

# **STATE OF CONSTRICTION?**

## **Governance and Free Expression in Kosovo**

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Youth Initiative for Human Rights

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## EXECUTIVE SUMMARY

Kosovo society is intimidated, though now more resigned than fearful. Instead of providing an arena for an active and uninhibited citizenry to foster the common good, guiding and participating in the decisions of government, the public sphere is made to seem a forbidding place. There is a lack of a vibrant culture of association. A sense of citizenship, of having and exercising rights, and of ownership is meagrely developed. International oversight presences partially substitute for Kosovo society's minimal ability to hold its own institutions to account.

Kosovo's sponsors and overseers have often given precedence to short-termist "no news is good news" stability over steps towards healthy development that are confrontation-laden. Kosovo's stability is of "a frozen condition," not genuinely a reflection of reality on the ground, but of a huge investment of political will in maintaining it. The international presence has also limited debate, exerting a form of civilising suppression, pushing for what the philosopher Žižek dubbed a "decaffeinated" nation.

The formal architecture of institutions expected of a modern European state is near complete, yet its timbers are warping from within. The main governing party's dominance was used in Kosovo's first two years to hollow out institutions, boards and media that are supposed to provide checks and balances to executive power. Parliament does not hold the government to account. Kosovo's constitution attempts to guard the public sector and sphere from invasion by political interests through quarantining its institutions from them with independent boards, staffed by impartial professionals. Yet the government has become adept at subverting them, while maintaining their formal facade of independence.

The government has grown hungrier for tighter control and for shaping and micro-managing the news agenda. It has clashed with independent journalists. It took greater control over the public broadcaster RTK, and government advertising is skewed away from critics toward little-read papers run by its partisans. The government tries to disarm critics by, for example, buying off investigative journalists. There is direct calling and text-messaging of editors. Threats are used. Government leaders have claimed to have put reporters under surveillance.

Relations between the government and liberal media and NGOs have deteriorated. A government-backed tabloid newspaper has mounted campaigns of unrestrained abuse and threats. Its ideas came to influence the official approach of the government towards its critics. By March 2010, it was labelling NGO and journalist critics of corruption as "anti-state." The government proposed a new tightening of the law on NGOs.

Public service for a newly created state should be a field permitting of idealism. It should be a point of rendezvous at which people can exercise their professionalism for the public good. But client-patron networks, and arbitrary hiring and firing practices corrode the ideal of public sector ethos. Professionalism is unable to consolidate in the civil service. Servility, conformism and silence are the qualities gaining hold. Competent officials even come under attack from political circles. Professional expertise, identity and pride are paper-thin. Strengthening professionalism will be crucial to the state's success.

Kosovo's political arena should allow for a free contest of ideas, and for representation of its large contingent of youth. However, established parties operate more like "private businesses," handicapping the entry of newcomers to the political scene. 90% of the Kosovo Albanian political spectrum professes itself to be "centre

right.” In reality, political ideology still has a weak role, “or not at all.”

At present, Kosovo’s political parties function to channel power and patronage over state resources to leaderships that are difficult to hold accountable or dislodge. They overwhelm public and state institutions. Such institutions must be liberated and reclaimed for the public interest. Political success in Kosovo is highly dependent upon command of money, networks of militant supporters, and influence over administration.

The recent local elections process did not fully overcome the pressures subverting so much else in the public realm. Voters, polling station staff and observers were intimidated by groups of party political militants. By the December runoff, parties were accusing each other in real time of deploying militants. One admitted use of its own thugs to “defend” votes. At polling station, polling centre and municipal aggregation level there were often insufficient normative pressures upon staff to help them uphold their professional duty. Politically-appointed school directors, who managed polling centres, were a weak link. The CEC demonstrated that it was not able to determine a result in any municipality where there was a close call.

Former Communist countries that have been the most successful in transitioning from centralised command economies have attracted much foreign investment and have allowed a diversity of companies to emerge; pressure for legal and administrative reform has in turn been sustained by this diverse, growing constituency. Strong civil society is usually rooted in a commercial society, with a stake in the creation of change, in mild healthy tension with the world of politics. But this is failing to happen in Kosovo.

Instead, the economy is dominated by a few large public and private companies, intertwined with the political elite, and ownership of key assets appears to be concentrating, not diversifying. Politicians are positioning themselves to reap benefit and

cement their influence: marking a gradual expansion of political power into the economy. Rather than achieve a greater opening to the outside world for its citizenry, Kosovo’s political class seems too well adapted to the new state’s condition of semi-isolation, and to making a living from appropriation of a share of that captive citizenry’s limited wealth.

Meanwhile unemployment is estimated at 40-48% and youth unemployment at 74%, and rising. Sustained high growth rates of at least 7% for the next 10-15 years just to halve unemployment down to circa 20-25%. Current projected 4% growth in the economy arises from an unsustainable increase in government capital spending, not so far from private sector dynamism.

However, the government does not appear to regard efficient economic policy-making as a matter of political survival. Instead, state power is used to prey upon sources of wealth. The political elite’s commitment to promoting full-blown market competition is half-hearted. The elite does not want to loosen its grip upon the levers of patronage available in a more rigged economy, and it appears confident that present methods can return it to power in future elections.

Instead of directing time and effort into development, in 2009 many businesses and the Kosovo Chamber of Commerce had to invest in fighting off predatory government initiatives. In the name of quality control these initiatives aimed to create monopolies. The government appears to have superseded its withdrawn proposal for a monopoly on meat importation with informal control and illicit taxation over some meat imports -- converting what started as official imports into unregulated ones. The government has now acknowledged the need for wholesale reform of its approach to licensing: “We need to create opportunities for businesses, not obstacles.”

Public sector largesse is used to recruit and reward supporters. Governance of public companies,

always problematic, has also become significantly more arbitrary in the last two years. Government-favoured “political companies” are in the ascendant in several sectors – many of them previously tiny or newly formed firms whose turnover has shot up overnight into tens of millions of euros on the back of public sector contracts. This stunts the growth of professionalised, competitive businesses, lessening their ability to build sustainable employment.

With governmental capital spending tripling in the last two years, the management of public procurement became more arbitrary. Many procurement professionals were replaced, especially in 2009, usually with less or non-qualified people, more dependent on political masters. Insiders assert that everything in public procurement is manipulated, from selection of the winner, twisting the contract criteria, to adding annex contracts. Very often the announced tender winner is one of the more expensive bidders. Ordinary firms fear to compete with the “chosen” ones, retreating from promising tenders in order to avoid trouble.

The international oversight presences and Western embassies substitute for the corrective power of public opinion and civil society upon the government. Yet the brokerage of the diplomats has perpetuated civil society’s weakness and dependency, their own interventions are more selective than domestic actors’ might be, and chime with their priorities and interests, which are not always Kosovo’s.

EULEX has held the monopoly on organising high level corruption, organised crime and war crimes investigation. With the EU’s October 2009 Progress Report headlining Brussels’ alarm about government corruption and organised crime, EULEX’s action or inaction has become the determinant of Kosovo’s direction. Some might see a “surgical” intervention upon Kosovo’s body politic, in the form of indictment of high officials for corruption as an opportunity allowing space for

new political movements to grow. For, Kosovo’s present form of stability is of a brittle, stifling and constrictive variety.

## INTRODUCTION

Kosovo, the newest state in the world, is sandwiched uneasily between hyper-democratic blueprints for its governance decreed by international bodies and its own underdeveloped and conflict-ridden inheritance. Its situation is further complicated by the contested nature of its independence and the fingerprints of its supervisors: Kosovo follows a UN-devised state-building formula without that body's endorsement, dependent instead upon a coalition of Western states, whose sponsorship of Kosovo independence was calculated to prevent renewed conflict on the European Union (EU) and NATO doorstep, who do not entirely trust their protégé, yet encounter the moral hazard of protecting it on the international stage.

What sort of state "DNA" is forming from this odd mix: where on one hand European Union police control the investigation of organised crime and corruption, the US ambassador is an informal viceroy, and on the other a government-backed newspaper can issue an apparent death threat to a journalist with near-impunity? Is Kosovo consolidating democracy, or is the sum of its political class's appetites, social and economic dynamics, and international supervisors' day-to-day pragmatic calculations leading it elsewhere?

This report sets out to examine Kosovo's governance using the lens of freedom of expression. Are institutions and social and economic processes increasing or contracting its possibilities? Are citizens at large, and not only in the bellwether profession of journalism, free to exercise their conscience and judgment – whether in the state or private sector, whether bureaucrat or businesswoman? For, Kosovo's professionals will in turn determine the state's viability.

As war and ethnic cleansing were what made Kosovo an international ward since 1999, the territory is most often viewed as a conundrum of inter-ethnic division; indeed the "Ahtisaari" state-building plan is dominated by constitutional arrangements designed to protect the Serb and

other ethnic minorities. Nevertheless, for this report we have chosen to concentrate on the experience of Kosovo's 90 per cent ethnic Albanian majority. Not in order to suggest that inter-ethnic and territorial problems are over, but because attention to Kosovo's very real Albanian-Serb divide too often has the side-effect of blurring scrutiny of social, economic and political processes experienced within linguistic or ethnic boundaries. These are what occupy the centre stage of people's lives: inter-ethnic conflict or cooperation is arguably their side-effect.

Given that YIHR is a regional network of NGOs in Kosovo, Serbia, Croatia, Bosnia and Montenegro, and that it is in the nature of human rights reporting to focus upon problems, we feel it may help to orientate the reader to state from the outset that YIHR welcomes, recognises and supports the independence of Kosovo: a necessary foundation upon which democracy and freedoms for its people can be built. UN administration could not provide this, nor has Serbia shown genuine desire to; even if it did, its appalling record of rule in Kosovo in the 1990s has closed this possibility. The only route presently available to Kosovo to consolidate the right of free expression is through improvement of the institutions and economy of the state born in February 2008, and its wider recognition and acceptance.

Some of that recognition still hinges upon the advisory verdict due later this year from the International Court of Justice on the legality of Kosovo's declaration of independence. Expectation of that verdict is chilling scrutiny of Kosovo's governance. Pressure to postpone unwelcome findings is being exerted and felt by Kosovo's government, sponsors and civil society alike. To pre-empt any criticism that may greet a report as frank as this one sets out to be, YIHR wishes to make clear that it rejects this "hushing" logic. To bottle up problems inside Kosovo, allowing processes that may be harmful to accrue unchecked, is too high a price to pay.

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## THE HEALTH OF THE PUBLIC REALM

Kosovo society is intimidated, though now more resigned than fearful. Instead of providing an arena for an active and uninhibited citizenry to foster the common good, guiding and participating in the decisions of government, the public sphere is made to seem a forbidding place, the property of the powerful, where individuals without strong backing should tread carefully.

### Texture of the public sphere

The expulsion of Serbian forces and administration in 1999 removed existential danger and dread for the 80 percent plus Albanian majority, and was a prerequisite for any life at all to grow in the public territory that mediates between individuals and government. But upon the mass return of the displaced majority from summer 1999, much of that territory was quickly occupied by:

- a) A “provisional government” formed - without Kosovo’s largest political force the Democratic League of Kosovo, LDK - by the leadership of the Kosovo Liberation Army, KLA, which put its cadres in control of public enterprises. Its period of rule, parlayed into a joint administrative structure by the UN in early 2000 and rejected by a massive popular vote for the LDK in October of that year, was marred by intimidation and fear, racketeering, killings of Albanians, Serbs and Roma alike, and mass arbitrary takeover of properties. Mystery killings of public figures continued beyond this period into the mid-2000s, as did the operation of the KLA’s security structure SHIK, and this

circle’s influence over public enterprises, businesses and properties.<sup>1</sup>

- b) International stewardship: the United Nations Interim Administration in Kosovo (UNMIK) took power back from the provisional government in 2000 and gradually delegated it thereafter to an elected but subordinate provisional administration, while UNMIK answered to New York and not to Kosovo’s electorate. The mission’s inculcation of democratic values was undermined by its own dead hand: incapacity to foster Kosovo’s economic development, undemocratic rule and inability to make way for self-rule in the absence of a change in UN Security Council policy. This made the UN insensitive to everyday processes of citizen engagement and public opinion. Instead, it responded to explosions of mob violence or their threat, which were often either orchestrated or permitted by Kosovo’s leaders: criminal proceedings against the latter were often halted for fear of disorder and the March 2004 mass riots were arguably the essential stimulus that led to the grant of supervised independence in early 2008.<sup>2</sup>

Both these post-war takeovers have left their legacy, weakening the public sphere of the conditionally independent new state, which in any case retains a strong imprint of assumptions about the citizen-government relationship carried over from the Communist era. Kosovo’s isolation in the 1990s and the LDK, the movement and subsequent party that occupied most of the Albanians’ political landscape from 1990 until 2007, contributed to this. Habits of deference to leaders and precedence of authority over argument (a

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<sup>1</sup> See Nicholas Wood, “Kosovo Gripped by Racketeers,” BBC, 5 April 2000: <http://news.bbc.co.uk/2/hi/europe/699175.stm>, and International Crisis Group Balkans Report No. 88 “What Happened to the KLA?” 3 March 2000.

<sup>2</sup> See International Crisis Group Europe Report No. 144 “Collapse in Kosovo,” 22 April 2004.

society that: “believes but does not think”<sup>3</sup>) are slow to shift.<sup>4</sup>

Both takeovers have also carried forward, in milder form, into the structure of the new state: although the UN has been sidelined, the US and other embassies of “The Quint,”<sup>5</sup> the International Civilian Representative (ICR: established under the Ahtisaari Plan),<sup>6</sup> and the EU (notably through its 2,000-strong EULEX rule of law mission, vested with formal powers of intervention and substitution, but also through the European Commission Liaison Office and EU Special Representative, who doubles up as the ICR) exercise both formal and informal power.

The government, controlled to late 2007 by former KLA commander Ramush Haradinaj, has been led since January 2008 by his rival, the former head of the “provisional government” Hashim Thaçi, whose administration could be seen as a limited restoration of that first 1999 provisional government, at last furnished with a popular mandate.

Government in Kosovo cocoons itself in “keep out” signs: powerful big black cars with darkened windows and coteries of armed private bodyguards. Parliamentary exchanges are often rough. The rhetorical range of its leading politicians runs from wooden, abstracted, hypocritical and pretentious to frequent use of menacing and violent expressions.<sup>7</sup>

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<sup>3</sup> Interview, Halil Matoshi analyst, *Koha Ditore*, 4 November 2009

<sup>4</sup> Interview, Nexhmedin Spahiu, director, TV Mitrovica, 10 March 2010. “In our tradition, the authority sits near the hearth. His argument is valid whether logical or not. If you are sitting near the door you could be as bright as Isaac Newton, but you’re a nobody.”

<sup>5</sup> The five Western members – US, UK, Germany, France, Italy – of the former Contact Group, which included Russia and cooperated to resolve conflict in the Western Balkans.

<sup>6</sup> The Ahtisaari plan is composed of a report proposing that Kosovo’s status be independence, initially supervised by international bodies, and a Comprehensive Proposal for the Kosovo Status Settlement, detailing the territory’s internal arrangement.

<http://www.unosek.org/unosek/en/statusproposal.html>

<sup>7</sup> Many of Kosovo’s parliamentary debates could be cited. See the debate of 4 March, 2010, for example. Faton Ismajli, “Fyerjet parlamentare” [Parliamentary insults], *Express*, 5 March 2010.

Kosovo’s opposition parties fail adequately to challenge the government, create discussion or air issues. Both at central and municipal levels parties not in power show ambivalence about their role in opposition; backstage deals often prevent issues from being publicly debated. In Ferizaj municipality, after being consigned to opposition in late 2007, the Democratic League of Dardania, LDD, flirted with the Democratic Party of Kosovo, PDK, administration through 2008, breaking the silence in the municipal assembly only with “hinting questions” on key issues in 2009.<sup>8</sup> Although parliament is meant to keep the government accountable, in autumn 2009 International Civilian Representative (ICR) Pieter Feith suggested that it is the government that controls the assembly.<sup>9</sup> Assembly members dare not trust its email system, “Most... are scared, feel unprotected,” particularly fearing the government’s ex-KLA commanders.<sup>10</sup> A minister directly threatened the head of an Assembly committee to prevent it from questioning him.<sup>11</sup> Proposals for parliament to debate any hot topic of the day either come to nought or happen only after much negotiation and delay.

Instead, much of the space of political debate is sequestered by the bitter hostility between Prime Minister and PDK leader Thaçi and Alliance for the Future of Kosovo, AAK, opposition leader and former Prime Minister Haradinaj. This is sometimes so heated that it appears to risk developing into physical confrontation between their two camps. After a burglary at his house in June 2008, Thaçi tarred the AAK as “assailants of the night” and in a press release dedicated his government to the “struggle against evil.”<sup>12</sup> In July 2009, some PDK politicians blamed the AAK for

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<sup>8</sup> Interview, Afrim Demiri, Ferizaj correspondent, *Koha Ditore* 12 December 2009.

<sup>9</sup> Addresses to the European Parliament, 1 September 2009, and to the Foreign Policy Club conference on the EU Progress Report, 16 October 2009.

<sup>10</sup> Interview, parliamentary deputy, 26 February 2010.

<sup>11</sup> *Ibid.*

<sup>12</sup> The intruder was an apparently unarmed burglar who may not have known whose property he had entered. He has nevertheless been charged with attempted murder of the Prime Minister, who was out of the country at the time.

an attack on the government building that was actually the work of KLA veterans, which involved two hand grenades, several Molotov cocktails and gunfire.<sup>13</sup> A month earlier, Haradinaj and the PDK deputy minister of transport and telecommunications Adem Grabovci publicly traded detailed accusations of graft and racketeering.<sup>14</sup> The PDK's official comment was: "Death threats and blackmailing are not part of democracy. Votes cannot be won through bullets."<sup>15</sup>

In fact, the paramilitary side of both former KLA parties has boosted their political leverage in successive government coalitions with the LDK. Before its vote halved in November 2007's election the LDK never held the post of prime minister, despite gaining over 45% of the popular vote, always ceding it to one of the KLA parties. Haradinaj pulled the strings of government from 2004-2007 even though his party, the AAK, polled only 10% of the votes. The PDK now dominates government with its 33% of the vote in a way the LDK never could with 45%. The latter is now a passive junior partner to the PDK in government.

PDK dominance was used in Kosovo's first two years to hollow out institutions, boards and media that are supposed to provide checks and balances to executive power in the new state by means of their independence, professionalism and impartiality. Public enterprise boards were filled with "people who are prepared to implement the policies of the ministry or government," acknowledged transport and telecommunications

minister Fatmir Limaj.<sup>16</sup> A sustained government effort is underway to subsume the public sphere, retaining institutions' outward forms yet rewiring them from independent guardianship of the law and the common good into conductors of the will of the Prime Minister and his circle. "Custodians of the state feel like its owners."<sup>17</sup> These institutions are seen as tools with which to deepen and lengthen the hold on power. At central level, the PDK leadership no doubt fears that if it does not occupy such public spaces while it can, its political opponents will do so later, since opposition parties behave similarly in the municipalities they control.

