party (DS) of Boris Tadić won the municipal elections in Serbia, the SRS and DSS won in Mitrovica, Zvečan, Zubin Potok, and Leposavić. The powerful Serbian Orthodox Church was divided: The hard-line Bishop Artemije opposed any cooperation with the international community and Kosovo institutions, while the moderate Bishop Teodosije and Father Sava, supported by powerful members of the Holy Synod of the Church, favored cooperation with the international community in Kosovo.

Kosovo spent most of the year reconfiguring international missions on the ground in terms of both security and institutional functionality. The end of UNMIK’s mandate and full establishment of the ICO and EULEX faced many challenges. UNMIK could not initially transfer its authority to ICO and EULEX because the UN Security Council did not endorse the CSP. Russia and Serbia vehemently opposed the deployment of EULEX without a Security Council endorsement and requested the “status neutrality” of EULEX. Subsequently, the UN secretary-general, Ban Ki-moon, informed Security Council members on June 12 that he would initiate the reconfiguration of UNMIK and thus enable the deployment of EULEX under “a UN umbrella.” The secretary-general placed the United Nations and UNMIK under a “status-neutral framework” in Kosovo and adjusted the role of the UN mission to focus on monitoring and reporting, facilitating Kosovo’s engagement in international agreements, and facilitating dialogue between Pristina and Belgrade on six points of practical concern (police, courts, customs, transportation and infrastructure, boundaries, and Serbian patrimony). The new Special Representative of the UN Secretary-General (SRSG), Lamberto Zannier, who came to Kosovo in July after the withdrawal of Joachim Rucker, made clear that his position was to “facilitate” dialogue between Pristina and Belgrade on the above-mentioned six-point plan.

The EULEX and six-point negotiations mobilized the entire political spectrum over fears that Kosovo was being partitioned and that Kosovo’s statehood was being undone. A number of civil society organizations, led by the Vetëvendosje (Self-Determination) movement of Albin Kurti, organized large protests in Pristina in November and December. Kosovo authorities claimed that EULEX deployment was welcome as long as the mission worked under the framework of the Constitution of Kosovo and implemented a single set of laws throughout the territory, especially in northern Kosovo. On November 14, amid inflammatory public rhetoric, a bomb was thrown at ICO headquarters in Pristina without any casualties. Three agents from the German intelligence service Bundesnachrichtendienst (BND) were arrested, with the pro-government daily *Express* publishing articles connecting the agents, who spent 10 days in investigative custody with the attack. With some degree of controversy stemming from claims of a lack of evidence, the three were released and

their case was handed over to an international judge, and the previously unknown Albanian group Army of Republic of Kosovo claimed responsibility for the attack. The German media speculated that the arrest of the three BND agents was an attack by Kosovo's prime minister Hashim Thaçi on BND which was investigating his links with organized crime groups.

On November 26, the UN Security Council issued a presidential statement effectively authorizing the deployment of EULEX under a "UN umbrella" within the framework of UNSC Resolution 1244/1999. This decision leaves open the question of which law EULEX will operate under in northern Kosovo, that of Pristina or UNMIK or the laws of Serbia. The opposition and media in Kosovo declared that this marked the beginning of the partition of the country and heavily criticized the government. The Democratic League of Dardania (LDD) asked for the resignation of the president and prime minister, while the Alliance for the Future of Kosovo (AAK) asked for the creation of a "unity government."

The deployment of EULEX under the "status-neutral framework" also leaves open the question of the future role of the ICO, whose head, Pieter Feith, serves dual functions: 1) as the International Civilian Representative (ICR), overseen by the International Steering Group (ISG); and 2) as the EU Special Representative (EUSR) in Kosovo. These two roles collide, as the EU has a general status-neutral position toward Kosovo, while the ISG, comprising states that have recognized Kosovo's independence, does not. Furthermore, the heads of EUSR and EULEX should consult each other, but the added component of ICR makes this problematic. Even so, EULEX deployed successfully on December 9 throughout Kosovo, ending UNMIK's authority in the area of rule of law.