For many individuals, the legacy of alien rule and of state machinery being used against them makes for confusion about whether they should lend the state their support. There is confusion about whether the function of the state is to expand rather than contract peoples' sphere of freedom. The Anti Corruption Agency finds that people are struggling with the notion that giving information to a state agency is patriotism, not treachery,<sup>18</sup> and economic operators with experience of the 1990s "cheat ourselves now by fiddling the state."<sup>19</sup> The confusion is compounded by a perception that the government itself steals so much that it too does not seem to consider it "our state."<sup>20</sup> Unless you are powerful, attempting to uphold state legality is thankless as this will be turned against you. Such was the conclusion of the small Ora party's Peja mayoral candidate after he objected to the locally powerful Dukagjini company extending the town's Metohija hotel without a building permit. The municipality's ruling AAK party put out the message that everybody's home was at risk of demolition if Ora's candidate won.<sup>21</sup>

<sup>13</sup> Kastriot Jahaj, "Veteranët në 'luftë' – Qeveria do t'i ndëshkojë" [Veterans at "war" – Government will punish them], *Koha Ditore*, 17 July 2009.

<sup>14</sup> Comments from disappointed observers included: "Political parties should be the promoters of society's democratization, while these two parties (PDK-AAK) became a generator of the language of violence and threat in public life," Ilir Deda, director, KIPRED think tank, RTK television 21 June 2009; "The verbal clashes between AAK leader Ramush Haradinaj and Deputy Minister of Telecommunications Adem Grabovci are a verbal repression for Kosovo society," Halil Matoshi, *Koha Ditore*, 24 June 2009.

<sup>15</sup> Press release, 18 June 2009.

<sup>16</sup> Interviewed in Arbana Xharra "Qeveria duhet të ketë njerëzit e saj në bordet e ndërmarrjeve publike" [The government must have its people in the public enterprise boards], *Koha Ditore*, 25 April 2008.

<sup>17</sup> Interview, Erolld Belegu, businessman, 18 December 2009.

<sup>18</sup> Interview, official, Anti Corruption Agency, 15 December 2009.

<sup>19</sup> Interview, Erolld Belegu, businessman, 18 December 2009.

<sup>20</sup> Ibid

<sup>21</sup> Interview, Gazmend Muhaxheri, 15 December 2009.

A residue of fear, lack of the habit of civic participation, and scepticism about results inhibit active citizenship.<sup>22</sup> Widespread post-traumatic stress from the 1998-9 conflict with Serbia may have contributed to this.<sup>23</sup> The character of Kosovo's national leadership also gives people pause: the present government's reflex is to clamp down upon criticism, its behaviour mildly recalling its 1999 provisional forbear. Similarly, a trail of murders in west Kosovo made many wary of the former government's *eminence grise* Haradinaj. People are vaguely aware of the presence of informal security networks. Although Albanians, Serbs and other minorities alike have begun to put the welter of unsolved post-war killings behind them, its social legacy remains. A former SHIK foot-soldier's November 2009 confession to have participated in beatings and murders briefly made 1999 vivid again; the former KLA establishment associated with the PDK rushed to deny his claims.<sup>24</sup>

The net effect is that most citizens still deem it safest to stay silent, not get mixed up in things, and shy away from public action. A resident of a central Prishtina apartment block struggled to collect neighbours' signatures against the takeover and commercialisation of their parking area by a KLA veteran serving in the police, and was threatened and falsely arrested.<sup>25</sup> People conclude from events like this that natural justice is absent, that the state will pervert the official mechanisms of redress.<sup>26</sup> Citizens volunteer information to investigating authorities when they see precedents

that grant them "permission;" arrests of doctors and suspensions of police in 2008 stimulated a flurry of similar denunciations to the Anti Corruption Agency.<sup>27</sup> When one group of public sector workers summons the nerve to strike, the others join in, perceiving safety in simultaneous action.<sup>28</sup>

Segments of Kosovo society are vulnerable to blackmail. The 1998-9 war was fought mainly in the countryside; the urban population was more passive and suffered less devastation. A faint suspicion that they behaved like Quislings hangs over some urban populations,<sup>29</sup> which nevertheless look down on their rural counterparts and new urban migrants. In previous decades the lives of the former were intertwined with Serbia and Serbs. Tens of thousands of Kosovo Albanians still obtain and use Serbian passports, many retain Serbian connections. The business class is still dominated by importers and service providers who made compromises with the Serbian regime in the 1990s. The ageing judicial class contains many who tried Albanians for political crimes in the 1980s. Both these and many others from different professions who fell into collaboration with Serbia's security services in the 1990s can be controlled. SHIK has been positioned as blackmail's gatekeeper.<sup>30</sup> In addition to files on people's pasts, evidence of homosexuality and covert recordings of liaisons with prostitutes or Serbs are other reported tools.<sup>31</sup>

The extent to which people can participate in the public sphere is geographically differentiated:

<sup>22</sup> Sociologist Ardian Gola's comments, Klan Kosova TV, 15 September 2009.

<sup>23</sup> See J. Ahern et al, "Gender, social support and posttraumatic stress in postwar Kosovo," November 2004, <http://www.ncbi.nlm.nih.gov/pubmed/15505520>.

<sup>24</sup> Nazim Billaca, a former geography teacher, recorded a 30-minute DVD confession which was presented to parliament and media by two LDD deputies. Deputy interior minister Fatmir Xhelili was among those he alleged ordered the murders, a decade ago. On 29 November 2009 he gave an impromptu press conference on the street outside parliament again confessing to murder, and was arrested the following day. Over the next two weeks the government and its media supporters variously suggested that Billaca was mad, a blackmailer, a liar, and that Serbia put him up to the confession.

<sup>25</sup> Interview, official, international NGO, November 2009.

<sup>26</sup> Interview, international adviser to a state regulator, 18 December 2009.

<sup>27</sup> Interview, official, Anti Corruption Agency, 15 December 2009.

<sup>28</sup> In late January and early February 2010 police, healthcare staff, civil servants, court administrators, prison guards and even taxi drivers protested.

<sup>29</sup> Rural and urban Kosovo have accordingly provided two opposite icons of the independence struggle: Adem Jashari who perished together with dozens of his extended family and neighbours in doomed armed resistance, and Ibrahim Rugova whose resistance was passive, and who survived the war by granting Milošević the propaganda coup of a joint appearance at the height of the ethnic cleansing campaign.

<sup>30</sup> A revealing release of files was the dossiers on LDK people the PDK gave police in early 2005.

<sup>31</sup> Interviews: Halil Matoshi, analyst, *Koha Ditore*, 4 November 2009, Faik Ispahiu, Internews, 10 March 2010.

Prishtina has the highest concentration of media, liberal thinkers, and international presence. It and other larger towns have newspaper distribution, a wider range of TV channels via cable, and crucially a more regular electricity supply. As an indicator, Lesbians and Gays form a discreet community in Prishtina,<sup>32</sup> in one of the larger provincial towns “there are two people everyone knows... they don’t have problems,” but Gays “would get killed” in a small town like Kaçanik.<sup>33</sup>

Out in the provinces power can be wielded more thuggishly,<sup>34</sup> abuses are more blatant.<sup>35</sup> There, family interconnections are tighter, exerting a greater brake upon freedom of expression.<sup>36</sup> Newspapers covering the money-laundering trial connected with the legal defence fund of AAK leader Haradinaj disappeared from newsstands in AAK-run Peja.<sup>37</sup> Police abetted a campaign of assaults upon studio staff of TV Mitrovica when it re-opened after being forced in late 2007 to close for a year.<sup>38</sup> Few local NGOs dare to antagonise municipal authorities.<sup>39</sup> Some donating organisations inadvertently abet such conformism, by making a cooperation agreement with the

mayor a condition of funding.<sup>40</sup> Most local media stay in a comfort zone, and are passive, partly because they are dependent on municipality and local business advertising, and in tendering for service contracts the most servile tend to win out.<sup>41</sup> After firing a journalist for posing the Prime Minister’s spokesman awkward questions,<sup>42</sup> the director of Prizren’s TV Besa justified this by maintaining that it is not for local media to challenge central government.<sup>43</sup> Newspaper *Koha Ditore*, which has a network of municipal correspondents, reinforces those working in tough municipalities like Vitia, Skënderaj or Malishevo by sending a reporter from Prishtina to help with any controversial story.<sup>44</sup>

Skënderaj’s physically commanding PDK mayor Sami Lushtaku epitomises this divide. Opposition, civil society groups and media have to walk on tiptoe,<sup>45</sup> the law is only sparingly applied to him.<sup>46</sup> Under Skënderaj’s *Pax Lushtaka*, he polls 90 per cent of the vote. Crime figures are low, and he has brought massive government infrastructure spending to this desperately poor municipality.

<sup>32</sup> Nevertheless, very few feel safe in coming out. A 2008 documentary film about the problems of Kosovo’s gay community disguised participants’ identities.

<sup>33</sup> Interview, director, NGO, October 2009. Law enforcement bodies have not classified any murders of recent years as homophobic, yet a Lesbian activist stated knowledge of three in the last four years: two in Prishtina and one in Ferizaj. Correspondence, 20 May 2010.

<sup>34</sup> Some mayors appear literally to get away with physically beating people, who do not complain to the police. Ibid.

<sup>35</sup> Researchers for a series of televised town hall debates found that in day trips from the capital, they could gather abundant information of abuses in most municipalities. Interview, Jeta Abazi, *Jeta në Kosovë*, 2009.

<sup>36</sup> The LDD branch president in Skënderaj said of Mayor Lushtaku: “It is not that I am afraid. He knows that I am openly against him, I am the president of the party branch here. He is on the other side, but conflict with one’s brother-in-law leads to conflict with the mother-in-law, and ends with conflict with the wife,” *Jeta në Kosovë*, RTK, 28 May 2009. INPO cited as typical a different, small central Kosovo municipality where “everyone in power is related, nothing is really discussed, and all is hushed up,” interview, Albulena Sadiku, 30 October 2009.

<sup>37</sup> Correspondence from BIRN’s municipal monitoring network, 29 January 2010.

<sup>38</sup> Interviews, Nexhmedin Spahiu, director, TV Mitrovica, 10 March 2010, two studio staff, 28 April 2010. See Independent Media Commission statement, 13 February 2009.

<sup>39</sup> Gjilan NGO KCIC came to a briefing GAP Institute had requested on the municipality’s five main problems together with the mayor’s brother. Interview, Agron Demi, GAP Institute, 30 October 2009.

<sup>40</sup> Ibid.

<sup>41</sup> Interviews, Albulena Sadiku, INPO, 30 October 2009 and Afrim Demiri, Ferizaj correspondent, *Koha Ditore*, 12 December 2009.

<sup>42</sup> Journalist Jeton Llapashtica said the director of the station later told him: “You shouldn’t have asked him that question because you provoked him very much. We shouldn’t taunt the government people. They give us advertisements.” Lawrence Marzouk, “BIRN Show Triggers Row on Freedom of Speech in Kosovo,” *Balkan Insight*, 11 June 2009.

<sup>43</sup> Besa TV director Muhamer Fusha, interviewed on *Jeta në Kosovë*, RTK, 28 May 2009. “He said it was the national media’s job to tackle the bigger issues, and argued that Llapashtica was dismissed for his general performance, though added that ‘being critical is not in the best interest of a local TV station.’” Ibid.

<sup>44</sup> Interview, Agron Demi, GAP Institute, 30 October 2009.

<sup>45</sup> The dynamic was evident in the *Jeta në Kosovë* Skënderaj November 2009 municipal election debate, RTK. An LDD activist was allegedly beaten up and hospitalised on polling day, 13 November 2009; no police action followed. The radical *Vetëvendosje!* movement cannot organise in the Drenica region’s Skënderaj and Drenas municipalities, due to pressure from the local (PDK) power structures. Interview, Glauk Konjufca, *Vetëvendosje!* activist, 12 May 2010.

<sup>46</sup> When he was convicted in May 2008 to a four-month prison sentence for molesting and threatening a judge in 2006, criticism of him and demands for his resignation as mayor were constrained. It was left to him to volunteer to go to prison, which the government evaluated as a “courageous act” of “self-sacrifice.” Kastriot Jahaj, “Sami Lushtaku në burg për kërcënim të gjykatësit” [Sami Lushtaku in jail for threatening a judge], *Koha Ditore*, 9 May 2008. There were additional cases, in which he was found to be in illegal possession of a firearm, which were not taken further.

However, he appears to distribute this largesse arbitrarily.<sup>47</sup> Skënderaj's schools score suspiciously high in national tests introduced three years ago,<sup>48</sup> as a result of which a disproportionate number of its pupils secure places at the University of Prishtina. A Prishtina TV crew delving into the municipality's affairs was chased away at gunpoint in early 2009. The damning report's broadcast in May 2009 triggered a backlash, including degrading insults and threats from Skënderaj society and PDK-allied tabloid media.<sup>49</sup> Some saw condescension in the TV show's presentation: "As if they came from Paris, not Prishtina,"<sup>50</sup> the inflow of resources Lushtaku has brought deprived Skënderaj allowing most there to "breathe freer,"<sup>51</sup> a factor outweighing metropolitan conceits of freedom.

Nevertheless, the state of citizen activism is far from universally grim. Despite its lack of results, the number of citizen complaints to the Anti-Corruption Agency rose 35% in 2009.<sup>52</sup> Liberal media and metropolitan NGOs are volubly impatient for EULEX to indict corrupt ministers:<sup>53</sup> whether this reflects a wider mood is unclear. Young entrepreneurs in Peja organised a protest against law enforcement bodies' failure to protect their clubs and cafes from shooting incidents;<sup>54</sup> meat importers mounted an effective campaign to reverse a bizarre government directive that would have monopolised Kosovo's entire food import to

one favoured foreign company.<sup>55</sup> Amid the dismal litany of public enterprise and oversight boards that have fallen under political control, and of private businesses either cowed into silence about government abuses or complicit in them, organisations like Kosovo's Chamber of Commerce have retained credible, professional leadership. Exasperation in the healthcare sector has led to a revival of trade unionism, resulting in amalgamation of unions behind newly elected, activist leadership in March 2010; this could spread. Media that have not fallen under government influence, and even sections of those that have, are growing bolder; debate has enlivened across several TV channels, and in new media such as Facebook.

### The party political world

Kosovo's political arena should allow for a free contest of ideas, and for representation of its large contingent of youth, without barriers to the formation and success of political vehicles. However, the established parties appear more like clientist interest groups, hierarchically controlled by unaccountable leaderships, lacking forums of debate and lines of horizontal communication within, and able to handicap the entry of newcomers to the political scene. The interlinked interests of their leaderships in power and money, and their need to keep their client networks sufficiently fed, occupy the political space, displacing ideas. "Our parties are all privately owned businesses. The PDK is the biggest and has multiple shareholders... the takeover of the LDK is still being contested... Others have a single shareholder."<sup>56</sup>

The LDK, LDD, AKR and AAK have labelled themselves "centre right," without having any policies that would mark them out as such. Having

<sup>47</sup> Citizens interviewed in *Jeta në Kosovë*'s field report alleged that several road contracts were awarded prior to tender or retendered repeatedly. RTK, broadcast 28 May 2009.

<sup>48</sup> Berat Buzhala, editor of *Express* newspaper, challenged education minister Enver Hoxhaj to acknowledge mass cheating in Skënderaj. Klan Kosova TV debate, 4 March 2010.

<sup>49</sup> *Infopress* newspaper channeled the campaign, 1-17 June 2009.

<sup>50</sup> Interview, Jeton Musliu, journalist, *Express* (who is from Skënderaj), 8 March 2010.

<sup>51</sup> *Ibid.*

<sup>52</sup> Nebih Maxhuni, "Rritje 35 për qind" [35% Rise], *Express*, 12 March 2010.

<sup>53</sup> KIPRED and the Foreign Policy Club NGO coordinated two open letters co-signed by a dozen Kosovo NGOs requesting fuller support for such rule of law efforts, to visiting US Deputy Secretary of State James Steinberg in April 2010 and visiting EU High Representative Catherine Ashton in February 2010.

<sup>54</sup> Interview, Kujtim Kërveshi, legal analyst (from Peja), 25 February 2010.

<sup>55</sup> Shkëlzen Dakaj, "Industria kosovare e mishit proteston kundër instalimit të monopolit në treg" [Kosovo meat industry protests establishment of trade monopoly], *Zëri*, 4 July 2009.

<sup>56</sup> Interview, Agron Bajrami, editor in chief, *Koha Ditore*, 13 May 2010.

previously projected the PDK as social democrat and affiliated it with the British Labour Party and Socialist International,<sup>57</sup> Prime Minister Thaçi briefly rejected any political label.<sup>58</sup> His party has flirted with joining the crowded “centre right” (90% of the Kosovo Albanian political spectrum has now nominally located itself there),<sup>59</sup> and Thaçi went so far as to define himself as a rightist in a May 2010 parliamentary debate.<sup>60</sup> The LDD roots its appeal in the personality of the late President Rugova, while the Alliance for a New Kosova’s, AKR, electioneering focuses upon the achievements and promise of its leader’s Mabetex construction company. Among smaller parties, Gjergj Dedaj’s “Liberals” make much of their affiliation with Liberal International, yet show little liberal inclination, while the now folded Ora (“Clock”) party, founded as a civic liberal movement by publisher Veton Surroi, also neglected to profile itself, and the pan-Albanianist Kosovo People’s Movement, LPK, re-invented itself as the Socialist Party less from conviction than from perceiving a gap in the political market.<sup>61</sup>

In reality, nearly all these parties contain supporters who range over the whole spectrum, from extreme left to extreme right. The parties are marked by their origin as splinters of the Kosovo Albanian national movement, so political ideology still has a weak role, “or not at all.”<sup>62</sup>

Despite some splintering of the political landscape, Kosovo’s political class remains that of

the 1990s. Instead of a left-right divide, Kosovo Albanian parties still trace themselves back to respective “war” (PDK, AAK) or “civil” (LDK, AKR, LDD, Ora (now defunct)) origins, marking the 1990s schism in how to resist Serbia’s oppression. This division softened over the last decade, parties forming successive government coalitions on their own initiative across this divide since late 2004, and most hostility has now migrated to the PDK-AAK feud, within the “war” camp. Despite the country’s overwhelming youth and the technocratic challenges of state-building, Kosovo’s political personnel has undergone little renewal. For example, all four candidates in 2009 for Klina’s mayoral mandate, to run to 2014, were “out of [their] time” ex-KLA fighters.<sup>63</sup> Nationally, elderly timeservers dominate and clog the LDK, while hard-to-reform warlord-like leaders of the “war” parties remain young enough to have decades of political life in front of them.

Political success in Kosovo is highly dependent upon command of money, networks of militant supporters, and influence over election administration. Private businesses bet upon existing parties that already wield clout, often fearing repercussions if they fail to back them. Despite the government’s promise that a law on political party financing drafted in May 2009 would be passed before the November and December 2009 local elections, this did not happen and the elections were fought with no such oversight or control and a revised draft which is now under consideration would minimise fines for transgression of funding rules.<sup>64</sup> Clearly millions of euros were spent (or remain owed) on campaign adverts, rallies, and fireworks, and on possibly buying of votes and officials too. Existing parties’ mutually corrupting relationships with businesses were deepened further, as was the sense that parties must accumulate political and

<sup>57</sup> Prime Minister Thaçi’s spokesman Memli Krasniqi stunned visiting British Labour party officials by telling them the PDK saw itself as a centre-right party. Interview, Scarlett MccGwire, November 2008.

<sup>58</sup> Interviewed on Klan Kosova TV, 18 February 2010, he said that the electorate would instead judge parties on their success in governance. He poured scorn upon the AAK’s claim to represent the political right.

<sup>59</sup> See Drilon Zogaj, “PDK ia mësyn djathtas” [PDK charges rightwards], *Zëri*, 31 March 2010.

<sup>60</sup> Vatra Qehaja “Opozita akuzon Qeverinë për korrupsion në ndërmarrjet publike” [Opposition accuses the government of corruption in the public enterprises], *Koha Ditore*, 14 May 2010.

<sup>61</sup> Shega A’Mula, “The New Leftists, Kosovo’s Socialist Party,” *Balkan Insight*, 7 June 2009. See:

<http://www.balkaninsight.com/en/main/news/19987/>

<sup>62</sup> Interview, Hajredin Kuci, Deputy Prime Minister, 20 May 2010.

<sup>63</sup> Analyst Petrit Selimi, post-election debate round-up, Klan Kosova TV, 23 October 2009.

<sup>64</sup> Fadil Sertolli, “Qeveria ‘amnistion’ partitë” [The government ‘amnesties’ the parties], *Zëri*, 12 March 2010.

administrative control as a lever of financing, or face extinction.

Small or newcomer parties lack such levers, and their votes can be shredded administratively – their polling station commissioners intimidated or bought out, observers redeployed or impersonated, supporters suddenly finding that their polling station has been moved. “Why should I give my ballot to a party that cannot defend its vote?” some conclude.<sup>65</sup> They cannot access the public funds that parties already represented in parliament award themselves, and have to cross a 5% vote hurdle to gain any seats. Popularity is insufficient: despite consistently rating as one of Kosovo’s favourite politicians, former Prime Minister Agim Çeku’s Social Democratic Party made no impression at the 2009 municipal elections. Neither has President Sejdiu’s personal popularity saved his LDK from precipitous decline in 2007, which 2009 elections failed to reverse.

The less personally popular Thaçi has prospered.<sup>66</sup> After losing four elections, his PDK triumphed in 2007 and 2009 thanks not to a surge of support but to the splintering of the LDK vote. PDK stamina, determination and organisational nous won out over an ephemeral LDK revival in key bellwether municipalities that went to a revote in early 2010. Some alleged that the PDK, with the SHIK secret service at its disposal, refined methods of gaining electoral advantage beyond the grasp of international observers and opponents.<sup>67</sup> Others concluded that the LDK was no more principled, just less well-organised.<sup>68</sup>

The problem shaping Thaçi’s approach to government is how to prolong the PDK’s stay in power despite its chronic inability to expand its voter base beyond 200,000 in an active electorate

<sup>65</sup> Interview, Gazmend Muhaxheri, candidate for the now folded Ora party, 15 December 2009.

<sup>66</sup> Index Kosova opinion poll, June 2009. See: <http://www.indexkosova.com/fly/?page=6&lang=2&item=62>

<sup>67</sup> Interviews: editor, Klan Kosova TV, October 2009; losing mayoral candidate in the December 2009 runoff, 10 March 2010.

<sup>68</sup> Interview, Valmir Ismaili, Democracy in Action NGO, 18 March 2010.

of up to 700,000,<sup>69</sup> Kosovo’s inherent “civil” majority, and other parties’ possible future preference to ally with each other rather than with his party. Urban academics brought in to soften and intellectualise the PDK’s image have failed to change the culture inside the party and experience difficulty. Philosophy lecturer Astrit Salihu figure-headed an expensive and abrasive PDK campaign for Prishtina mayor, but garnered a humiliating 10% of the vote in the November 2009 poll, failing even to attract many traditional PDK supporters. Political scientist Enver Hoxhaj, made education minister, is reduced to fronting for indefensible multimillion-euro public tender manipulations.<sup>70</sup>

Part of the PDK’s answer to the conundrum is its leadership’s bid for domination of institutions, control over RTK, investment in new PDK-friendly media, and in loyal media commentators – which the LDK failed to do during its period as number one party.<sup>71</sup> Another strategy for the party leadership is to put itself at the top of Kosovo’s economic tree, to accumulate the money, influence, and indeed control over companies and workforces to secure future support. Part of the answer resides in intimidation and subornation: whether applied by SHIK, which although formally disbanded is now represented in government, provincial hardmen running PDK

<sup>69</sup> In the 15 November 2009 local elections 189,000 voted for PDK municipal assembly candidates. In the lower turnout 2007 parliamentary election 196,207 voted for the PDK, down from 199,112 in the 2004 parliamentary election, and 202,622 in 2001. PDK officials show awareness of the rigid limitations of their party’s support – one told RTK’s Jeta Xharra that it would make no difference to “our supporters” whether or not she ran TV debates for Kosovo’s winter 2009 mayoral elections, interview, October 2009. Opponents accuse the PDK of a vested interest in low turnouts, which magnify the weight of its 190,000-200,000 support base: Blerim Shala, “Raporti i harruar dhe zgjedhjet e degraduara” [Forgotten report and degraded elections], *Koha Ditore*, 27 October 2009.

<sup>70</sup> The Ministry of Education’s intention of awarding a contract for supply of computers and internet to Kosovo’s schools that cost €24 million more than was necessary was revealed in a series of articles by Besnik Krasniqi, *Koha Ditore*, 16-19 December 2009. Neither the Ministry’s written responses nor Minister Hoxhaj himself, in a 19 December 2009 meeting with YIHR, adequately answered the facts and analysis advanced by the newspaper. In a later encounter the minister simply stated that the articles were “all lies.”

<sup>71</sup> “Any media worker who has a big black jeep, a big new house and who takes expensive foreign holidays is not going to be independent and unbiased.” Interview, editor, May 2010.

municipalities like Skënderaj, Kaçanik and Vitia, senior central government figures or their lieutenants.

The PDK leadership's partnership with SHIK, a strong and unaccountable security structure suspected of a string of past political murders,<sup>72</sup> is highly controversial. Some argue that it differentiates the PDK from other parties.<sup>73</sup> A rival security organisation that pulled the LDK's strings for a while in the mid-2000s has melted away.<sup>74</sup> Through the last decade SHIK has eavesdropped, and infiltrated Kosovo institutions and business, drawing funding from unofficial sources. Only the PDK sees its operation as legitimate, due to its status in the provisional government – although that government never had a popular mandate and was disbanded in 2000, leaving SHIK with no institutional tie or oversight thereafter - and because UNMIK did not close it down.<sup>75</sup> Although SHIK announced its own dissolution some months after the PDK took power in early 2008, its personnel were appointed through key institutions and the government to deputy minister level (development of Kosovo's official intelligence agency remaining paralysed). They and SHIK's top bosses – who formally remain outside the government – are highly influential.

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<sup>72</sup> Several leading LDK figures were killed from 1998-2002, the period of maximum hostility between “war” and “civil” political forces. EULEX began a wide investigation into the structure's activities after the November 2009 confessions of Nazim Bllaca to several killings in his claimed capacity as member of a SHIK death squad. A former middle-ranking SHIK official alleged that the organisation carried out several of the 1998-2002 murders, including of Rexhep Luci, Xhemajl Mustafa, and Bekim Kastrati, interview, February 2010.

<sup>73</sup> In a polemic, publicist and former politician Veton Surroi argued that the PDK-SHIK twinning makes the former junior to the latter, preventing it maturing into a modern European political party by making control over business, privatisation, the media, and links with organised crime its leadership's *raison d'être*. Article series: “Kosovo's uncertain European future,” *Koha Ditore*, 13-20 January 2010, chiefly: “Shteti i SHIK-ut” [SHIK's state] and “PDK-ja pa SHIK-un, LDK pa Rugovën” [The PDK without SHIK, the LDK without Rugova] 16, 17 January 2010.

<sup>74</sup> See International Crisis Group, Europe Report 163, *Kosovo after Haradinaj*, 26 May 2005.

<sup>75</sup> Zija Miftari, “SHIK legal vetëm për PDK-në” [SHIK is legal only for the PDK], *Koha Ditore*, 17 June 2008.

## Limiting reporting

The UNMIK decade significantly restructured Kosovo's media, creating space for projection of liberal values, while also pressurising it to assume responsibility for preserving social stability. Three national television stations were established: European Broadcast Union-supported public broadcaster RTK in place of state broadcaster RTP, taken over by Milošević in 1990, while the USAID-favoured private KTV and RTV21 emerged from 1990s donor-supported media houses. Liberal-oriented daily newspapers, *Koha Ditore*, *Kosova Sot*, *Zëri*, *Express* became the mainstream, though with total daily circulation of barely 30,000, newspaper penetration stayed low. There were also shrill, illiberal party partisan newspapers like (pro-LDK) *Bota Sot* and (pro-PDK) *Epoka e Re*. However UNMIK banned the PDK-aligned *Dita* in 2000 after its denunciation of a Serb led to his murder, and death threats such as that issued by the KLA's *Kosovapress* agency against the owner of *Koha Ditore* and KTV Veton Surroi in autumn 1999 became unacceptable, and were not repeated during UNMIK's time.

UNMIK, however, provided little protection for journalists. Two of *Bota Sot's* reporters were murdered, in 2001 and 2005 – and the killings remain unsolved. UNMIK and Kosovo Police Service, KPS, investigation of the 2004 gun wounding of *Koha Ditore* investigative journalist Fatmire Tërdevci and subsequent threats was paltry. Neither did UNMIK challenge taboos that sanctified the KLA and until late in the day kept real Serb voices off TV. It did delegate much of the blame for the pogrom-like March 2004 riots to hysterical media coverage, implanting in Kosovo's media thereafter (RTK especially) a sense of “original sin”, influencing it to consider first the risk that any story or coverage might lead to a similar breakdown.

Late on, from circa 2006, debate on TV got livelier, freer, including better representation of Serbs. Overseers concerned only with stability and

seeing Kosovo in one dimension lagged behind maturing media and their public – KFOR’s patronising TV adverts grated, the US office/embassy tried to censor some of RTK’s most considered programming.<sup>76</sup> From the 2007 election onward, as Kosovo moved toward its contested independence, pressure upon media and other critics to consider the effect of their coverage upon the international image of the fragile young state supplemented concern for social stability. Such pressure did not let up after independence, but was renewed under new guises: currently cast as a requirement not to compromise the country’s image until after the International Court of Justice issues its advisory opinion on the legality of Kosovo’s declaration of independence: expected in the second half of 2010.

There were changes in the media scene: the new lively national cable TV channel Klan Kosova favoured the PDK, as did *Express* newspaper (owned by telecommunications company IPKO), and a brash pro-PDK tabloid – *Infopress* – harked back to *Dita* by publishing lists of Serbs it claimed had been in paramilitary units. *Zëri*’s owner joined the AAK and sold the paper to a businessman, who revitalised it, hiring good journalists and so far not interfering. Rrokum TV became a popular outlet for unmediated citizen feedback, hard-hitting analysis, and its owner’s rants against other journalists,<sup>77</sup> thereby earning Prime Minister

Thaçi’s dislike,<sup>78</sup> and in April 2009 it was dropped by IPKO’s cable network.<sup>79</sup>

RTK retains the largest viewership and from the new government’s advent in January 2008, it exerted pressure to gain privileged coverage. In April 2009 RTK’s board, a hangover from UNMIK that included international members, reacted against the trend towards blatantly pro-government news coverage by dismissing the news editor installed in late 2008. Pressures grew upon RTK management and the board.<sup>80</sup> The government oversaw the nomination of a new, all native board. The dismissed news editor, Mentor Shala, was reinstated in September 2009, and non-like-minded reporters were purged from the newsroom. RTK’s director sought help from the office of the ICR, but resigned after their internal memo of the meeting was leaked to the press.<sup>81</sup> As the November 2009 municipal elections approached, RTK’s independent funding base was crippled: in its first case the Constitutional Court ruled that the licence fee collection, done through electricity bills, was unconstitutional and the Independent Media Commission forbade RTK to run adverts in primetime. Parliament offered itself as saviour, putting RTK back on the state budget. The European Broadcasting Union (EBU) protested to the Prime Minister about the assaults upon RTK’s independence.<sup>82</sup> Nevertheless, in January 2010 under barely disguised political

<sup>76</sup> It tried to prevent a townhall debate in Deçani in October 2008 run by the independently produced weekly *Jeta në Kosovë* current affairs program, one in a roadshow series covering local governance in all municipalities: the embassy had not done its homework on *Jeta në Kosovë* and wrongly feared that debate would channel hostility to Deçani’s Serbian monastery. The following month it demanded the removal of radical activist Albin Kurti, indicted for leading a protest in which UNMIK Romanian police killed two of his demonstrators, from a *Jeta në Kosovë* debate panel discussing the UN “six-point plan” for governance compromises with Belgrade in Serb-inhabited areas, which had been badly received by Kosovo Albanians. Both debates went ahead as planned.

<sup>77</sup> Some of which strays far beyond the acceptable: In a March 2010 phone-in on the subject of the large house Prime Minister Thaçi is building a viewer proposed that Thaçi and his ilk be killed: the studio presenters let this by and failed to distance themselves from it. Rrokum owner Migjen Kelmendi’s televised monologues often descend into degrading insults of journalists he does not like.

<sup>78</sup> Prime Minister Thaçi spent his time at a reception event organised by the Rockefeller Brothers Fund at the American University of Kosovo admonishing Rrokum owner Migjen Kelmendi in a corner, exhorting him to drop citizen phone-ins. YIHR observation and interview, Migjen Kelmendi, October 2008.

<sup>79</sup> On 1 April 2009, in breach of contract. Rrokum is still shown by the rival Kujtesa cable operator.

<sup>80</sup> Interviews, RTK management, board member, September 2009. Anonymous threats by mobile phone text message were delivered, and a close observer noted of RTK managers: “I’ve never seen such frightened people; even in Milošević’s time some basic dignity was retained, but they were like scolded children.”

<sup>81</sup> Petrit Çollaku, “Probe into Leak That Forced Out Kosovo TV Chief,” *Balkan Insight*, 1 October 2009.

<sup>82</sup> The EBU Director General’s letter of 26 October 2009 accused Prime Minister Thaçi of transforming RTK “into a media arm of the ruling party.” See: [http://www.ebu.ch/en/union/news/2009/tcm\\_6-66520.php](http://www.ebu.ch/en/union/news/2009/tcm_6-66520.php). Thaçi replied that this was a “far-fetched scenario.” Petrit Çollaku, “Thaçi Says No Political Pressure on RTK,” *Balkan Insight*, 30 October 2009. See: <http://www.balkaninsight.com/en/main/news/23312/>.

guidance the new board appointed as RTK director the manager who oversaw pro-government censorship in RTK during 2009,<sup>83</sup> and Mentor Shala in the new post of second deputy director.

Partisan deployment of government and public sector advertising is impacting on private media. This accounts for most of TV stations' and newspapers' income (readership being so low). The publicly owned Post and Telecom of Kosovo, PTK, withheld its lucrative advertising from Koha Group - KTV and *Koha Ditore* -- for several months, after the latter criticised its practices in 2009. Other newspapers like *Zëri*, *Lajm* and *Express* rely on subsidy from the businesses that own them. Although, with *Kosova Sot* a close second, *Koha Ditore* remains the most read,<sup>84</sup> government advertising is skewed away from this critic of its actions toward little-read papers run by its partisans: *Infopress* and *Tribuna Shqiptare*.<sup>85</sup> Despite the active engagement of *Koha Ditore* and to an extent *Zëri* in investigating corruption, the Anti Corruption Agency found that across all newspapers articles on corruption dropped from 165 in 2008 to roughly half that in 2009, and in its view this was due to the influence of owners and advertisers.<sup>86</sup>

With the élan of achieving independence, strong US support, PDK dominance of the political scene, and energetic road and school-building programs rolling out, in 2008 the government rode

high and disarmed potential critics.<sup>87</sup> By 2009, as evidence of malpractice and corruption grew and undercurrents of discontent became stronger, the government became hungrier for tighter control and for shaping the news agenda. Its influence over RTK ensured the Prime Minister priority coverage in daily news programs.<sup>88</sup> Kosovo was presented with a rosy picture of its EU accession prospects: reporting of the harsh criticism of Kosovo's governance contained in the EU's October 2009 progress report was constrained and spun away. Ever since RTK's Brussels correspondent gave a frank live on-air assessment of that EU report's findings, her televised reporting has been rarer and pre-recorded.

This tightening clashed with bastions of journalism and civil society that were showing new daring and determination to investigate, criticise and illuminate.<sup>89</sup> The most notorious clash between the tightening of controls and journalists trying to push out the boundaries occurred after *Jeta në Kosovë* aired a two-hour special on problems with freedom of speech in late May 2009. Into June *Infopress* ran a sustained campaign of abuse, containing accusations that the program-makers were Serbian agents, and exhortations to violence against them, culminating in an apparent death threat.<sup>90</sup> After 12 days of this, international pressure obliged the newspaper and

<sup>83</sup> During 2009 Sylejman Shaqiri suppressed reporting of a press conference given by AAK leader Ramush Haradinaj about the activities of Prime Minister Thaçi's brother in the insurers' association and ordered reporters covering the appointment of Enver Hasani as President of the Constitutional Court to make no mention of an episode in which Hasani had allegedly sent obscene text messages to a fellow academic. Interview, RTK journalist, February 2010. In October 2009 Shaqiri tried to prevent the *Jeta në Kosovë* municipal election debates, second-guessing the government's wishes.

<sup>84</sup> According to the OSCE report "Circulation and Politicization of the Print Media in Kosovo," March 2010, *Koha Ditore* attracts 38% of Kosovo's Albanian readership, *Infopress* 4%.

<sup>85</sup> A study carried out by the Balkan Investigative Reporting Network (BIRN) between 30 May and 25 June 2009 totalled the pages of advertisements from public institutions carried in several daily newspapers. *Koha Ditore* had 72 pages, *Infopress* 293 pages.

<sup>86</sup> Interview, official, Anti Corruption Agency, 15 December 2009.

<sup>87</sup> When in opposition, the PDK sought common cause with the media: "So in a way, the media felt that it was coming into power in 2007 as well. As a result, the government is not facing any resistance," said KTV's news editor Adriatik Kelmendi. Interview, 26 June 2009.

<sup>88</sup> Interview, former RTK TV news editor, 9 February 2010.

<sup>89</sup> Some of the struggle was visible within RTK: on the eve of the municipal election runoff's, 12 December 2009, its independently produced *Jeta në Kosovë* debate program discussed problems about RTK's independence. The pro-government newsroom preceded and followed the debate with a headline report arguing that RTK's election coverage had been scrupulously balanced. RTK schedulers, who had a different view, followed the late news bulletin with three consecutive retransmissions of the debate through the night.

<sup>90</sup> "Jeta has brought it upon herself to have a short life," Rizah Hajdari, "Katër tradhtitë e 'Jetes'" [Jeta's four betrayals], *Infopress*, 4 June 2009. A prosecutor declined to act against the newspaper, arguing that this phrase and other exhortations to citizens to "punish" Xharra were ambiguous. In November 2009, a judge's death threat against two *Koha Ditore* journalists for alleging him to be corrupt was also not considered serious, and the case was assigned to the Prishtina minor offences court.

the government to back away,<sup>91</sup> but the campaign marked a new tide level of intimidation.