On October 8, the UN General Assembly (GA) adopted a resolution submitted by Serbia requesting the International Court of Justice (ICJ) to issue a nonbinding advisory opinion on the question, "Is the unilateral Declaration of Independence by the Provisional Institutions of Self-Government in Kosovo in accordance with international law?" Seventy-seven members voted in favor, seventy-four abstained, and six voted against. Serbia claimed a diplomatic victory, while four countries recognized Kosovo's independence after the GA vote, including Montenegro and Macedonia. Kosovo authorities appointed Sir Michael Wood, a prominent British international lawyer, to challenge the Serbian resolution at the ICJ.

Kosovo's new governing coalition of the Democratic Party of Kosovo (PDK) and Democratic League of Kosovo (LDK) was endorsed by the Assembly on January 9, 2008. PDK leader Hashim Thaçi became prime minister, while Fatmir Sejdiu retained the post of president. PDK received seven ministerial posts, LDK five, Kosovo Serb SLS two, and one was filled by other minorities. Later, the Ministry of Foreign Affairs was placed under LDK control, while the Ministry on Security Force came under the PDK. The ruling coalition enjoys a 75-seat majority in the 120-member Assembly of Kosovo, but 10 MPs of the PDK-LDK coalition do not always support the decisions of the government, and political paralysis plagued the LDK for most of the year. Coupled with the successes of the Ministry of Telecommunications and the Ministry of Education, PDK has grown in popularity, surpassing all other parties.

The opposition, lacking both parliamentary MPs and support, was reenergized with the April return of Ramush Haradinaj, leader of the AAK, after he was acquitted in the International Criminal Tribunal for the Former Yugoslavia (ICTY) war crimes process against him. Haradinaj has been one of the most active members of the opposition, accusing the Thaçi government of corruption and lack of political vision. Haradinaj has pushed hard for general elections in 2009, claiming that AAK would achieve a better result and possibly gain power in a new arrangement with the LDK.

At the end of 2008 major disagreements occurred between the government and opposition parties regarding the timeline of the next national elections. The President of Kosovo decided to hold the next national elections in 2011, while the opposition asked that the elections take place in 2009, as envisaged by Ahtisaari's proposal. Peter Faith, the Head of International Civilian Office (ICO) ended the debate by supporting the position of the Kosovo President.

In general, the work of the government in 2008 was focused on independence and state-building issues and much less on development and economic strategies. It capitalized on the construction of new highways and improvements in education, while media close to PDK consistently slammed the LDK for poor performance, especially the Ministry of Foreign Affairs and the Ministry of Health. The government began issuing new Kosovo passports in July, while in September it appointed ten Kosovo *chargés d'affaires*. The government was accused by the opposition, media, and international representatives of interfering in the appointment of board members of public-owned enterprises.

During the year, the work of the Assembly of Kosovo received mixed reviews, including on the fast passage of over 50 laws derived from the CSP, whose drafting was heavily assisted by the ICO. Overall, the Assembly adopted more than 100 laws in 2008. However, there is insufficient coordination between the Assembly and the government. Although the laws are reviewed in Assembly committees, there is no follow-up in the implementation of the legislation. The Assembly continued the practice of open debates, providing sufficient space for the opposition to present its views.

### Electoral Process

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				5.25	4.75	4.75	4.75	4.50	4.50

With the adoption of the Law on Local Elections and the Law on General Elections and the entry into force of the Constitution in June 2008, the authority for organizing elections came under the Central Election Commission (CEC) of Kosovo, ending the executive function of the Organization for Security and Cooperation in Europe (OSCE) in this area. A new, 11-member CEC was appointed by presidential decree on August 19, and the Election Complaints and Appeals Commission,

a five-member body of Supreme Court judges, was formed to address electoral grievances. However, the CEC is not yet fully functional and has been unable to elect its president owing to PDK-LDK disagreements.

For the first time since 2000, there is a legal framework in place well in advance of the elections, which gives the CEC time to prepare for whatever electoral schedule is decided. The OSCE has stated that the new election laws include best practices and international standards and will monitor the required revisions and harmonization of electoral laws with other legislation, while also assisting the CEC in capacity building.