It also damaged the international image of Kosovo and its government, mobilising human rights organisations, prompting an article in *The Economist*, and bringing freedom of speech onto the agenda of the International Steering Group (the 25-country body that oversees the ICR).

The government has generally preferred to disarm critics quietly. “Good cop, bad cop” is practised, where actors from the government camp offer to protect a critic from the wrath of other government figures or groups, exhorting the critic to aid their efforts by “quieten[ing] down.”<sup>92</sup> Ministries and public enterprises offer jobs to buy off investigative journalists;<sup>93</sup> the two former senior staff of the domestic KIPRED think tank were awarded ambassadorships. Pressures are applied against third parties: journalists’ sources are intimidated, or relatives threatened with job loss.<sup>94</sup> Anonymous threats, whether phoned, text-messaged or, in one critic’s case, left in the form of bullet-holes in his car,<sup>95</sup> have cropped up in interviews for this report. So have direct threats or intimidation, from officials, ministers’ political advisers, and ministers themselves. If not recorded

or separately witnessed, it is usually the journalist’s word against theirs, but a wide spectrum of journalists report similar experiences, recounting warnings such as:

“Are you aware of what you wrote? Are you aware that you have kids? Do you know what could happen to you?”<sup>96</sup>

“If you try to report like this in the future, be careful, I have more power than you. I can make a dossier of you that says you break rules. I can publish things against you in the newspapers. Then we shall see how you deal with public opinion.” The journalist replied “Well, if you have the arguments,” to which the official said, “It is not about arguments, it is about power.”<sup>97</sup>

“We know exactly how you got this information; we have a recording of your conversations; we have been watching you and we know you are doing the work of an intelligence agency. Don’t think you can investigate us and that we can’t investigate you.”<sup>98</sup>

The Prime Minister has gone further than predecessors: with attempts to micro-manage news coverage of himself, direct calling and text-messaging of editors – naming journalists he would like hired or fired,<sup>99</sup> and intimidation of an international think tank. One editor was addressed thus: “Are you responsible for all the stupid black stories about me? ... Remember I am stronger than you are.”<sup>100</sup> For one and a half years the International Crisis Group focused its work away from examination of Kosovo’s governance after the Prime Minister threatened its outgoing project

<sup>91</sup> On 10 June 2009, government issued a press release that proclaimed in general terms its respect for the freedom of the media. *Infopress* argued in retrospect that its phrase “Jeta has brought it upon herself to have a short life” was not meant as a death threat. The *Infopress* campaign was halted after a concerned PDK junior minister was at last able to persuade the US embassy to help; this brought an intervention with editor Rexhep Hoti by the chief of (the formally dissolved) SHIK Kadri Veseli, after which the junior minister and Veseli personally went to the newspaper office late at night to oversee removal of the next day’s attack articles.

<sup>92</sup> Interview, Ilir Deda, director, KIPRED think tank, 16 April 2010.

<sup>93</sup> Interviews: Salie Gajtani-Osmankaq *Koha Ditore* journalist, 22 December 2009, Fatos Halili, BIRN journalist, December 2009. Research for *Jeta në Kosovë*’s debate on privatisation of the airport revealed that many journalists’ relatives have found employment there: interview, Jeta Xharra, 26 April 2010.

<sup>94</sup> Interview, Salie Gajtani-Osmankaq, *Ibid*. An official from a Kosovo economic think tank pleaded with her not to contact its chief again, as he had lost several contracts for speaking previously; a Ministry of Economy and Finance official encountered her and her husband on the street after she published an article about budget irregularities, and said of her husband: “If you continue like that you will hurt him more than yourself.” Her husband is an economist who has worked on governmental projects financed by multilateral agencies. He has been unable to find work since.

<sup>95</sup> Interview, 18 November 2009.

<sup>96</sup> Interview, *Lajm* journalist, 16 June 2009.

<sup>97</sup> Interview, KTV journalist, 9 June 2009.

<sup>98</sup> Interview, BIRN journalist, April 2010.

<sup>99</sup> Interviews, RTK management and journalists, October 2009, February and April 2010.

<sup>100</sup> Interview, RTK journalist, 9 February 2010.

director in October 2008, demanding he leave the country or face the consequences.<sup>101</sup>

By making itself feared, discovering that it could get away with campaigns of unrestrained abuse and threats, *Infopress* has grown in stature – it attracted only a €1,000 penalty while its lion's share of government advertising has continued, and in April 2010 the PDK made its editor Rexhep Hoti one of its parliamentary deputies.<sup>102</sup> The newspaper's attacks upon *Jeta në Kosovë* were not necessarily ordered by PDK leadership, but were certainly a feature of its editor's entrepreneurship, exploiting space and rivalries among the constellation of leading PDK actors and the emotions roused on behalf of the KLA and the PDK's Drenica heartland, which the newspaper insisted were both defamed by the program. Nevertheless, ideas *Infopress* advanced with its self-proclaimed campaign against treacherous mercenaries in the name of purer national journalism and values<sup>103</sup> quickly progressed in following months from the wild fringe and came to influence the official approach of the government towards its critics.

RTK gave airtime first in June 2009 to *Infopress* columnist Qani Mehmedi to condemn donor-funded, cosmopolitan "UNMIK media" and propose that only nationally funded media be

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<sup>101</sup> In a meeting attended by three Crisis Group staff, meant to introduce the new project director, 10 October 2008. The former director, from 2003 to 2008, Alex Anderson, is the writer of this report. The Prime Minister threatened to make life uncomfortable for him if he stayed and even to have him imprisoned for unspecified crimes. Called to account, Thaçi adopted a form of limited apology proposed to him by Quint diplomats in Prishtina, which avoided all mention of the abuse and threats he employed or their target. International Crisis Group therefore addressed its concerns for Anderson's security and its support for him to the Prime Minister in a letter copied to the Quint foreign ministers, EU and NATO institutional leaders, reinforcing the message in the course of a senior staff visit to Prishtina in March 2010.

<sup>102</sup> Asked about the PDK and government attitude toward *Infopress*, Deputy Prime Minister Hajredin Kuci confined himself to stating that the issue of *Infopress* had never been discussed in any meeting of the PDK presidency and that *Infopress*'s opinions were not those of the government. Interview, 20 May 2010.

<sup>103</sup> Qani Mehmedi, "Kosovës i duhet gazetaria e Kosovës" [Kosovo needs Kosovo journalism], *Infopress*, 8 June 2009, and on RTK's *PaRrotilla*, June 2009.

allowed,<sup>104</sup> then in December 2009 to *Infopress* editor Rexhep Hoti, who upped the ante by describing the liberal media as foreign-created and "pro-Yugoslav." He accused them of wilfully fuelling the Bllaca scandal to create tension, abet Belgrade's attack on former KLA leaders, and embarrass Kosovo in front of the International Court of Justice.<sup>105</sup> Some government and PDK rhetoric on the Bllaca case came close to this. By March 2010, the government and its allied pundits were labelling NGO and journalist critics of corruption as "anti-state," and as beyond the Pale for undermining their country in international forums.<sup>106</sup> However, Deputy Prime Minister Kuçi did apologise for such rhetoric,<sup>107</sup> and a member of the Prime Minister's staff is reported to have argued internally against its employment,<sup>108</sup> showing that the government was not monolithically inclined towards such escalation and to a complete breakdown in relations with civil society.

However, against a general background of rough treatment of journalists by officialdom,<sup>109</sup> relations

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<sup>104</sup> Ibid.

<sup>105</sup> Interviewed on *Pro et Contra*, RTK, 2 December 2009. He also attacked "collaborators" who cooperated with the Hague Tribunal.

<sup>106</sup> Prime Minister's spokesman Memli Krasniqi and analyst Mufail Limani, *Zona e Debatit*, debate on freedom of the media, Klan Kosova TV, March 2010. Of the denounced critics, only Ilir Deda, director of the KIPRED think tank, is based in Kosovo. The government's pique followed his quoted description of it as "a joint criminal enterprise" in *The Economist*, "Corruption in Kosovo: time to go straight," 18 March 2010.

[http://www.economist.com/world/europe/displayStory.cfm?story\\_id=15731392&source=hptextfeature](http://www.economist.com/world/europe/displayStory.cfm?story_id=15731392&source=hptextfeature)

<sup>107</sup> On *Jeta në Kosovë*, RTK, 1 April 2010.

<sup>108</sup> A sociologist working in the Prime Minister's Office is said to have defended Deda's right to dissent, citing, to colleagues' bafflement, the example of Noam Chomsky in the US. Interview, Ilir Deda, director, KIPRED think tank, 16 April 2010.

<sup>109</sup> On 3 May 2010 a government security guard assaulted a *Koha Ditore* journalist who was waiting in the government building, threatening to "take [him] to the basement." "Dhuna ndaj gazetarëve" [Violence against journalists], *Koha Ditore*, 8 March 2010. On 6 June 2008 a security guard of the Kosovo Judicial Council (KJC) grabbed a *Jeta në Kosovë* cameraman who was filming outside the building, dragged him inside and assaulted him. The camera kept running through the incident, which was shown on RTK news. In both cases the Kosovo Police response was similar. The *Koha Ditore* journalist was warned that he would be arrested if he pressed a complaint. Police investigation brought no charges against the KJC guard, but classified the *Jeta në Kosovë* crew as suspects for the crime of filming without permission inside the building into which their cameraman was dragged and assaulted.

between the government and liberal media and NGOs continued to plummet.<sup>110</sup> Seventeen NGOs joined together to condemn the government's "lynch" rhetoric.<sup>111</sup> The Tax Administration was sent in to audit many of them. In April 2010 the Ministry of Public Administration proposed a new tightening of the law on NGOs, introducing criteria for the state to deregister NGOs and dispose of their assets, restricting them to public benefit activity only, for which an impossibly narrow definition is proposed.<sup>112</sup>

### Debasement of public service

Public service for a newly created state should be a field permitting of idealism. It should be a point of rendezvous at which people can exercise their professionalism for the public good. The more this is so, the more amenable the climate is for individual civil and public servants to act to the best of their conscience and ability, creating a virtuous circle: toward greater self-esteem, freer communication, higher regard for the state.

Yet in Kosovo, due to the underdeveloped private sector, the civil service and public enterprise workforces, and even elected municipal assembly mandates are also seen as a displaced social security scheme, a refuge guaranteeing at least a subsistence salary, and for some a possibility of rent-seeking. A hierarchy that seeks to evade accountability, coalescence of client-patron networks, and arbitrary hiring and firing practices corrode the ideal of public sector ethos.

People have started to fear loss of their job if not a member of one of the centrally or locally

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<sup>110</sup> A telling episode was journalists' boycott of the Prime Minister's spokesman Memli Krasniqi after the government meeting of 22 April 2010. They were protesting the Prime Minister's repeated disinclination to make himself available for questioning.

<sup>111</sup> "Retorika lincuese e Qeverisë, kërcënim për demokracinë" [The Government's lynch rhetoric, a threat to democracy], presented in a 2 April 2010 press conference. See: <http://www.levizjafol.org/arkiva/28311010194616.html>

<sup>112</sup> Discussed at a Ministry roundtable with NGO representatives, Villa Gërmia, Prishtina, 15 April 2010. See "Comments on the planned amendments of the NGO law," European Center for Not-for-Profit Law, April 2010.

governing parties.<sup>113</sup> Accordingly, "servility," "conformism" and "silence" are the qualities now gaining hold in government and public service.<sup>114</sup> In ministries, "it takes one person to be fired" for the rest to fall into line.<sup>115</sup> Government leaders set the tone by directly intimidating senior officials, including police and members of parliament.<sup>116</sup>

There is no civil service entrance exam, the senior public appointments committee has been sidelined,<sup>117</sup> the Independent Oversight Board cannot get its rulings on hundreds of unfair dismissals implemented,<sup>118</sup> and the top positions in ministries are taken by political appointees, who come and go with each change of administration. Each minister brings four to six such political advisers,<sup>119</sup> part of an infusion into ministries of informal groups, in which a corpus of drivers, assistant drivers, bodyguards, and advisers accumulates influence, and acts as intermediary for dubious work.<sup>120</sup> In some cases, such staff are brought by the party leadership to keep watch over the minister.<sup>121</sup> Laws to regulate the government, public administration and civil service were long postponed.<sup>122</sup>

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<sup>113</sup> Interview, Halil Matoshi, analyst, *Koha Ditore*, 4 November 2009. See also Arben Atashi "Fshesa e PDK-së spastron stafin civil nëpër institucione" [The PDK's broom cleans civil servants throughout the institutions], *Koha Ditore*, 2 April 2008.

<sup>114</sup> Analyst Behlul Beqaj, interviewed on Rrokum TV, mid-October 2009.

<sup>115</sup> Interview, Gjyljeta Mushkolaj, judge, Constitutional Court, 28 January 2010.

<sup>116</sup> Interview: head of a parliamentary committee, February 2010, competent Kosovo Police source, 3 December 2010. The latter would not be drawn on the specifics of a mid-2008 meeting between police leadership and the Prime Minister, but confirmed that: "It was bad," and that Taçi addressed them in a manner astonishing for a Prime Minister.

<sup>117</sup> Faton Ismajli, "KELP-i – organ më i dështuar i Qeverisë" [SPAC – the government's most failed organ], *Koha Ditore*, 4 May 2008.

<sup>118</sup> The parliament and the government each suggested the other was accountable for implementation of the decisions listed in the Independent Oversight Board's latest report. See: <http://www.ks.gov.net/kpmk/>

<sup>119</sup> Interview, Mark Poston, former head of DFID in Kosovo, 11 February 2010.

<sup>120</sup> Interview, official, Anti Corruption Agency, 15 December 2009.

<sup>121</sup> Interviews: official, international NGO, 14 December 2009; chief, government regulatory body, 16 April 2010.

<sup>122</sup> Highlighted by Venera Hajrullahu, director of the KCSF NGO, in her presentation to the Foreign Policy Club's 15 October 2009 Prishtina conference on the EU's "Kosovo under UNSCR 1244/99 2009 Progress Report." The report's concerns included unclear dividing lines between political and public appointments;

Professionalism is unable to consolidate in the civil service. Instead of standing for something and understanding that they are the highest civil servants, ministry permanent secretaries have “no common professional base” and are “often shit-scared and used as a tool for other interests.”<sup>123</sup> There is even “adverse selection” of officials: “Competence is not the highest priority... especially in medium to high positions. On the contrary, officials who have competence come under attack from political circles.”<sup>124</sup>

The example provided by the country’s leadership creates ethical disorientation, which filters down: “Kosovo is not providing role models.”<sup>125</sup> Instead, figures tainted with criminality occupy high position in political parties, parliament and local government. Despite police raids of his ministry and homes and clear notice that a corruption indictment is being prepared, the transport minister has neither resigned nor been dismissed or suspended. “We have a moral problem” acknowledged the head of a regulatory agency.<sup>126</sup>

Senior PDK official and former KLA commander Rustem (“Remi”) Mustafa was convicted in a October 2009 retrial and sentenced to four years of prison for inhumane treatment and torture of imprisoned civilians (murder charges he was convicted on in an earlier 2003 trial were dropped by the prosecutor) and many associate him with illicit control over Prishtina businesses in the immediate postwar years.<sup>127</sup> Yet he remains free and continues to chair parliament’s security committee, from which position he projects his views on policing.<sup>128</sup> Leader of the second largest

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discontinuity of administration, and institutions veering from their mandate. See: [http://ec.europa.eu/enlargement/press\\_corner/key-documents/reports\\_oct\\_2009\\_en.htm](http://ec.europa.eu/enlargement/press_corner/key-documents/reports_oct_2009_en.htm). Parliament finally adopted two laws regulating the civil service on 13 May 2010.

<sup>123</sup> Interview, chief, government regulatory body, 16 April 2010.

<sup>124</sup> Interview, international oversight official, 19-20 April 2010.

<sup>125</sup> Interview, lawyer, 15 February 2010.

<sup>126</sup> Interview, December 2009.

<sup>127</sup> See International Crisis Group Balkans Report “What Happened to the KLA?” op. cit.

<sup>128</sup> The controversial and pugilistic LDD deputy Gani Geci also heads a committee, overseeing the Kosovo Intelligence Agency.

opposition party LDD Nexhat Daci was exposed for embezzlement when president of parliament from 2002 to 2006, but has never been brought to trial, and criticises government corruption. The AAK’s Jahja Lluka was presenting a party policy initiative just two months after receiving a suspended prison sentence for money laundering in January 2010.<sup>129</sup> Neither of the mayors of Skënderaj and Kaçanik stepped down: the former was imprisoned in 2008 for assaulting a judge, the latter arrested in November 2008 and in July 2009 on suspicion of successive acts of kidnapping, coercion and threatening a witness.<sup>130</sup> Neither they nor the fellow PDK mayor of Ferizaj Bajrush Xhemajli, who killed a young man by reckless driving in May 2009, faced any grilling on these matters during their late 2009 re-election. Mayor Xhemajli has since been elected president of the association of municipalities by his peers.<sup>131</sup>

Members of government and parliament award themselves high salaries while holding down public sector pay, and have done little to combat the widespread belief that entry into government is a licence to steal. After a first year in which the present government attempted to differentiate itself from its predecessor by cutting down upon high officials’ conspicuous consumption, this has now exceeded previous levels.<sup>132</sup>

The judiciary, required to be independent and assertive, is mostly subservient and passive, either frightened or “protected by criminal groups,”<sup>133</sup> its reputation poor,<sup>134</sup> salaries low, and seen by many

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<sup>129</sup> On measures for the Kosovo Albanian diaspora, AAK press conference, 26 March 2010.

<sup>130</sup> Vehbi Kajtazi and Kastriot Jahaj, “Gjykata liron Xhabir Zharkun nga paraburgimi” [Court frees Xhabir Zharku from pre-trial detention], *Koha Ditore*, 9 July 2009.

<sup>131</sup> While acknowledging that there is a moral question with regard to such politicians, Deputy Prime Minister Hajredin Kuci said that the law allows them to retain their positions, therefore their resignations cannot be compelled. Interview, 20 May 2010.

<sup>132</sup> Fatos Halili, report on management of budget expenditures, *Jeta në Kosovë*, 11 February 2010.

<sup>133</sup> Interview, Kujtim Kërveshi, legal analyst, Kosovar Institute for Justice, 25 February 2010.

<sup>134</sup> In the January 2010 polling for UNDP’s regular Early Warning Report, only 15% of respondents expressed satisfaction with the work of the courts. See:

as “a profession for losers.”<sup>135</sup> Not a single major politician or official has been tried for corruption in a decade.<sup>136</sup> With many judges and prosecutors suspected of corruption,<sup>137</sup> many incompetent and unable to absorb the massive legal changes wrought by UNMIK,<sup>138</sup> the inadequacy of reinstated Communist-era officials was recognised by 2004.<sup>139</sup> But a much-delayed currently running vetting and re-appointment process is unaccompanied by a salary hike, and has been criticised for excluding younger candidates (“they just shuffled the pack: it’s the same people”<sup>140</sup>), and for flawed filtering.<sup>141</sup> “Politics wants the current people in the judiciary... it’s the main dumping ground for problems... they have a vested interest in young people not coming into the system: they have too much dignity. Better to have a class that has exchanged many [political] masters.”<sup>142</sup>

By contrast, the even worse paid Kosovo Police enjoys public confidence,<sup>143</sup> and is perceived as professional, cohesive and above politics. Its morale and reputation have nevertheless been harmed by the failure to resolve the 2009 heroin heist from its headquarters evidence room, the

government’s appetite for direct control, and due to that – divisions between headquarters and some regional commands, such as tensions with units in the AAK’s west Kosovo heartland.<sup>144</sup> The Ministry of interior has involved itself at the operational level and taken the police inspectorate under its wing. The Ministry’s pressure to blur the police’s independent budgetary status, if implemented, means that: “They would know about our witness protection... what we are spending on individual organised crime cases... our every move.”<sup>145</sup> The benefit of the surprise April 2010 appointment of a respected professional chief of police has been qualified by the ministry’s control over other senior staff appointments and dismissals.<sup>146</sup> Yet this welcome development may indicate government understanding of limits to promotion of political loyalists: the appointment of an alternative candidate it has rapidly advanced through the ranks could have sparked catastrophic splits, especially with the west Kosovo commands.

Kosovo’s constitution attempts to guard the public sector and sphere from invasion and infection by political interests through quarantining its institutions from them with independent governing or supervisory boards, staffed by impartial professionals – while the ICR stands guard over the appointments process. The electricity, telecoms and other smaller utilities have boards, as do the airport, railway, privatisation agency, central bank, pensions trust, Telecommunications Regulatory Agency, and the RTK public broadcaster.

The government has become adept at subverting their purpose and outmanoeuvring the ICR, while maintaining the formal facade of boards’ independence and its claim not to have interfered. “The laws are super; how can you catch them?” remarked an OSCE official.<sup>147</sup> The government

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[http://www.kosovo.undp.org/repository/docs/Fast\\_Facts\\_27\\_ENGEditedFinal-1.pdf](http://www.kosovo.undp.org/repository/docs/Fast_Facts_27_ENGEditedFinal-1.pdf)

<sup>135</sup> Interview, lawyer, 15 February 2010.

<sup>136</sup> Interview, official, Anti Corruption Agency, 15 December 2009.

<sup>137</sup> Several have very large houses. Then chief prosecutor Hilmi Zhitia stated that 50 judges and prosecutors were under investigation. RTK news, 18 November 2009. Press accounts of judicial corruption are numerous. Jeton Musliu’s series “Kush e vrau Mensurin?” [Who killed Mensur?], *Express*, 22-26 September 2009, is illustrative. Not all accounts should however be taken at face value. In May 2010 the newspaper *Kosova Sot* mounted a sustained campaign against a judge who had awarded compensation to a worker who lost a hand in the newspaper’s printing press. In none of its attack articles did the newspaper mention this fact. Interviews, journalists, May 2010.

<sup>138</sup> See Human Rights Watch report, “Not on the Agenda: The Continuing Failure to Address Accountability in Kosovo Post-March 2004,” 29 May 2006, “The criminal justice response to March 2004” chapter, for a description of poor preparation of the introduction of the new criminal procedure code:

<http://www.hrw.org/en/node/11308/section/6>

<sup>139</sup> Interview, lawyer, 15 February 2010.

<sup>140</sup> Interview, Jeton Musliu, journalist, *Express*, 8 March 2010.

<sup>141</sup> Interviews: Betim Musliu, journalist, *Lajm*, 18 November 2009; lawyer, 15 February 2010; Kujtim Kërveshi, legal analyst, 25 February 2010; Jeton Musliu, journalist, *Express*, 8 March 2010.

<sup>142</sup> Interview, lawyer, 15 February 2010.

<sup>143</sup> In UNDP’s January 2010 poll 76% of respondents expressed satisfaction with the Kosovo Police, op. cit.

<sup>144</sup> Interview, competent Kosovo Police source, 3 December 2009

<sup>145</sup> Ibid.

<sup>146</sup> BIRN interview, close observer of Kosovo Police, international organisation, April 2010.

<sup>147</sup> Interview, 27 October 2009.

hugely delayed formation of the public enterprise boards, then tried to push many obviously political, unprofessional appointees past the ICR, eventually compromising in late April 2009 by dropping some of the worst.<sup>148</sup> It drove through the appointment of unqualified candidates to the railway board, ignoring warnings that this risked EU assistance for the revitalisation of Kosovo railways;<sup>149</sup> a law student who has not graduated heads the airport board. The hiving-off in 2008 of public procurement review to a new body independent of the Public Procurement Regulatory Commission worsened the situation, since the new body was “filled with dubious characters close to politics.”<sup>150</sup>

In a significant amount of cases where technocrats have been appointed to run ministries or regulatory bodies, there are elements in their background that could weaken their independence, making them vulnerable to blackmail.<sup>151</sup> The central bank governor’s wife was caught passing narcotics to their two sons, who were detained on murder charges.<sup>152</sup> He has come under attack in the media and parliament.<sup>153</sup> Yet, on the surface of things, he appears to have steered the banking sector well through the last two years of recession, withstanding pressures and applying rules rigorously.

Inter-party consensus on the appointment of regulators by the Assembly tends to produce weak

figures, bypassing stronger candidates. Over three years parliament filtered three successive lists of candidates for the RTK board, the final one in a snap process chaired by Deputy Prime Minister Kuçi. Before the ICR could prevent it,<sup>154</sup> in January 2010 that board appointed as RTK Director General by eight of nine votes an under-qualified candidate slipped late into the shortlist.<sup>155</sup> Hours before the vote, the supposedly independent board chairman said that only direct intervention with the Prime Minister would now change the board’s likely decision.<sup>156</sup>

The law on access to official documents is inoperative; journalists and other interested outsiders now cannot gain information about a growing range of central and local government decisions.<sup>157</sup> Enquiries and emails meet a wall of silence.<sup>158</sup> Government officials “would be fired” if found to have given a parliamentary committee chair copies of administrative directives.<sup>159</sup> In municipal government, decentralisation provisions introduced as part of the Ahtisaari plan give more power to the mayor, making civil servants feel less certain of their jobs, less autonomous in their

<sup>148</sup> Lavdim Hamidi, “Qeveria zgjedh anëtarët e bordeve, por nuk tregon emrat” [Government chooses board members, but does not reveal names], *Zëri*, 24 April 2009. Deputy Prime Minister Hajredin Kuci said that although the government chooses board members who are its supporters, professionalism is still the most important selection criterion. Interview, 20 May 2010.

<sup>149</sup> Parim Olluri, “Qeveria planifikon t’ua lerë në dorë ‘Hekurudhën’ ish-liderëve studentorë” [Government plans to leave railways in ex-student leaders’ hands], *Koha Ditore*, 11 March 2010. Arbana Xharra, “Kandidatët e Qeverisë rrezikojnë 200 milionë euro” [The government’s candidates put 200 million euros at risk], *Zëri*, 3 April 2010.

<sup>150</sup> Interview, Anti Corruption Agency, 15 December 2009.

<sup>151</sup> Cases vary. Some are rumoured to have dealt with the UDBA, Yugoslavia’s secret service, during the 1980s or 1990s.

<sup>152</sup> “Kosovo Mother Smuggled Drugs to Detained Sons,” *Balkan Insight*, 13 March 2009.

<sup>153</sup> In 2010 from *Express* newspaper and PDK parliamentary deputy Nait Hasani.

<sup>154</sup> Caught out by the speed of the appointment, the ICR arranged a meeting with Prime Minister Thaçi to air concerns, but was presented with a fait accompli by the time the meeting took place. Thaçi claimed to have backed a different candidate, TV chief Liridon Cahani, who had not made it to the shortlist. This was taken with a pinch of salt. On the day of the board’s decision, 26 January 2010, the ICR’s request for it not to be publicised, in the hope that it could still be reversed, was defeated by the winning candidate’s position as managerial overseer of RTK news: the main 7.30pm bulletin made his accession the lead. Interviews, BIRN, January, February 2010.

<sup>155</sup> One of the recruitment criteria was fluency in English, which Sylejman Shaqiri does not have. His application letter was reportedly copy-pasted from RTK’s staff guidelines, with the exception of one paragraph expressing an intention to bring better-qualified people into RTK. Interview, RTK source, February 2010.

<sup>156</sup> Interview, competent source, 26 January 2010. Pacarizi, who met Deputy Prime Minister Hajredin Kuçi the day before the decision, later claimed to media that there was no political influence involved. Deputy Prime Minister Kuçi, who oversaw selection of the board, insists that although the present board members “are not angels,” they are nevertheless “the most independent people in this country.” The body that selected them was multi-party and achieved a high degree of consensus. Interview, 20 May 2010.

<sup>157</sup> Interviews: Bekim Kupina, editor, *Koha Ditore*’s municipal section, 18 November 2009; Afrim Demiri, Ferizaj correspondent, *Koha Ditore*, 12 December 2009; head of a parliamentary committee, 26 February 2010.

<sup>158</sup> Interview, Salie Gajtani-Osmankaq, journalist, *Koha Ditore*, 22 December 2009.

<sup>159</sup> Interview, head of parliamentary committee, 26 February 2010.

decision-making, and less free with information.<sup>160</sup> Precisely those who implement the law dispassionately can end up fired, fined, and blacklisted.<sup>161</sup> Procurement officers are everywhere under pressure,<sup>162</sup> normative controls and oversight swept aside,<sup>163</sup> the Procurement Review Body itself captured.<sup>164</sup>

Procurement officials have been replaced,<sup>165</sup> as have some local health centre chiefs,<sup>166</sup> and ministry officials. Yet there has been no mass political firing of staff in public administration or public enterprises. Instead, where there has been a change of power in municipalities, party members and relatives have been hired on extra-budgetary short-term contracts.<sup>167</sup> After Kamenica's previous LDK mayor in December 2009 won back the post he lost to the PDK two years before, his dismissal of seventeen such temporary hires made in the interim, plus another 27 he argued were hired

without a competitive procedure, was rare enough to be reported in newspapers.<sup>168</sup> PTK and the airport further expanded their already large staff.<sup>169</sup> Otherwise, since the municipal elections there have been individual political dismissals: the AAK mayor of Gjakova sacked the municipality's director of emergency planning after he openly voted for a rival mayoral candidate.<sup>170</sup>

There has been a huge turnover of school directors and, to a lesser extent, teachers, with hiring and firing done on a party political basis, particularly running up to the September 2009 start of the school year.<sup>171</sup> Decentralisation reforms have been used by mayors to take direct control of the appointments process.<sup>172</sup> Rewarding party militants with school posts has become *de rigueur*, and non-party political school directors a rarer species.<sup>173</sup> The renewable one-year teacher contracts UNMIK introduced reinforce vulnerability; the local assessment commissions are often unqualified and under the mayor's sway.<sup>174</sup>

## Corroded Elections

Could elections administration and outcomes survive the cumulative pressures subverting so much else in the public realm? Despite the gradual decline in turnout from 79% in 2000 to just over

<sup>160</sup> Interview, Agron Demi, GAP Institute, 30 October 2009.

<sup>161</sup> In a decision dated 14 December 2009, the Procurement Review Body (PRB) "fired and fined the most honest procurement official in Kosovo." It dismissed Rahovec municipality's procurement manager Kamer Ukaj, fining him €1,000 and barring him from working in public service for three years after he correctly adjudicated a tender for a new water supply system for several villages, disregarding the PRB's persistent pressure for a different result. Interview, officials, state regulatory body, 18 December 2009.

<sup>162</sup> There are 431 public procurement professionals in Kosovo. In the RTK *Jeta në Kosovë* Suha Reka November 2009 mayoral election debate, rival candidates faulted the LDK for assaults on the municipal procurement chief. Ferizaj's procurement chief resigned in 2009, complaining of inappropriate pressure. Interviews: Albulena Sadiku, INPO, 2009; Afrim Demiri, *Koha Ditore*, 12 December 2009.

Gjilan's mayor replaced the municipality's procurement chief with a candidate lacking the minimum legal qualifications. Interview, Agron Demi, GAP Institute, 30 October 2009.

<sup>163</sup> Interview, international adviser, state regulatory body, 18 December 2009.

<sup>164</sup> Neither its leaders nor the Public Procurement Agency's current leaders have the education or experience required by law. Interview, state regulator, 18 December 2009. The PRB has been severely criticised by the European Commission for ignoring its technical advice, reaching decisions without adequate argumentation, and not publishing them. The European Commission asked for some illegal PRB decisions to be annulled, including the Rahovec village water supply tender. Vatra Qehaja, "Komisioni Evropian kërkon borde të reja në institucionet e prokurimit" [European Commission demands new boards in the procurement institutions], *Koha Ditore*, 3 May 2010.

<sup>165</sup> Both at central and municipal level, many of them replaced with under-qualified political appointees. Interviews: state regulator, 18 December 2009 and Agron Demi, GAP Institute, 30 October 2009.

<sup>166</sup> Interview, Agron Demi, Ibid.

<sup>167</sup> Interviews: Ibid and Afrim Demiri, *Koha Ditore*, 12 December 2009.

<sup>168</sup> Nexhat Buzuku, "43 punëtorë të pranuar pa konkurs largohen nga puna" [43 employees taken on without competition dismissed], *Koha Ditore*, 31 January 2010.

<sup>169</sup> In mid-2009 the airport advertised for an extra 120 staff. Airport sources told BIRN that in fact 200 were employed, interview, April 2010. A total of 850 now work there. PTK appears to have taken on several hundred more staff during the last year. See for example Lavdim Hamidi, "Për 3 muaj mbi 100 të punësuar në PTK" [PTK hires over 100 employees in 3 months], *Zëri*, 15 April 2009. On 13 May 2010 the government banned PTK from hiring any more, pending its privatisation. Besnik Krasniqi, "Qeveria i ve kufizime PTK-së" [Government puts limitations on PTK], *Koha Ditore*, 14 May 2010.

<sup>170</sup> Besiana Xharra: "U largua nga puna 'sherri' i votës për Mimožën" [Sacked due to voting for Mimoza], *Zëri*, 8 March 2010.

<sup>171</sup> Interview, Agron Demi, GAP Institute, 30 October 2009.

<sup>172</sup> Interview, Afrim Demiri, *Koha Ditore*, 12 December 2009.

<sup>173</sup> This was highlighted in the November 2009 *Jeta në Kosovë* Kaçanik mayoral election debate. Accused of making all school directors political appointees, incumbent Zhabir Xharku responded by identifying one Kaçanik school where the director "is not PDK".

<sup>174</sup> Interview, Afrim Demiri, Ferizaj correspondent, *Koha Ditore*, 12 December 2009.

40% in 2007,<sup>175</sup> Kosovo's post-1999 elections have been seen as exemplary, avoiding the bitter contesting of results and violence seen in some of neighbouring Albania and Macedonia's recent polls. Strict rules outlined in the Law on General Elections guaranteed all candidates a share of TV airtime. The past decade of internationally tutored and supervised experience has created healthy expectations of elections.

However, some parties' concerns about irregularities in the 2007 election results were muted in deference to Kosovo's imminent independence process; abuses went unpunished.<sup>176</sup> In 2009 a central election commission (CEC) whose composition resulted from inter-party trading, its chief officers selected at the last minute,<sup>177</sup> took the dominant public role previously occupied by the OSCE (although the latter discreetly poured in backroom staff at the last minute to assist the floundering CEC, and the elections appeal body (ECAC)).<sup>178</sup>

TV broadcasters gave all candidates who wanted it plenty of exposure, with every national channel running debates in nearly all the 36 municipalities: a vast improvement over previous elections. In 2007 RTK's *Jeta në Kosovë* was a lonely pioneer of such debates; before that municipal elections were terra incognita for national TV audiences. Candidates were better prepared than in 2007, and results in Prishtina, Suha Reka, Mitrovica and Gjakova gave evidence of public regard for professionally-oriented candidates drawn from outside party machines. Nonetheless, the debates' agenda did not move far beyond the water supply, electricity and other infrastructure questions

debated in 2007. They failed to explore in more depth the quality of local government and democracy, nor did they provide discussion of several incumbents' proven or alleged criminal misdeeds.

However, central party machines, money and influence were also so prevalent in these local elections that they overshadowed local choices, yet without offering any distinct set of party policies for local government. Parties invested huge amounts in advertising, one TV channel generating a third of its annual budget.<sup>179</sup> PDK and AAK adverts for their candidates in close-fought Prizren and Suha Reka emphasised party leader patronage, showing the former dependent upon the latter. Indeed, the prime minister used his position to promise millions of euros of extra public investment to municipalities that returned PDK mayors, calling into question the constitutional balance between central and local government, and skirting close to bribery and blackmail of electorates.<sup>180</sup> The PDK also had the edge in TV coverage, with the prime minister's preferred candidate reinstated as RTK news chief two months before the poll. Although quantitative fairness was observed,<sup>181</sup> running order, news agenda and substance were weighted, with editors even implementing PDK suggestions on cutting unflattering Thaçi and Prishtina mayoral candidate moments from daily campaign coverage.<sup>182</sup>

In too many locations - rural areas and some provincial towns - voters, polling station staff and observers were intimidated by groups of party

<sup>175</sup> The figures almost certainly exaggerate the decline, since the electoral roll was much smaller and many Serbs voted in the 2000 and 2001 elections. The roll expanded from 1.25 million in 2001 to 1.56 million in 2009, and still includes up to hundreds of thousands who live abroad and many of the past decade's deceased.

<sup>176</sup> See Lawrence and Mia Marzouk: "Shadow of Fraud Hangs over Kosovo Autumn Poll," *Prishtina Insight*, 4-17 September 2009.

<sup>177</sup> The chief suddenly stepped down, replaced in May 2009 by Nesrin Lushta. The wrangling over the executive officer post also lasted until May 2009.

<sup>178</sup> Interviews, international official, BIRN observer Mia Marzouk, October 2009.

<sup>179</sup> Interview, editor, Klan Kosova TV, 7 December 2009.

<sup>180</sup> The total sums promised were implausible: cumulatively far more than Kosovo's budget could afford. They included €170 million for Prizren, €155 million for Peja, €120 million for Ferizaj, and €100 million for Gjilan.

<sup>181</sup> Democracy in Action, "Monitorimi i mediave gjatë fushatës zgjedhore në Kosovë" [Media monitoring during the election campaign in Kosovo], March 2010. Online at: [www.kipred.net](http://www.kipred.net).