Municipal elections, scheduled for November 2009, should mark the creation of new Kosovo Serb-majority municipalities, in accordance with the CSP. The participation of Kosovo Serbs will be crucial for the success of the elections, something that was not ensured in 2008. There is wide speculation that central-level elections might be organized to coincide with the local elections, following demands by the opposition. OSCE officials, who state privately that they are anticipating a need to step in and assist the CEC in organizing the elections, are concerned that if the elections are not announced at least six months in advance, it will be difficult to ensure an internationally acceptable process.

Serbia organized “municipal elections” on May 11 and held them even after they were declared illegal by UNMIK and the Pristina government. The polls were held in 26 out of the 30 municipalities of Kosovo, and radical and extreme Serb parties triumphed over the moderate Serb forces. The Kosovo Serb turnout was approximately 40 percent, which led many analysts to conclude that such a low Serb turnout only three months after adoption of the Declaration of Independence indicated a general apathy among Kosovo Serbs.

### Civil Society

1999–200	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y	u	g	o	s	l	a	v	i	a
4.25	4.00	4.25	4.25	4.00	4.00				

In the first half of 2008, Kosovo civil society presented agendas organized around thematic issues, which was viewed as a direct result of the state’s adoption of the Declaration of Independence. This specialization could be considered the fifth phase in the development of Kosovo’s civil society. The first phase began in 1989 as a reaction to the constitutional contest over autonomy, featuring the creation of the Council for the Defense of Human Rights and Freedoms, the activities of Mother Theresa’s Missionaries of Charity, and the organization of independent trade unions. The main focus of these organizations at the time was the protection of human rights and humanitarian efforts. The second phase began in 1995 with the creation of think tanks such as Riinvest and Kosovo Action for Civic Initiatives as well as expanded humanitarian work by women’s organizations and associations.

The third, “post-conflict” phase in 1999 was distinguished by the creation of a large donor market and the mushrooming of nongovernmental organizations (NGOs). The fourth phase was the professionalization of civil society as well as the struggle of NGOs for financial sustainability. The current, fifth phase marks the first time that civil society efforts have taken a thematic approach, which can strengthen the sector’s role in the future. The challenge for Kosovo civil society and NGOs will be to continue finding sufficient space to develop their own strategic visions and agendas.

Think tanks such as KIPRED, Forum 2015, Institute GAP, and Kosovo Stability Initiative accelerated their work on various important policy and economic issues, providing specific recommendations. The American Chamber of Kosovo actively engaged in proposing business development policies, while the Kosovo Civil Society Foundation focused on EU integration issues. Veton Surroi, after withdrawing from the leadership of the Reformist Party ORA, created the Foreign Policy Club to organize foreign affairs policy debates and publish an Albanian language version of *Foreign Affairs* magazine.

On March 10, 2008, Valdete Idrizi, who leads Community Building Mitrovica (CBM), was presented with the U.S. State Department’s prestigious International Women of Courage Award. CBM has been instrumental in linking the north and south of Mitrovica and the wider region through concrete confidence-building measures. CBM was also helpful in pacifying tensions in northern Mitrovica by organizing meetings between Albanians and Serbs within the local population throughout November. It has also concluded partnerships with Serb NGOs in the north. However, some of the organization’s activities were politically hijacked by local leadership, such as the maintenance of Serb cemeteries in the southern part of the city and Albanian cemeteries in the northern part.

Cohu! (the Organization for Democracy, Anticorruption, and Dignity) continued its anticorruption activities, although to a lesser extent than in the previous year. Together with the Kosovo Women’s Network (KWN) and the Vetëvendosje movement of Albin Kurti, whose activities diminished after Kosovo’s adoption of the Declaration of Independence, Cohu! mobilized a number of local NGOs to stage protests first against the six-point plan, then against EULEX deployment under the “status-neutral framework.” Cohu! and Vetëvendosje also criticized the government and the opposition in order to avoid being perceived as an extension of the opposition. Vetëvendosje has attempted to redefine its role by taking controversial stances within the existing political system, such as respecting the Kosovo Constitution while criticizing the Ahtisaari plan from which the Constitution derives.

Youth Initiative for Human Rights was very active during the year in monitoring Kosovo institutions for human rights compliance, implementation of antidiscrimination legislation, implementation of the Law on Access to Official Documents, human rights schools, and the ombudsperson selection process.