<sup>182</sup> RTK news took PDK instructions on cuts, although the same moments were broadcast on other channels' news programs. They included comments from a woman in a greenhouse telling PDK Prishtina mayor candidate Astrit Salihu that the previous candidate, Fatmir Limaj, was better, and a distracted non-answer given by Hashim Thaçi to a journalist's question on the campaign trail in Prizren. Interview, RTK source, 4 December 2009.

political militants, some armed: crowding outside, roaming in bands from one polling centre to another (some allegedly voting in each), or overlapping into the staff of centres, where many did not hide their party affiliation, and were accompanied by unauthorised people. Two of BIRN's ten observer teams sought police protection to re-enter polling centres from which armed men had ejected them.<sup>183</sup> By the December runoff, parties were accusing each other in real time of deploying militants in various locations, and admitted use of their own to "defend" their votes.<sup>184</sup> There were several beatings.<sup>185</sup> "We were obliged to call in thugs" to counter manipulation by state officials, said AAK leader Haradinaj.<sup>186</sup> Klina was "close to warfare," its polling centres "defended with Kalashnikovs;"<sup>187</sup> a large group led by Haradinaj's brother Daut retreated rather than engage the PDK in a gunfight.<sup>188</sup>

At polling station, polling centre and municipal aggregation level there were often insufficient normative pressures upon election administrators, police, NGO and political party observers to help them uphold their professional duty. Forces swaying them to defect or abdicate were often more present and stronger. There is much anecdotal and some video evidence of participation or acquiescence in ballot stuffing. Many officials appeared to "lack identity, grounding," unclear what or whom exactly they represented.<sup>189</sup> With monitors in nearly every

polling station, the domestic NGO umbrella organisation Democracy in Action was positioned to exercise normative pressure, representing the public interest at ground level – yet in practice many of its monitors were cowed, and some were driven out, suborned or impersonated.<sup>190</sup> The NGO appeared passive in the November 2009 poll, though more reactive in the December runoff.<sup>191</sup> Its leadership felt it unfair for their observers to carry the burden of objecting if all others in a polling station sold out, signing off on a manipulated result. Nevertheless, the NGO considered that overall, manipulations did not crucially impact results – vote-buying was a bigger factor than vote-stealing, some sellers being obliged to use a mobile phone camera in the booth to prove their vote to the buyer.<sup>192</sup>

There have been no prosecutions, conveying to officials that complicity in election abuses is less risky than defying powerful political patrons, who in turn could feel emboldened to scale up the ordering of abuses in runoffs. School directors, many politically appointed only in September, were a crucial weak link. Most automatically became managers of polling centres, sited in schools, each accommodating several polling stations. In many polling centres one or more classrooms/polling stations showed results varying far beyond the polling centre median and modal averages.<sup>193</sup> Although the law envisages only a

<sup>183</sup> In Gjakova and Lipjan.

<sup>184</sup> Daytime coverage, Klan Kosova TV, 13 December 2009.

<sup>185</sup> See Kastriot Jahaj and Arian Duriqi, "Akuza për rrahje e vjedhje votash mes LDK-së e PDK-së" [Accusations of beating and vote theft between LDK and PDK], *Koha Ditore*, 16 December 2009.

<sup>186</sup> TV evening news programs, 14 December 2009.

<sup>187</sup> Interview, Peja mayoral candidate, 15 December 2009. Confirmed by journalist from Klina, February 2010, and Democracy in Action NGO, 18 March 2010.

<sup>188</sup> Many residents resented this group's presence and demeanor.

Interviews: Klina journalist and Democracy in Action, Ibid.

<sup>189</sup> Interview, Afrim Demiri, Ferizaj correspondent, *Koha Ditore*, 12 December 2009. Hiding their identities, the Albanian chief of Shtërpçë's election commission threatened and his Serb deputy assaulted a YIHR researcher (who was an accredited observer) as he noted the number of an unsealed ballot box containing a number of envelopes on the back seat of their car, parked in the road near the central counting centre in Fushë Kosovë, the morning after the first election round, 16 November 2009.

<sup>190</sup> In Ferizaj some were forced to leave polling stations for several hours, non-accredited people were seen wearing Democracy in Action T-shirts in Mitrovica, while in an Albanian-majority village in Shtërpçë an international observer asked someone wearing a Democracy in Action T-shirt who he worked for and was answered: "The PDK". Correspondence with Mia Marzouk, BIRN observer, April 2010. Many Democracy in Action monitors were afraid to report problems in real time, as this resulted in them being identified and bullied by other polling station staff. Interview, Valmir Ismaili, Democracy in Action, 18 March 2010.

<sup>191</sup> The NGO gained experience from the first round and made some changes in its network of monitors. Interview, Valmir Ismaili, Democracy in Action, 18 March 2010.

<sup>192</sup> Ibid.

<sup>193</sup> In many polling centres there are dramatic variations in party or turnout results between the polling stations. For example, in the 15 November 2009 municipal election in polling centre 2015a in Prizren, the LDK won 46.4% in polling station 01r, rising to 73.5% in the 05d polling station, while the PDK won 28.7% in 01r and just 7.1% in 05d. In polling centre 2113b in Skënderaj municipality, 100% of registered voters voted in polling station 01r, 34.6% in 02r and 75.3%

technical support role for polling centre officials, in practice they dominated the polling stations.<sup>194</sup> In effect, politically appointed school directors needed the incumbent mayor to win in order to retain their own posts.

Parties other than the PDK complained about bias in the Central Election Commission's (CEC) work. At the very least, political standoffs delayed selection of its chief executive officer, there was a deficit of transparency in staff recruitment, and often inexperienced candidates were preferred to those who had worked on previous elections.<sup>195</sup> There were questionable CEC decisions at municipal level: many voters in Mitrovica discovered themselves re-allocated from their usual polling centres,<sup>196</sup> in Peja voters from two polling centres with a record of supporting a nationally small opposition party (Ora) were switched to a distant polling centre without prior notice,<sup>197</sup> and the same party's observers were directed away from polling stations in Prizren serving its urban core vote to rural areas.<sup>198</sup>

The process of tallying the final voting results, which adjusted the preliminary vote results (the original polling station counts), and included the addition of conditional votes, tended to benefit some parties more than others. In AAK-run Peja larger parties' preliminary vote totals were significantly enhanced: the AAK adding 766 to its preliminary 15,285 votes (an increase of 5%), the PDK adding 233 to its preliminary tally of 4,919 (an improvement of 4.7%), the LDD boosting its preliminary vote of 5626 by another 219 (3.9% better), and the LDK adding to its 4580 a further 88 (a 1.9% enhancement). By contrast, only 11 more votes were added to Ora's preliminary total

of 3617 (an increase of just 0.3%). Throughout Kosovo, the PDK benefited disproportionately in the transition from preliminary to finalised results, which showed gains for it of between 1.62% and 2.64% of overall vote share over what the party achieved in the election night polling station counts. This was significantly more than all other parties, with the LDK next highest, gaining between 0.42% and 1.53% between preliminary and final results.<sup>199</sup>

Yet when conditional votes promised to benefit the LDK in Prizren, the CEC stalled counting them, and eventually never did. An election rerun was ordered there, which the PDK won in January 2010 (despite signs that it had in reality lost the December 2009 run-off<sup>200</sup>). Overall, the CEC demonstrated that it was not able to determine a result in any municipality where there was a close call, and brought itself into disrepute over its mishandling of results and resistance to reruns in Prizren and Lipjan, eventually held 31 January 2010, and Gjilan, eventually held 14 March 2010.<sup>201</sup>

## Dependency on International Presences

The heavy foreign presence, now 11 years old, has imposed UN and European concepts of human, minority and gender rights, democracy and market liberalism. Both their absorption and teaching

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in 03d. Mia Marzouk, BIRN observer, correspondence, April and May 2010.

<sup>194</sup> Observation of BIRN's ten monitoring teams, which included a YIHR researcher, 15 November and 13 December 2009.

<sup>195</sup> Interviews, international official, November 2009.

<sup>196</sup> Interview, official, Community Building Mitrovica NGO, 17 March 2010.

<sup>197</sup> Interview, Gazmend Muhaxheri, Ora mayoral candidate, 15 December 2009.

<sup>198</sup> Ibid.

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<sup>199</sup> Calculations by Mia Marzouk, BIRN observer, correspondence, April 2010.

<sup>200</sup> On the election night, with counting complete in the polling stations, the LDK's campaign coordinator told BIRN he was emphatically confident his party had prevailed while his PDK counterparts did not include Prizren among the municipalities they reckoned to have won. A competent PDK source in Prizren is later reported to have said that his party's total was 3000 votes short of the LDK's. Interview, Klan Kosova journalist, 22 December 2009.

<sup>201</sup> Behind the scenes the US embassy exhorted the leaders of both the CEC (KQZ) and the ECAC (KZAP) appeals body to apply themselves with maximal professionalism and impartiality. On 19 December 2009 ECAC evaluated irregularities in the three municipalities to be so prevalent as to require a rerun. CEC demurred; a few days later it conceded reruns in two, but only a recount in Gjilan. The U.S. Embassy demanded Gjilan be rerun too, see press release, 23 December 2009: [http://pristina.usembassy.gov/2009\\_press\\_releases/u.s.-embassy-press-statement-december-23-2009](http://pristina.usembassy.gov/2009_press_releases/u.s.-embassy-press-statement-december-23-2009). Only several weeks later, after failing to organise a recount, did the CEC agree to rerun the Gjilan election.

have been uneven. Some of the best-functioning state bodies, such as the customs service and Kosovo Police, were created from scratch and controlled by UNMIK until 2008, while those run by Kosovo since 2002, like ministries of health and trade and industry, are less respected. However, it is the former that are coming under domestic pressure to change.

The formal architecture of institutions expected of a modern European state is near complete, yet as described above, its timbers are warping from within. However, Kosovo's public realm is also distorted and held back by its international mentors' deficiencies: due to continuing wrangles about Kosovo's status, unwillingness to give up discretionary power, neglect, the interests and limitations of international field staff, and concerns about Kosovo institutions behaving inappropriately.

Kosovo's sponsors and overseers have often given precedence to short-termist "no news is good news" stability over steps towards healthy development that are confrontation-laden. For, Kosovo's stability is of "a frozen condition", not genuinely a reflection of reality on the ground, but of a huge investment of political will in maintaining it. The sponsors, chiefly the US and the EU's member states, view tinkering with that investment with caution.<sup>202</sup> Among them, there are perceptions of Kosovo as a black hole of crime. On occasion, Kosovo's citizens could be forgiven for believing that they want it to stay that way.

Kosovo has internalised the UNMIK conflict prevention culture,<sup>203</sup> and international agencies have bent their development tools to mending inter-ethnic relations.<sup>204</sup> Rather than the hoped-for Westernisation of society, arguably: "the

<sup>202</sup> Interview, Agron Bajrami, editor in chief, *Koha Ditore*, 13 May 2010.

<sup>203</sup> Interview, Haki Abazi, Rockefeller Brothers Fund, 28 October 2009.

<sup>204</sup> Interview, Mark Poston, former DFID chief for Kosovo, 11 February 2010.

international presence was Kosovarised,"<sup>205</sup> its decisions less infused with principle than freighted with its own competing self-interests. Despite its implantation of the language of rights, the international presence has also limited debate, exerting a form of civilising suppression, pushing for what the philosopher Žižek dubbed a "decaffeinated" nation.<sup>206</sup>

Kosovo mutes discussion of its state identity in deference to its sponsors. The Ahtisaari independence package was presented as a take-it or leave-it gift, its dozens of laws passed with little debate, its constitutional structure not renegotiable. On one hand, although Kosovo's sponsors have not delivered all that the package promised: whether in recognition or in subordination to Prishtina of the Serb-inhabited North, discussion of conditioning implementation upon delivery of all that was promised or of alternative national options, such as linking with Albania or formalising the loss of the north, is still largely off limits.<sup>207</sup> On the other, although the multi-ethnic Ahtisaari state is designed to preserve as much as is practicable of the territory's Yugoslav heritage, scratching its surface tends to reveal hostility to this from stakeholders in a presumed and also un-debated parallel partial KLA state beneath, that acts as a defence mechanism on behalf of members of the KLA establishment.

This parallel apparatus includes a media arm and some form of intelligence service. *Infopress*

<sup>205</sup> Interview, Nexhmedin Spahiu, director, TV Mitrovica, 10 March 2010.

<sup>206</sup> Balkan Insight, "The West Wants a Decaffeinated Kosovo", 8 September 2009. See:

<http://www.balkaninsight.com/en/main/interviews/22067/>

<sup>207</sup> Although the radical *Vetëvendosje!* movement argues against the Ahtisaari package's constraints mainstream media and politicians do not. The government has however played the card of the international presences' failure to subdue Serbs in the north whenever those presences pressurise it over organised crime and corruption. Deputy Prime Minister Hajredin Kuçi raised it after criticism of the government on these fronts in the EU's October 2009 progress report (Foreign Policy Club conference, 16 October 2009), and Prime Minister Hashim Thaçi raised it again after EULEX's raids on the Ministry of Transport and Minister Limaj (television interview, RTK, 5 May 2010).

savages any perceived critics of the KLA's reputation, tarring them as pro-Yugoslav or pro-Belgrade,<sup>208</sup> and has also launched attacks on EULEX since its investigation of transport minister and former KLA commander Fatmir Limaj went into high gear.<sup>209</sup> *Epoka e Re* and *Express* newspaper joined in, with articles attacking the character of EULEX's acting chief prosecutor.<sup>210</sup> Although SHIK claimed to have dissolved itself in June 2008,<sup>211</sup> and the official Kosovo Intelligence Agency is not yet operational,<sup>212</sup> Prime Minister Thaci and Limaj have each claimed to have put people under surveillance. Thaci boasted of intercepting International Crisis Group communications.<sup>213</sup> Asked why his ministry had told BIRN journalists engaged in investigating road tenders that it was recording their movements, the people they had met and the documents they had collected, Limaj told a press conference that it was the government's prerogative to do so, since "We are a state."<sup>214</sup> Some form of local intelligence structure appeared to put the EULEX building under surveillance in the wake of that mission's raids on Limaj's ministry and homes in late April 2010.<sup>215</sup>

<sup>208</sup> Responses to BIRN's investigation of alleged 1999 wartime KLA detention centres in northern Albania, April 2009; *Jeta në Kosovë's* freedom of speech debate and field report on the work of Skënderaj municipality, June 2009; coverage by liberal media of Nazim Bllaca's SHIK murder confessions, December 2009.

<sup>209</sup> Kimete Berisha, "Sepata e Tenedit në dorë të Piter Fejtit!" [Tened's axe in the hands of Pieter Feith!] *Infopress*, 11 May 2010.

<sup>210</sup> Muhamet Mavraj, "Pishpiriku holandez ka gënjyer në 'Koha Ditore'", [The Dutch clown lied to Koha Ditore], *Epoka e Re*, 13 May 2010; unsigned article, "Njolla e prokorurit" [Stained prosecutor], *Express*, 21 May 2010.

<sup>211</sup> SHIK chief Kadri Veseli announced the dissolution in a recorded address broadcast on RTK TV news, 14 June 2008.

<sup>212</sup> Lumturie Blakaj, "Në AKI, si në Postë, KEK e Aeroport" [At the AKI, like at the Post Office, KEK and the Airport], *Zeri*, 26 April 2010.

<sup>213</sup> Interviews, Prime Minister Hashim Thaçi, July 2008, October 2008.

<sup>214</sup> Press conference, 14 April 2010.

<sup>215</sup> A Kosovo citizen was accosted upon leaving the building by two local men who demanded to know who he had been meeting in there. Interview, citizen, 11 May 2010. Apprised of this, Deputy Prime Minister Hajredin Kuci said that he visits the EULEX building frequently and has never experienced such problems. Interview, 20 May 2010.

Kosovo's religious identity is also a subject of inhibition. Identification with the Islamic world is a source of muted embarrassment and insecurity to the many in Kosovo who want to be squarely in the Western camp, for whom the US is the country's indispensable patron.<sup>216</sup> Throughout the twentieth century Kosovo Albanians wore their religion lightly. Yet the decade of international control has incubated increased deference to the Islamic side of Kosovo's identity, and resources were allowed to flow in from the Arabian Gulf to strengthen "Wahhabism." Critics claim that Kosovo's poverty has been exploited to buy converts for this radical strain.<sup>217</sup> There is polarisation between its devotees and mainstream society. Many feel their own identity threatened by the "dark energy" of the growing presence of young bearded men and covered women,<sup>218</sup> who in turn feel demonised.

Strong reactions including threats from religious devotees have deterred adequate media coverage and discussion.<sup>219</sup> Physical attacks may have followed.<sup>220</sup> In turn, many in mainstream society

<sup>216</sup> On the eve of its scheduled transmission by *Jeta në Kosovë* in August 2009, RTK pulled the Michael Winterbottom film "The Road to Guantanamo", second-guessing the wishes of the US embassy. Prime Minister Thaçi maintained his distance from an August 2008 conference organised by the NGO Forum 2015 to introduce invited Arab intellectuals to the arguments for Kosovo's independence, in order to stimulate recognition of Kosovo in the Arab world. The Prime Minister stated that such recognition should be achieved: "through Washington and Brussels, and not through dubious addresses." During their perilous isolation of the 1990s a majority of Kosovo Albanians reportedly thought it "necessary to renounce their Islamic heritage, as a first step towards incorporation into western civilization and national homogenization. During 1990, when the situation in Kosova deteriorated day by day, Muslim Albanians were openly reflecting on the idea of a collective conversion to Roman Catholicism... the 'faith of our ancestors'" Shkëlzen Maliqi, "Kosova: Separate Worlds", Dukagjini: Prishtina, 1998, p. 52.

<sup>217</sup> A view that Wahhabi converts gain a monthly €300 stipend is widespread. Interview, Ilir Deda, director, KIPRED think tank, 16 April. See Isa Blumi, "Political Islam Among the Albanians: Are the Taliban coming to the Balkans?" KIPRED, 2<sup>nd</sup> edition 2005: [http://www.ssrnetwork.net/document\\_library/detail/3795/political-islam-among-the-albanians-are-the-taliban-coming-to-the-balkans-2nd-edition](http://www.ssrnetwork.net/document_library/detail/3795/political-islam-among-the-albanians-are-the-taliban-coming-to-the-balkans-2nd-edition).

<sup>218</sup> Interview, Ilir Deda, Ibid.

<sup>219</sup> RTK has received such threats. Interviews, RTK management, 2004-5. Kosovo's official Islamic Community asked for a *Jeta në Kosovë* TV debate not to be broadcast.

<sup>220</sup> An anonymous email to media claimed responsibility for the April 2010 stabbing of comedian Rasim Thaçi "Cima", stating that the attack was motivated by his mockery of the Islamic faith. The spokesman of the official Islamic Community condemned the attack

back suppression of devotees' rights: the forcible March 2010 closure of Marina village mosque and expulsion from the country of its imam without due process; banning girls from school for wearing the headscarf.<sup>221</sup> SHIK has marketed itself to Western counterparts as a monitor of radical Islam.<sup>222</sup> Off the record, Kosovo authorities complain that Western intelligence agencies' interests in observing Islamist activity prevent them from stamping it out.<sup>223</sup>

The international presence's contribution to Kosovo law is double-edged. UNMIK created a good structure of criminal law and procedure, yet "blocked property and administrative laws not of interest to it",<sup>224</sup> stalled measures to strengthen Kosovo's weak judiciary, and has not recognised any Kosovo law passed since the February 2008 declaration of independence. The ICR's Preparation Team brought crucial drafting expertise to the body of Ahtisaari laws and the constitution, yet its EULEX partner, mandated under UN Security Council Resolution 1244, is constrained by UNMIK's position, and takes a piecemeal approach to approval of post-February 2008 law.

Although joint trial panels of EULEX and Kosovo judges were designed as a staging post to the latter's eventual takeover of sensitive cases, an insecure Kosovo judge already distanced himself

from an important trial verdict,<sup>225</sup> and a judicial dependency culture appears to be developing around EULEX. The mission's indictment of radical activist Albin Kurti for leading demonstrators in 2007, two of whom were killed by UNMIK's Romanian riot police,<sup>226</sup> a unit which since became part of EULEX and whose personnel faced no consequences, is an unappealing illustration of the legal enclave in which Kosovo is situated. It is cut off from the international human rights system, including appeals to the European Court of Human Rights and scrutiny by the UN Human Rights Committee.<sup>227</sup>

EULEX, with its formal executive powers, and the culture of abdication of responsibility these stimulate in Kosovo's police and judiciary, has held the monopoly on organising high level corruption, organised crime and war crimes investigation. With the EU's October 2009 Progress Report headlining Brussels' alarm about government corruption and organised crime, EULEX's action or inaction has become the determinant of Kosovo's direction.

Such alarm implanted in Kosovo society a notion of "original sin", for which EULEX's torpor in 2009 and early 2010 denied exculpation. The mission seemed very focused on its internal processes,<sup>228</sup> and slow to grasp that tardiness or absence of action, whether born of incapacity or political stop signs, by default protects and

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yet warned that freedom of speech did not include freedom to insult the feelings of others. Kastriot Jahaj, "Ekstremistë islamike marrin përsipër sulmin ndaj Cimës" [Islamic extremists claim responsibility for attack on Cima], *Koha Ditore*, 16 April 2010. A member of the government alleged to have been assaulted on the street in Prishtina by several Islamist men, but this was not reported to police. Interviews, BIRN, March, April 2010.

<sup>221</sup> Media gave scant coverage of a march through Prishtina on 7 May 2010 by hundreds protesting the exclusion of girls from school for wearing the Islamic headscarf, and specifically the recent case of a teenage girl banned from a technical school in Ferizaj. In a case in nearby Viti, a girl's right to return to school was upheld by the regional court, but blocked by the municipal education directorate, citing a 2009 Ministry of Education administrative order. Kastriot Jahaj, "MASHT-i konteston vendimin e Gjyqit të Qarkut" [Education ministry contests regional court's decision], *Koha Ditore*, 9 May 2010.

<sup>222</sup> Interview, former US official, February 2006.

<sup>223</sup> BIRN interviews, March and April 2010.

<sup>224</sup> Interview, Kujtim Kërveshi, former adviser to the Minister of Justice, 25 February 2010.

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<sup>225</sup> After receiving threats, Judge Retkoceri denounced the verdict handed down in the second "Llapi Group" trial, claiming that he was outvoted by his two EULEX colleagues. He was suspended. Vehbi Kajtazi, "Gjyqtari Rrahman Retkoceri pohon të jetë kërcënuar" [Judge Rrahman Retkoceri admits to have been threatened], *Koha Ditore*, 8 October 2009.

<sup>226</sup> See Krenar Gashi and Jeta Xharra, "Protest Against UN Plan Turns Bloody in Prishtina", *Balkan Insight*, 12 February 2007. <http://kosovo.birn.eu.com/en/1/70/2300/>

<sup>227</sup> The Human Rights Committee still considers reports submitted by UNMIK. A suggestion made in the Committee's meeting on 29 July 2009 to respond to correspondence received from Kosovo's government was not supported, and the Committee determined to verify the UN position on Kosovo's status and reconsider the situation in the second half of 2010. See: [http://www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/201DB71C1FFB8FB6C1257602003D5221?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/201DB71C1FFB8FB6C1257602003D5221?OpenDocument).

<sup>228</sup> For its 1<sup>st</sup> anniversary it celebrated its report on the state of Kosovo's police and judiciary as a landmark achievement.

nurtures corruption.<sup>229</sup> Despondency began to set in among Kosovo's civil society: "The UNMIK time created corruption; the ICO/EULEX time has created a mafia."<sup>230</sup> The calendar looked blocked with important occasions and dates (to do with securing Kosovo's international status) that militated against taking decisive action.<sup>231</sup>

Some Quint diplomats appeared to view as a nuisance Kosovo press stories about an allegedly corrupt minister (now revealed as Fatmir Limaj, transport and telecommunications) whom the US was discreetly trying to persuade to take up a position abroad: "This is not a time for crusades."<sup>232</sup> Although the press reported ICR Pieter Feith's insistence on the minister's dismissal,<sup>233</sup> and although this was well-sourced,<sup>234</sup> the US embassy issued a statement on behalf of the Quint appearing to repudiate part of the reporting.<sup>235</sup> This climate, in which even senior international officials relied on anonymous leaking to newspapers to get their point across, and then saw it disowned by fellow diplomats, hardly encouraged ordinary Kosovo citizens to engage in the struggle against corruption and organised crime.

EULEX's hermeticism, laconism and anxiety to project itself as "technical" mission ceded mastery of the public arena to the "big fish" of the government it was investigating.<sup>236</sup> In May 2009

Minister Limaj pre-empted and choked off reporting of his relatives being caught at border points taking millions of euros in cash out of Kosovo.<sup>237</sup> Nearly a year later, after international officials' behind the scenes recommendations for his dismissal were rebuffed in the April 2010 government reshuffle, Limaj made a flurry of TV appearances, signed a €700 million contract with the US Bechtel company-led consortium for construction of a highway to Albania, launching this as a patriotic cause with a poster campaign. The Prime Minister has made a practice of demanding that serious criminal cases affecting his allies not be politicised, prejudged or even commented upon by others, while licensing himself and supporters to do precisely that.<sup>238</sup> He practised this in the Bllaca case with EULEX mission chief Yves de Kermabon standing haplessly beside him in December 2009, and tried it again in a television appearance a week after EULEX's raids of 28 April 2010 on the Ministry of Transport, the homes of Minister Limaj, his brother, and others.<sup>239</sup>

In the aftermath of those raids the public arena's dynamic has changed radically. Shocked, the government initially signalled that it would cooperate with EULEX's enquiries. Prime Minister Thaçi and Minister Limaj then avoided the media for a week, not opposing further

<sup>229</sup> A February 2010 meeting in which Kosovo NGOs pressed EULEX management for action on official corruption broke up in mutual incomprehension and frustration.

<sup>230</sup> Interview, Safet Gerxhalii, vice president, Kosovo Chamber of Commerce, 18 November 2009.

<sup>231</sup> Interview, official, Anti Corruption Agency, 15 December 2009.

<sup>232</sup> Interview, two Quint ambassadors, 12 March 2010. See also Arben Ahmeti, "EULEX-i nuk u pajtua për 'ekstradimin' e Limajt" [EULEX did not agree to Limaj's "extradition"], *Koha Ditore*, 3 May 2010.

<sup>233</sup> Arben Ahmeti, "Feith kërkon largimin e ministrit të dyshuar për korrupsion" [Feith demands removal of minister suspected of corruption], *Koha Ditore*, 12 March 2010.

<sup>234</sup> Interview, international official, 19 April 2010.

<sup>235</sup> Lawrence Marzouk, "Quint Denies it Demanded Kosovo Govt Sacking", *Balkan Insight*, 12 March 2010: <http://www.balkaninsight.com/en/main/news/26560/>.

<sup>236</sup> This term entered Kosovo's lexicon after a journalist quizzed EULEX's then chief prosecutor Theo Jacobs on 3 November 2009 on EULEX's efforts to catch "big fish", to which he responded that several interesting corruption investigations would within a few months yield results. Losing patience, in March 2010 the Foreign

Policy Club NGO commissioned an illustration of the ICR and the EULEX chief allegedly frightened by a big fish:

<http://periskopi.com/en/3/>.

<sup>237</sup> In an emotional press conference, in which he cited his wife's struggle with cancer, his father's paralysis and his mother's hospitalisation, and blamed Serbia and others jealous of Kosovo's and his success for the reports, he demanded that his family not be dragged into politics. Salie Gajtani-Osmankaq, "Ministri Limaj reagon në mbrojtje të familjes" [Minister Limaj reacts in defence of his family], *Koha Ditore*, 14 May 2009.

<sup>238</sup> When a retrial of former KLA commander "Remi" Mustafa and two associates for war crimes started, Prime Minister Thaçi stated: "We fully believe in their innocence and in the just war of the KLA and of the Kosovo people. Kosovo's government fully believes in the justice authorities, as well as in the innocence of our fellow fighters. We as Kosovo institutions fully believe that they will be released not guilty, as they are." RTK News, 7 July 2009. He later called their conviction "bad news for Kosovo". In December 2009 his spokesman Memli Krasniqi announced that Bllaca's statements were false, while Thaçi called them well-orchestrated actions intended to damage Kosovo's security.

<sup>239</sup> 30-minute TV interview, RTK, 5 May 2010. Viewable online at: <http://www.rtklive.com/>

coverage and analysis by critics such as *Koha Ditore*. The Prime Minister's television appearance was part of an attempt by the government and its supporters to rally and to halt this trend, and to paint the raids as unjust, brutally intrusive, a politically motivated "lynch" of a minister, and a "media show."<sup>240</sup> Used to EULEX's silence in the face of such tactics, they cannot have expected that its acting chief prosecutor, Johannes van Vreeswijk, would deliver a swift and crushing response. He publicly dismissed the Prime Minister's comments as ignorant and "childish", said millions of euros had been misused, gave the outline of pending indictments for which Minister Limaj and his procurement chief could face 55 years in prison, and said six other high officials were being investigated for corruption and organised crime.<sup>241</sup>

Chief prosecutor van Vreeswijk's pronouncements signalled a further challenge to the status quo:

"Corruption is a secret crime. It is perpetrated by a specific group and is difficult to detect... From this crime stems the threatening and frightening of people... the way in which they frighten others is a crime in itself.... I am saying to all those who are linked with organised crime and corruption that they should start to tremble.... We are working to protect citizens, so that finding a job does not have to depend on a political party, so that citizens do not feel frightened and

threatened in this country. That is unacceptable for us. The citizen should be respected. Many citizens here are frightened. I am sick to my teeth with this situation."<sup>242</sup>

EULEX's action appears to have strained the consensus operating among Kosovo's international overseers. The raids were an assertive step by the formal European-dominated oversight structure, and cut across the exit strategy the US was devising for Limaj.<sup>243</sup> The US has been driven by concern about the effect that indictment of a powerful minister could have on Kosovo's political stability.<sup>244</sup> Paradoxically, the Europeans' greater emphasis upon integrity of Kosovo's institutions may result in the shaming of the new state, potentially by serving several in the government's top echelon with corruption indictments.<sup>245</sup> Although there may be hesitancy in Brussels, EULEX has said that an arrest will soon be made and took the step of searching Prime Minister Thaci and several of his ministers before they boarded a plane for a visit to Turkey on 19 May.<sup>246</sup> The US embassy is clearly uncomfortable with the developing situation. On 14 May 2010 Ambassador Dell argued that corruption is best fought through structural reform of the economy rather than by prosecuting individuals.<sup>247</sup>

Between them, the ICR, with his formally vested but never-used powers to dismiss officials who contravene the Ahtisaari Plan, and the informal

<sup>240</sup> A week later Minister Limaj re-appeared to give a similar interview to RTK, 13 May 2010. His was more gracious to EULEX than the prime minister was and he focused on trying to convince the public of his own solid character. However, by this time government-supporting newspapers got the green light to mount personal attacks upon ICR Pieter Feith and EULEX acting chief prosecutor Johannes van Vreeswijk. Without a shred of evidence, *Infopress* said that Feith and EULEX were motivated by revenge on behalf of a European company that lost out to the US Bechtel-led consortium in the transport ministry's highway tender. The newspaper compared EULEX police's behaviour during the raid upon the ministry to that of Nazis rounding up Jews for the gas chambers. Kimete Berisha, "Sepata e Tenedit në dorë të Piter Fejtit!" [Tenedit's axe in the hands of Pieter Feith!] *Infopress*, 11 May 2010.

<sup>241</sup> Newspaper interview, Arben Ahmeti, "EULEX: Kemi fakte për miliona të keqpërdorura" [EULEX: We have facts on misuse of millions], *Koha Ditore*, 7 May 2010.

<sup>242</sup> Newspaper interview, Arben Ahmeti, *Ibid*.

<sup>243</sup> The US approach echoed that applied to a criminal incident ten years ago involving another former KLA commander turned political leader, in which the US, its diplomatic representation in Kosovo headed then and now by Christopher Dell, cut corners on the rule of law. AAK leader Ramush Haradinaj was wounded in a gunfight. US officials spirited him out of the country and allegedly removed evidence from the crime scene. See Nick Wood, "US 'covered up' for Kosovo ally", *The Observer*, 10 September 2000: <http://www.guardian.co.uk/world/2000/sep/10/balkans.internationalcrime>

<sup>244</sup> Interview, international official, 19 April 2010.

<sup>245</sup> Amid rumour that the target of investigation has told colleagues that he will not consent to fall alone, Minister Limaj's comment on the 28 April raids was that his ministry's work "is not different" from that of any other ministry. Kohanet, 1 May 2010.

<sup>246</sup> Klan Kosova TV news, 20 May 2010.

<sup>247</sup> "Receta e Dellit" [Dell's recipe], *Express*, 15 May 2010.

power-wielding US and other Quint embassies, substitute for the corrective power of public opinion and civil society upon the government: vetoing inappropriate public appointments,<sup>248</sup> defending beleaguered professionals in public institutions,<sup>249</sup> and curbing unacceptable behaviour. If not for this intervention, Kosovo's own weak civil society would fail to protect the young state's fabric.<sup>250</sup>

However, the brokerage of the diplomats has perpetuated civil society's weakness and dependency, their own interventions are more selective than domestic actors' might be, and chime with their priorities and interests, which are not always Kosovo's. Until the 28 April 2010 raids changed the dynamic, the planned US solution for Fatmir Limaj (however benign its motives) involved him moving to another country, the suppression of media coverage of the affair, and keeping all within the diplomats' discretion.<sup>251</sup> It also coincided with the US interest in securing Limaj's signature to the €700 million contract with Bechtel. The Quint modifies public opinion in less cardinal ways too: a swift statement from the US embassy praising conduct of the November 2009 municipal elections influenced the Democracy in Action NGO to mark it up: "4 rather than 3" (i.e. B rather than C).<sup>252</sup>

Diplomats' brokerage filters Kosovo's democracy, though less obtrusively than during the UNMIK period: the bickering parties needed the UN administrator to negotiate the first 2002 coalition government, then US and EU diplomats tried unsuccessfully to bully the 2004 election winner the LDK into ceding the premiership to the losing PDK. Since then, parties were left alone to agree government coalitions: indeed when in November 2009 the PDK asked the US embassy to help it

change its coalition partners, the broker role was sensibly declined. Nevertheless, the embassy appears to base many subsidiary decisions upon its view of which political forces are capable of running the country. Its concern to avoid EULEX indictment of the PDK's senior minister reflects US scepticism that none but the PDK is presently fit to govern, and preference to maintain that party's stability. The US has reportedly lessened its contributions to EULEX and initiated a separate rule of law assistance mission (ICITAP).<sup>253</sup>

The collection of urban NGOs that calls itself Kosovo's civil society relies on international donor funding, is of Western liberal orientation, and increasingly lobbies the international presences not to compromise in investigation of corruption.<sup>254</sup> It also finds itself competing with the government for the protection they offer, and is constrained to turn to "the internationals" when domestic institutions fail to shield them. When the state prosecution declined to act against *Infopress's* attacks and apparent death threat against *Jeta në Kosovë's* presenter Jeta Xharra,<sup>255</sup> and a protest letter from 25 domestic NGOs and 80 individuals, sent to the government and all members of parliament, had no effect, she and her BIRN colleagues turned to the internationals. *Infopress* dubbed her "the embassy slut."<sup>256</sup> The ICR and European Commission were supportive, but the US embassy was not.<sup>257</sup> The NGOs released a second joint letter to protest the government's inadequate 10 June press statement, which a government member then revealed to have been ghosted by the US embassy.<sup>258</sup>

<sup>248</sup> Which it did with a previous chief of the Tax Administration and several public enterprise board members.

<sup>249</sup> Customs chief Naim Huruglica has been seen as vulnerable since 2008, when the government briefly suspended him.

<sup>250</sup> "There would be civil war inside a month if not for the US and UK embassies." Interview, Kosovo Police source, 3 December 2009.

<sup>251</sup> Interviews, close observers, March and April 2010.

<sup>252</sup> Interview, Valmir Ismaili, Democracy in Action, 18 March 2010.

<sup>253</sup> Interview, international official, 19 April 2010.

<sup>254</sup> The Foreign Policy Club open letters to Deputy Secretary of State Steinberg and EU High Representative Catherine Ashton, op. cit.

<sup>255</sup> Meeting *Jeta në Kosovë* representatives the prosecutor alluded to fear that he would become *Infopress's* next target if he investigated the case. Interview, Jeta Xharra, June 2009.

<sup>256</sup> Ramiz Shala, "Lufta për 'ambasadë-horr'" [The fight over the embassy slut], *Infopress*, 5 June 2009.

<sup>257</sup> The embassy refused to meet her, and appeared to take the government's side, subsequently briefing against *Jeta në Kosovë*. Sources: telephone call with the embassy witnessed by YIHR, email seen by YIHR.

<sup>258</sup> The statement talked of the generalities of press freedom, while failing either to mention the case or condemn *Infopress* by name.

That lynchpin embassy has nevertheless nuanced its policy, which some have previously portrayed as a tacit bargain allowing the government some rein in internal affairs in exchange for its caution and pliability in treatment of Serbs, Kosovo's semi-detached North and Belgrade.<sup>259</sup> The embassy's moves in recent months included a change of approach to *Jeta në Kosovë*, praising its presenter and persuading government-second guessing RTK managers to reverse their refusal to air the program's autumn 2009 municipal election debates.<sup>260</sup> The embassy swiftly condemned fake street name plaques ("UDB Street – Veton and Flaka Surroi") placed on walls in central Prishtina that implied that the proprietors of *Koha Ditore* and KTV were Serbian spies.<sup>261</sup> It demanded that the reluctant Central Election Commission rerun elections in all three municipalities where it botched the count, as proposed by the election appeals body.<sup>262</sup> In early 2010 it suggested Kosovo's "maturity" as a new watchword to supersede the "stability" priority of the first two years, and expressed concern that the government was taking an overbearing role in the economy.<sup>263</sup>

However, Kosovo's government still seems unable to negotiate with its international overseers, unable to fashion a true partnership. Either it seeks, expects and accepts micro-management, lacking capacity to set its own priorities, or adopts a stance

of sullen refusal that can bring on its own public humiliation: as happened with the EULEX-Belgrade police protocol in September 2009 and the Ministry of Transport raids in April 2010.

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Remarks on the authorship of the press statement: made by senior government member to Jeta Xharra, June 2009.

<sup>259</sup> Several opinion editorials in *Koha Ditore* expressed this view through 2009.

<sup>260</sup> The embassy's letter to RTK said it was "utterly disappointed" at the decision. RTK therefore overturned it. Interviews, BIRN, October 2009.

<sup>261</sup> To its credit, so did the government. See US embassy press release, 13 May 2010.

[http://pristina.usembassy.gov/press\\_releases/2010-press-releases/statement-of-ambassador-christopher-dell-may-13-2010.html](http://pristina.usembassy.gov/press_releases/2010-press-releases/statement-of-ambassador-christopher-dell-may-13-2010.html). It marked a contrast to the embassy's silence in the face of the campaign of attacks upon Jeta Xharra in June 2009. The previous year the US embassy had sent a pointed message by leaving the Surrois and Xharra off the guest list for its 4 July reception: which is an important event in Kosovo's social calendar.

<sup>262</sup> U.S. embassy press statement, 23 December 2009.

[http://pristina.usembassy.gov/2009\\_press\\_releases/u.s.-embassy-press-statement-december-23-2009](http://pristina.usembassy.gov/2009_press_releases/u.s.-embassy-press-statement-december-23-2009).