## Independent Media

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				5.50	5.50	5.50	5.50	5.50	5.50

Freedom of the media in Kosovo is well protected by the legislative framework. There are two independent regulatory institutions in place, the Independent Media Commission (IMC) and the Press Council of Kosovo (PCK). The IMC is Kosovo's independent broadcast regulator, which distributes broadcast and frequency licenses, promotes ethical and technical standards among media, and applies regulations that hold local broadcasters to European standards of professionalism and fairness. The PCK, on the other hand, is a self-regulatory body for print media tasked with advocating for freedom of speech and ensuring compliance with the print code of conduct, to which the majority of print media have committed. However, the media are financially and editorially weak, which makes them susceptible to political pressure and interference.

In a report on the media over the past year, the OSCE accused Kosovo politicians and political parties of regarding the media as a “mouthpiece,” citing an instance where print and broadcast media were ordered by the Office of the Prime Minister to publish free of charge the speech of the prime minister and the government's 145-page report on its first 100 days in office.<sup>1</sup> Also, the OSCE accused the Assembly of Kosovo of increasingly misperceiving its oversight of independent institutions, particularly the broadcast regulator and the public broadcaster. The OSCE claimed that the Assembly has infringed on the independence of these institutions by interfering in internal decision-making procedures and overriding their decisions. Hence, according to the OSCE, the government and the Assembly have shown little understanding of the role of free and independent media in the development of a sustainable democracy.

The dependence of media outlets on politics makes their sustainability and independence questionable, especially when factoring in public advertising as one of the main financial sources for newspapers. In 2008, the government and its agencies accounted for a regular and disproportionate amount of paid advertising in newspapers that were close to selected political parties, while independent newspapers were often threatened with exclusion from such advertising if they published critical reports. Similar pressure was reportedly exercised by the government on the public broadcaster Radio Television of Kosovo (RTK) through financial blackmailing. RTK so far has enjoyed financial stability through a memorandum of understanding with the Kosovo Energy Corporation, which collects the public broadcasting fee for RTK along with electricity bills. But this arrangement makes the public broadcaster entirely financially dependent on the government. Such conditions discouraged critical debate and investigative journalism, reducing the media to a mere reporting/transmitting role.

The Law on Access to Official Documents was approved in 2003, but its practical implementation has been hampered by the Administrative Instruction 03/

2006. This classifies the documents used by public institutions without specifying the criteria and procedures for classification, which public officials use when they restrict the release of public documents. Also, the administrative instruction states that if the official in charge does not have the technical means to reproduce a requested document, he or she is not obliged to give access to it.

Media representatives regularly commented that access to information sources was granted in a self-serving manner by institutions and the international administration in Kosovo and did not correspond fully with democratic standards and practices. It took the new government 10 months to nominate the government's spokesperson, during which time the deputy prime minister from PDK, Hajredin Kuçi, served as a public information officer. In 2008, Kuçi allowed one hour a day to respond to questions of the media.

#### Local Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				n/a	5.50	5.50	5.50	5.50	5.25

Kosovo's Declaration of Independence and implementation of the CSP require the creation of new Serb-majority municipalities, a process that will coincide with the local elections in November 2009. The Assembly of Kosovo amended the applicable legislation on decentralization and adopted a number of new laws: Law on Local Self-Government, Law on Administrative Municipal Boundaries, Law on Local Elections, and Law on Local Government Finance. This new legal framework provides for a large degree of local governance and for more and clearer municipal competences. It also envisages increasing the number of municipalities from 30 to 38, including the pilot municipal units established in 2005.

The three pilot municipal units were established for the government to gain experience in setting up new municipalities. UNMIK Administrative Direction 2005/11 on pilot projects envisaged the establishment of five pilot municipalities: two in Kosovo Albanian-majority areas, two in Kosovo Serb-majority areas, and one in a Kosovo Turk-majority area. However, the pilot municipalities in the Kosovo Serb-majority areas of Gračanica and Partesh never became functional following objections from Belgrade, which sought to be the sole Serb negotiating party for decentralization during the final status process.

Kosovo's new local governance laws were drafted with significant international support, especially from the ICO, while the government participated through working groups. In April 2008, an interministerial working group was established and an action plan for the implementation of decentralization in 2008–2010 was approved. Co-chaired by the ICR (head of the ICO), the working group includes 10 ministries and the Association of Kosovo Municipalities.

The eight new municipalities would include the current three pilot municipal units of Junik, Hani i Elezit, and Mamusha, and five new Kosovo Serb-majority

municipalities of Gračanica, Partesh, Klokot, Verbovac, and Ranilug. Additionally, the municipality of Mitrovica will be split into two municipalities with a joint board: the Kosovo Serb–majority municipality of Mitrovica North and the Kosovo Albanian–majority municipality of Mitrovica South. Novo Brdo is likely to be extended and would thereby also become a Kosovo Serb–majority municipality. Thus the implementation of the new Law on Administrative Municipal Boundaries would affect 11 current municipalities across Kosovo.

On August 14, 2008, the Ministry of Local Government Administration informed the authorities of the three pilot municipal units that they were transformed into fully fledged municipalities and were expected to exercise their functions and responsibilities in accordance with the Law on Administrative Municipal Boundaries. However, to make these municipalities fully functional, new municipal elections are necessary. The Kosovo Serb community, under pressure from Belgrade, is not participating actively in the decentralization process. The nonparticipation of the Kosovo Serb community paralyzes not only the creation of new Kosovo Serb–majority municipalities, but also the progress of decentralization throughout Kosovo, and endangers the implementation of the CSP.

Out of 30 municipalities, 26 are fully functional and report to Pristina. Parallel administrative structures sponsored from Belgrade were strengthened and are operating in most predominantly Kosovo Serb municipalities, including in the fields of justice, education, health care, and the postal service. The situation in Kosovo Serb municipalities was further complicated on May 11, 2008, when Serbia organized municipal elections in 26 municipalities where Kosovo Serbs reside and held them even though they were declared “illegal” by UNMIK and the international community. The radical parties SRS and DSS won the majority in the elections. Before the DS–Social Party of Serbia government was created in Belgrade, former prime minister Vojislav Koštunica and former minister for Kosovo and Metohija Slobodan Samardžić pushed for the establishment of the Assembly of Association of Municipalities of the Autonomous Province of Kosovo and Metohija, which was later joined by DS members. This body assumed the role of speaking for Kosovo Serbs and also voiced a different attitude from that of Serb president Boris Tadić, further extending the intra-Serbian political disagreements in Kosovo.

In July, the government of Kosovo extended the mandates of the five Kosovo Serb–majority municipal assemblies of Shtërpçë, Novo Brdo, Leposavić, Zvečan, and Zubin Potok for the second time. The assemblies were elected in 2002 and granted an extended mandate by former SRSG Joachim Rucker in 2007 after the Serb boycott of Kosovo’s general and local elections. That measure had very little impact on the ground in the northern municipalities, which are currently administered according to the results of the Serbian election of May 11, 2008. Novo Brdo, the only Kosovo Serb–majority municipality with a Kosovo Albanian mayor, continues to function despite a boycott by Kosovo Serbs. Shtërpçë has two competing administrations: a Kosovo Serb administration resulting from the Serbian elections of May 11 and another administration with a Kosovo Serb mayor elected in 2002 with an extended mandate and three Kosovo Albanian municipal

directors, supported by the Kosovo authorities. Many Kosovo Serb municipal civil servants, under pressure from the government of Serbia, have resigned from their posts in order to be included on the payroll of the Serbian Ministry for Kosovo and Metohija.

#### Judicial Framework and Independence

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				6.00	5.75	5.75	5.75	5.75	5.75

The judiciary is considered one of the weakest links in Kosovo's rule of law. This was recognized in Martti Ahtisaari's CSP and the plan to establish EULEX. As a legacy of the previous nine years, Kosovo's body of applicable laws remains a series of divided areas between UNMIK regulations, laws adopted by the Assembly in accordance with the new Constitution, certain former Yugoslav laws, and the laws of Serbia through Belgrade's parallel structures in Kosovo Serb areas, especially in northern Kosovo. This has continued to hamper the delivery of justice, as judges are not always certain of the legal basis for their decisions, and there is no system in place to promote judges and hire new ones. Also, there is an insufficient number of judges and prosecutors in Kosovo.

The Constitution of Kosovo is based on the CSP and explicitly confirms that the provisions of the CSP take precedence over all other legal provisions. It confirms the ICR as the final authority in Kosovo regarding the interpretation of the CSP and does not include any reference to UNMIK. Kosovo's Constitution is fully compatible with EU standards regarding stable democratic institutions, rule of law, human rights and protection, and respect of minority rights, but the implementation of laws remains a chronic problem.

The judicial system of Kosovo recognizes the following types of courts: minor offense courts, municipal courts, district courts, commercial courts, the Supreme Court of Kosovo, and the Constitutional Court, which awaits legislation in order to become operational. In addition, the Kosovo Judicial Council (KJC) is a professional body formerly under the authority of the SRSG and now under the authority of the president. Apart from appointing judges, lay judges, and prosecutors and implementing disciplinary measures for judicial misconduct, the KJC has begun to supervise court administration. Constitutional provisions that require the Assembly to appoint 8 out of the 13 members of the KJC have been criticized by the EU as not being fully compatible with European standards on the independence of the judiciary.

The Assembly of Kosovo approved the following laws between March and May 2008: Law on Jurisdiction, Case Selection, and Case Allocation of EULEX Judges and Prosecutors in Kosovo; Law on Special Prosecution of Kosovo; Law on Kosovo Judicial Council; Law Supplementing and Amending the Provisional Criminal

Code of Kosovo; Law Amending and Supplementing the Law on Execution of Penal Sanctions; Law Amending and Supplementing the Kosovo Provisional Code of Criminal Procedure; and the Law on the Out Contentious Procedure. In December, the Assembly adopted legislation on the Constitutional Court and Kosovo Prosecutorial Council.

The process of electing a Kosovar ombudsperson, which failed in 2006, continued to be a problematic issue in 2008. Following amendments to UNMIK Regulation 2006/06, which provided the legal basis for a Kosovar ombudsperson to be appointed by and report to the Assembly of Kosovo, new recruitment proceedings were initiated at the end of June 2007 that led to a short list of three candidates with no human rights experience: a lawyer, a journalist, and a businessman. The election of the ombudsperson was recalled under international pressure, and a new round of recruitment was initiated in September 2008.

The Ministry of Justice continued to build its capacity in 2008 and drafted a considerable number of new legislative acts in line with its legal reform program. The Coordination Council for Rule of Law, a joint body of the Ministries of Security and Justice and agencies established in October 2007, became operational. The Judicial Investigation Unit (JIU), supervised under UNMIK, continued to examine complaints of misconduct by Kosovo judges and prosecutors and should in time come under the supervision of EULEX. A total of 164 cases were received in 2008, resulting in 73 new investigations. The JIU found misconduct in 87 cases and forwarded these to the KJC.

The AAK leader and former Kosovo Liberation Army (KLA) commander Ramush Haradinaj, who had been indicted for crimes against humanity and violations of the laws or customs of war by the International Criminal Tribunal for the Former Yugoslavia, was acquitted for lack of evidence in April 2008. He then returned to Kosovo and actively participates in politics where his followers hail him as a hero. In contrast, Serbia stated that his release is proof that the ICTY is biased against Serbs and in favor of those who fought them.

There was one conviction on war crimes in May 2008, with 7 war crimes trials involving 14 defendants under way, and 51 other cases under preliminary investigation. Kosovo lacks specific legislation on witness protection that establishes procedures for witness relocation in the most serious criminal cases, and few witnesses are willing to participate in war crimes cases, given Kosovo's size and close-knit social fabric.<sup>2</sup>

Witness protection continues to be weak, especially related to war crimes cases, which are still handled exclusively by a number of international judges and prosecutors, but will be transferred to EULEX.

Kosovo's justice system continued to suffer from a backlog of cases in 2008, with a total of 258,673 unsolved civil and criminal cases pending before municipal and district courts. Also, there is no operational system for the execution of civil judgments. The Supreme Court is the only specialized legal institution for the review of administrative acts, but it has only two judges, and 3,283 cases are pending. Overall, the legislative framework of Kosovo is incomplete, and new laws

on notaries, executive procedure, prosecution, and courts are pending. Additionally, the Office of the Special Prosecutor is not yet fully operational.

### Corruption

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				6.00	6.00	6.00	6.00	5.75	5.75

According to the 2008 EU Commission progress report, corruption is still widespread and remains a major problem in Kosovo. This is due to insufficient legislative and implementation measures, lack of political will, a culture of clientelism, and weakness of the judicial system. The legal framework is inconsistent in the definition of corruption between the Law on Suppression of Corruption and the provisional penal code. A report from the Office of the Auditor General showed unexplained losses in the Kosovo budget of €0.5 million–1.5 million (US\$0.8 million–2 million) per ministry per year. The EU report noted that the anticorruption efforts of the government were insufficient in 2008. Nevertheless, some steps were taken to combat corruption.

The government launched the Anticorruption Strategy in December 2008, but the action plan has yet to be adopted. Also, the Assembly of Kosovo approved the Law on the Prevention of Conflicts of Interest and Law on the Declaration and Origin of the Property of Public Senior Officials but has yet to approve the final draft Law on the Declaration of Assets.

The Anticorruption Agency of Kosovo (AKK) is an independent body and the main institutional instrument for preventing and fighting corruption as well as coordinating anticorruption policies in Kosovo. It was established in 2006 based on the Law on Suppression of Corruption, which also provides for AKK's financial independence through a separate line in the state budget. The work of the agency is monitored by the AKK's Anticorruption Council, composed of nine members (three appointed by the Assembly, one by the president, one from the government, one from the Supreme Court, one from the Office of the Public Prosecutor, one from local government, and one from civil society), but the council does not have a clear role according to the EU. Further, since members of the council are also staff members in other institutions that the AKK monitors, this leaves room for conflicts of interest and political interference in the agency's work. In 2008, the AKK was fully staffed and received sufficient financial resources, as well as external advisors to strengthen its capacities. However, low salaries leave officials vulnerable to corruption and political interference, while insufficient personal security measures expose them to intimidation.

Nevertheless, the AKK continued to carry out its tasks; it investigated 146 cases and submitted 53 cases to the prosecution, which initiated 7 criminal proceedings. In the area of conflicts of interest, the AKK intervened in 45 cases from January to

December 2008, while in April and at the end of 2008 the agency published a list of officials who had not declared their assets. Later, it requested that the institutions employing 14 officials who still had not declared their assets begin dismissal procedures, all of them from the Kosovo Serb community. This request has thus far been ignored. The agency also investigated 20 cases of corruption, out of which in 5 cases it prevented corruption in the amount of €3.6 million (US\$ 4.76 million) and 11 cases were pending further investigation.

Serbia, through parallel institutions, began an “anticorruption” campaign in the Serb settlements in Kosovo. This move by Belgrade was seen more as pacification of political rivals in Serbia and opposition to Kosovo Serb voices than as an actual anticorruption campaign. At the end of November 2008, Serbia arrested Milorad Todorovic, a prominent but moderate DSS activist in Kosovo, for embezzling over €15,000 (US\$19,950) while serving as a political adviser to the Ministry of Kosovo and Metohija when the ministry was controlled by DSS. While Serbia’s president, Boris Tadić, indicated he would arrest Marko Jakšić and Milan Ivanović, Serb radicals in northern Kosovo on charges of corruption, Belgrade took no concrete steps to neutralize the two during the year. Instead, it began a campaign to silence dissenting voices in Serb settlements in Kosovo that oppose Belgrade’s policies and cooperate with the institutions in Pristina.

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<sup>1</sup> OSCE Kosovo Background report, *Human Rights, Ethnic Relations, and Democracy in Kosovo* (summer 2007–summer 2008).

<sup>2</sup> Kosovo (under UNSCR 1244/99) 2008 Progress Report, November 11, 2008. See also: [http://www.delprn.ec.europa.eu/repository/docs/kosovo\\_progress\\_report\\_en%5B1%5D.pdf](http://www.delprn.ec.europa.eu/repository/docs/kosovo_progress_report_en%5B1%5D.pdf).