<sup>263</sup> Ambassador Christopher Dell, interviewed on *Jeta në Kosovë*, 18 February 2010.

## POLITICAL ECONOMY AND THE STANDARD OF LIVING

Historically, the public sphere, an arena in which citizens can engage freely to form public opinion and thereby shape the actions of government, became possible with the emergence of a multiplicity of independent economic actors, no longer dependent upon a monarch and feudal hierarchy.<sup>264</sup> Former Communist countries that have been the most successful in transitioning from centralised command economies have attracted much Foreign Direct Investment (FDI) and have allowed a diversity of companies to emerge; pressure for legal and administrative reform has in turn been sustained by this diverse, growing constituency.<sup>265</sup> Strong civil society is usually rooted in a commercial society, with a stake in the creation of change, in mild healthy tension with the world of politics.<sup>266</sup>

But this is failing to happen in Kosovo: Foreign Direct Investment is meagre and decreasing,<sup>267</sup> the economy is dominated by a few large public and private companies, intertwined with the political elite, and ownership of key assets appears to be concentrating, not diversifying.<sup>268</sup> In preparation for the privatisation of the PTK telecoms and KEK

electricity utilities and projects such as the trans-Kosovo Vërmicë-Prishtina-Merdare highway and the new Kosovo C power station and associated Sibovc lignite mine, politicians are positioning themselves to reap benefit and cement their influence: through control of local partner companies and subcontractors, supplies of construction material, and land due for highway, power plant or mine use.<sup>269</sup> An international official sees: “gradual expansion of political power into the economy,”<sup>270</sup> while Prishtina commentators increasingly talk of a “captured state.”<sup>271</sup> They see the unaccountable hierarchical way in which political parties are run being transferred directly into the running of the state,<sup>272</sup> perceive bureaucrats usurping the economy in the absence of a genuine capitalist class,<sup>273</sup> and observe that: “The government has taken the right to distribute money without competition.”<sup>274</sup>

Arbitrary acquisition and expropriation practised through procurement and licensing processes at central government level find reflection in local government practices too. The PDK mayor of Lipjan, for example, ordered the demolition of a street of privately owned shops, arguing that the majority he commands in the municipal assembly allowed for this.<sup>275</sup> He also forbade high school students from holding their prom night in a venue of their choice, ordering them instead to use a restaurant where the PDK held election campaign events.<sup>276</sup>

<sup>264</sup> Jürgen Habermas’s study: “The Structural Transformation of the Public Sphere,” 1989: London, created the concept of the public sphere.

<sup>265</sup> Interview, Shpend Ahmeti, director, GAP Institute, 11 December 2009.

<sup>266</sup> Interview, Mark Poston, former DFID director for Kosovo, 11 February 2010.

<sup>267</sup> See Foreign Policy Club draft report: “How corruption is driving away investors from Kosovo,” presented 16 December 2009.

<sup>268</sup> See US Ambassador Christopher Dell’s speech, given on the occasion of the 15th anniversary of the Riinvest Institute, 14 May 2010. He warned against a situation in which “the economy is perpetually under the thumb of the government, either through outright control of it, or through well-connected so-called “private” firms. I don’t need to tell this audience at great length why this model doesn’t work. You’ve already lived it. This model imperils both economic development and democracy. When the only way to acquire wealth is to be close to power, or to be in power, there is no incentive to ever relinquish power – quite the opposite, in fact – and that’s the end of democracy in Kosovo.” Online at:

[http://pristina.usembassy.gov/dell\\_statements/ambassador-christopher-dell-reinvest-institutes-15th-year-anniversary-speech-may-14-2010.html](http://pristina.usembassy.gov/dell_statements/ambassador-christopher-dell-reinvest-institutes-15th-year-anniversary-speech-may-14-2010.html).

<sup>269</sup> Interview, Agron Bajrami, editor in chief, *Koha Ditore*, 13 May 2010.

<sup>270</sup> Interview, 19-20 April 2010. He added that since money gained from corrupt practices is re-invested inside Kosovo, this multiplies the levers of control available to a corrupt elite.

<sup>271</sup> Veton Surroi, address, Foreign Policy Club (FPC) conference on Kosovo’s EU Progress Report, 16 October 2009; several speakers at FPC conference “The Burden of Corruption on Foreign Direct Investment,” 16 December 2009.

<sup>272</sup> Haki Abazi, program officer, Rockefeller Brothers Fund, address, FPC conference “The Burden of Corruption” op. cit.

<sup>273</sup> Interview, Halil Matoshi, analyst, *Koha Ditore*, 4 November 2009.

<sup>274</sup> Veton Surroi, address, EU Progress Report conference op. cit.

<sup>275</sup> Report by Faton Ademi, *Jeta në Kosovë*, RTK TV, 13 May 2010 and Jeton Llapashtica, “Organizohen kundër vendimit për rrënim” [Mobilisation against demolition order], *Zëri*, 13 May 2010. The demolition took place on 17 May 2010.

<sup>276</sup> Letter of complaint from Lipjan students to *Jeta në Kosovë*, 25 April 2010.

Kosovo's underdeveloped economy makes the country the second poorest in Europe after Moldova,<sup>277</sup> with GDP per head of €1,731,<sup>278</sup> average public sector wages of €230 per month, private sector €280, 45% of the population in poverty, 15% in extreme poverty,<sup>279</sup> overall unemployment estimated at 40-48% and youth unemployment at 74%,<sup>280</sup> and rising.<sup>281</sup> Annually, only 6,000 jobs are generated across all sectors, while 25-30,000 young people enter the job market.<sup>282</sup> It is currently taking young males an average of ten years to make the transition from education into steady work (the average transition in developed countries is 1.4 years), and only 11% of working age women are employed (in Turkey, for example, 23% are).<sup>283</sup>

This makes for heavy dependence upon those who do control the limited job openings. Bribes have been demanded for jobs at some public enterprises.<sup>284</sup> A large private security company charges applicants for training and their uniform,

making no guarantee of employment.<sup>285</sup> Some youths choose membership of a political party as the best hope of securing a salaried position.

Those in work are often at the mercy of their employer. A construction worker said: "If we complain they will throw us all out – there's so many unemployed, queuing up to replace us."<sup>286</sup> Unpaid overtime, unsafe and unhealthy work conditions, disrespect of public holidays and weekends, and absence of any medical or accident insurance are rife.<sup>287</sup> Women are vulnerable to sexual exploitation.<sup>288</sup> As yet, labour law is inadequate and many employers operate outside the tax and pension system.<sup>289</sup> However, even well-policed, new legislation will struggle to change the situation against a backdrop of such high unemployment.

The only reliable way to reduce such poverty, dependency and vulnerability is a massive reduction in unemployment. The challenge of achieving this is immense. It would require sustained high growth rates of at least 7% for the next 10-15 years just to halve unemployment down to circa 20-25%. At present 4-5% rates of growth the current 40-48% unemployment rate will stay static or even rise.

Meanwhile, many of the most enterprising people have gone to live and work abroad. If it were not for this safety valve, unemployment would be even higher. Their remittances to families in Kosovo have partially shielded society from poverty,<sup>290</sup> yet the absence of their skills and voices and the presence of their cash has also helped rigidify a political economy founded around import and services. This in turn

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<sup>277</sup> Kosovo was the poorest constituent unit of Yugoslavia, and suffered further major reverses in the 1990s, with Milosević expelling most of the majority Albanian population from the state and public sector, asset-stripping and disinvesting, culminating in the 1998-99 war and its associated destruction, pillaging and dislocation. Under UN administration in the 2000s, delays and restrictions in privatisation resulted in further disinvestment.

<sup>278</sup> See Gjergj Erebara, "Kosovo has highest GDP growth in Balkans," *Balkan Insight*, 2 October 2009, <http://www.balkaninsight.com/en/main/news/22618/>.

<sup>279</sup> World Bank Kosovo Poverty Assessment Report, May 2008. Poverty is equated to income of less than €45 per month, extreme poverty as difficulty in meeting basic nutritional needs.

<sup>280</sup> Kosovo Country Economic Memorandum, 29 April 2010. See [www.worldbank.org/kosovo](http://www.worldbank.org/kosovo). The earlier World Bank report: "Kosovo Youth in Jeopardy," 2 September 2008, put youth unemployment at 65-75%.

[http://siteresources.worldbank.org/INTKOSOVO/Resources/Kosovo\\_Youth\\_Employment.pdf](http://siteresources.worldbank.org/INTKOSOVO/Resources/Kosovo_Youth_Employment.pdf).

<sup>281</sup> The World Bank now puts unemployment at 48%, up from estimates in the 40% range. It reached this higher figure by changing the basis of its calculation, to consider people engaged in subsistence agriculture to be unemployed. Kosovo Country Economic Memorandum, *Ibid*.

<sup>282</sup> Interview, Besim Beqaj, President, Kosovo Chamber of Commerce, 19 February 2010.

<sup>283</sup> World Bank Kosovo Country Economic Memorandum, *op. cit*.

<sup>284</sup> In 2004 a young man mixed up in such business at Prishtina airport was murdered. See Arbana Xharra, "Kosovo Airport Sackings Spark Cover-Up Row," *Balkan Insight*, 22 May 2006.

<http://kosovo.birn.eu.com/en/1/51/1784/>.

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<sup>285</sup> Interview, Florian Qehaja, Kosovar Center for Security Studies, 4 March 2010.

<sup>286</sup> Interviewed in Lulzim Demolli and Parim Olluri, "Shumë punëtorë në sektorin privat trajtohen sikur 'skllëvër'" [Many private sector employees are treated like "slaves"], *Koha Ditore*, 12 May 2010.

<sup>287</sup> Lulzim Demolli and Parim Olluri, *Ibid*.

<sup>288</sup> A journalist cited several instances in the judicial system. Interview, Selvije Bajrami, *Zëri*, 11 December 2009.

<sup>289</sup> Lulzim Demolli and Parim Olluri, *op. cit*.

<sup>290</sup> World Bank Kosovo Poverty Assessment Report *op. cit*

contributes to Kosovo's colossal trade deficit and makes it dependent upon customs income to fund the bulk of its state budget.<sup>291</sup>

### Uses and Abuses of the Public Sector

The government's role in the economy is overwhelming, shaping investment and employment against the background of a weak private sector. A massive expansion has continued in capital investment, tripled in two years, and public procurement, now grown to 40% of the state budget,<sup>292</sup> and 11% of GDP.<sup>293</sup> Between them, two ministries – of education and transport, and two public companies - the KEK electricity utility and the PTK post and telecommunications utility, account for 65% of state procurement, their budget doubling from 2007-8 to over €800 million.<sup>294</sup> Current projected 4% growth in the economy arises from this unsustainable increase in government capital spending, not so far from private sector dynamism.<sup>295</sup>

In a population of up to 2.1 million,<sup>296</sup> half estimated to be under 25, 40% under 18, where roughly 300,000 are in formal employment, 75,000 of these are directly employed by central or local government, including 32,000 in education, 13,000 healthcare staff, and 8,000 police. Close to 15,000 are employed by the public companies, including 7,500 in KEK the electricity provider, nearly 3,000 in PTK the post and telecommunications provider, and 850 at Prishtina airport. The different political parties regard these cohorts and their dependent family members as

reservoirs of electoral support, even reckoning on 500 votes won or lost for every 100 civil servants employed or sacked.<sup>297</sup> Under their patronage lens, public sector employees and their adult dependents therefore amount to roughly 450,000 voters: a potential majority of the 700,000 who exercised their vote in Kosovo's most recent elections.

While civil servants' increased vulnerability to arbitrary treatment has already been discussed, the governance of public companies, always problematic, has also become significantly more arbitrary in the last two years. Internal regulation and safeguards appear to have been swept away, their boards stuffed with governing party loyalists of questionable professional qualification. "We don't have public companies – they are private, with the difference that they haven't passed the privatisation process, and are owned by a political clan or group, with no accountability."<sup>298</sup> Inventory is allegedly sold off disadvantageously or misappropriated by private firms.<sup>299</sup> Payments by PTK such as €45,000 for a horse race and construction of social housing for selected war invalids have raised eyebrows. Some allege that there was unnecessary spending in a recent flurry of PTK procurement contracts that amounted to tens of millions of euros.<sup>300</sup> In May 2010 the government ordered a stop to capital spending not foreseen in PTK's business plan.<sup>301</sup>

PTK's management has considerable financial muscle to deploy against outsiders who cross it, and it is in constant battle with sections of the liberal media. The latter accuse it of pursuing a deliberate policy to lower PTK's value to aid a sweetheart privatisation (benefiting government insiders). The former accuse the media itself of

<sup>291</sup> Kosovo's trade deficit reached 45% of GDP in 2009. Imports were twelve times greater than exports, which were 18% less than 2008's exports. See World Bank Kosovo Country Economic Memorandum, op. cit. Customs revenues still fund two-thirds of Kosovo's budget.

<sup>292</sup> Foreign Policy Club draft report: "How corruption is driving away investors from Kosovo," op. cit.

<sup>293</sup> World Bank Kosovo Country Economic Memorandum, op. cit.

<sup>294</sup> Interview, Ilaz Duli, President, Public Procurement Regulatory Commission, 18 December 2009.

<sup>295</sup> Interview, Besim Beqaj, President, Kosovo Chamber of Commerce, 19 February 2010. The EU's October 2009 Kosovo Progress Report stated that while public investment increased 194% over the year, private sector investment declined 10.2%.

<sup>296</sup> Kosovo has had no reliable census since 1981. The numbers actually in the country could be considerably less than 2.1 million.

<sup>297</sup> Interview, Agron Demi, GAP Institute, 30 October 2009.

<sup>298</sup> Interview, Safet Gerxhaliu, Vice President, Kosovo Chamber of Commerce, 18 November 2009.

<sup>299</sup> Interviews: official, Anti Corruption Agency, 15 December 2009, director, engineering company, 18 December 2009.

<sup>300</sup> See Lavdim Hamidi, "PTK jep 25 milione euro kontrata në prag të privatizimit" [PTK gives €25 million in contracts on the eve of privatisation], *Zëri*, 8 April 2010.

<sup>301</sup> Besnik Krasniqi, "Qeveria i vë kufizime PTK-së" [Government puts limitations on PTK], *Koha Ditore*, 14 May 2010.

trying to lower the company's value with smears.<sup>302</sup> PTK's contract with Dardafone, majority-owned by a businessman seen as close to the PDK leadership, is controversial – the latter gained PTK mobile network capacity on terms some allege to be disadvantageous to PTK, allowing Dardafone to create Z-Mobile, a competing “virtual” mobile phone operator. In September 2009 EULEX is reported to have opened an investigation into the contract,<sup>303</sup> and PTK management stormed out of a meeting with the ICR office, refusing to take part in what it described as interrogation.<sup>304</sup> PTK sued and withheld its lucrative advertising from *Koha Ditore* after the newspaper alleged a series of malpractices; advertising was later returned. In 2010 PTK threatened legal action against journalists of the newspaper *Zëri*.

Public sector largesse is used to recruit and reward supporters. The government's award of a €15 million contract to the Mabetex construction company of AKR leader Behgjet Pacolli to renovate the former press building in central Kosovo came as the AAK's Haradinaj was trying to mobilise all the opposition parties into a common front.<sup>305</sup> More war veterans have entered KEK and PTK employment in recent months.<sup>306</sup> Of 80 PTK jobs opened in the opposition AAK-controlled western municipality of Peja 72 were filled by candidates from the central Kosovo PDK stronghold of Malishevo.<sup>307</sup> An opposition

politician claimed he was offered a PTK post to take him out of the running in recent mayoral elections, and that his party's list of councillor candidates was decimated by similar offers.<sup>308</sup> In a major town where the utilities are controlled by a family associated with SHIK,<sup>309</sup> an opponent alleges that PDK supporters' electricity bills are waived, while others are treated harshly.<sup>310</sup>

Pay is sharply stratified in the public sector. Members of the government and parliamentary deputies have set their own salaries high, some collecting double salaries; deputies fuelled anger in the public sector's lower echelons by awarding themselves a “thirteenth” month's salary for 2009 (striking police officers even considered besieging parliament<sup>311</sup>). Pay for mid to upper level staff in public enterprises and bodies like PTK, KEK, the airport and RTK is also generous. Yet the last two year's boom in public sector spending was directed into capital expenditure, away from raising the subsistence €220-260 monthly pay of the overwhelming majority of the 75,000 civil servants: administrators, healthcare staff, teachers, and police.

Subsistence existence and insecurities of tenure set against a backdrop of high unemployment, have kept public sector workers' bargaining power weak. The government, municipal leaderships, and public enterprise managers have relied on these vulnerabilities, on pliant trade union leaders, and on their ability to divide and rule to suppress

<sup>302</sup> The argument should be settled when PTK publishes its results in mid-year. An international official expected them to be slightly lower than the previous year's. Interview, international oversight official, 19-20 April 2010.

<sup>303</sup> Lavdim Hamidi, “Policia Ndërkombetare nis hetimet në PTK” [International police launch investigations in PTK], *Zëri*, 18 September 2009.

<sup>304</sup> Arben Hyseni, “Arroganca e ICO-së” [Arrogance of the ICO], *Express*, 29 October 2009.

<sup>305</sup> Faik Hoti, “Tenderi 15-milionesh i Behgjet Pacollit ve në dyshim krijimin e bllokut opozitar” [Behgjet Pacolli's 15 million tender puts creation of opposition bloc in doubt], *Zëri*, 15 September 2008.

<sup>306</sup> Interview, official, international NGO, November 2009.

<sup>307</sup> An allegation made by Ora's mayoral candidate Gazmend Muhaxheri in a November 2009 election debate recorded by the local TV Dukagjini. When broadcast, the sound was cut on this segment. Interview, Gazmend Muhaxheri, 15 December 2009. Malishevo is the hometown of Transport, Post and Telecommunications minister Fatmir Limaj. LDD deputy Besa Gaxherri, who simultaneously holds down a job in PTK Peja, confirmed the substance of the allegation:

“It is true. There has been large employment from Malishevo and Skenderaj. There is a considerable number in the Peja region... It's not that I'm against hiring people, but I don't think it is correct when people coming from a certain region hire others from the same place. Things have never been worse.” Interview, 17 May 2010.

<sup>308</sup> Interview, Gazmend Muhaxheri, *Ibid*.

<sup>309</sup> Interview, 10 March 2010. Confirmed by an international official, who added that while all parties try to get their people into key posts: “SHIK is different because it does so by intimidation and blackmail.” Interview, 18 May 2010. During the first round of the municipal elections, 15 November 2009, power was cut in several Mitrovica polling centres in the early evening as light faded and close of polls approached.

<sup>310</sup> Interview, 10 March 2010.

<sup>311</sup> See Kastriot Jahaj's interview with police strike leader Arbreresh Dalipi, “Nëse pagat e policëve nuk do të rriteshin, vendin e priste një kolaps” [If police pay had not risen, the country would have collapsed], *Koha Ditore*, 4 March 2010.

demands. A trade union coordinator was suspended by Prishtina municipality for acting too vigorously.<sup>312</sup> Two Prishtina airport employees who tried to organise an independent trade union lost their jobs, and a third claimed he was beaten up.<sup>313</sup>

The government had to pull out the stops in early February 2010 to quell a wave of pay protest from police, healthcare staff, court administrators and KEK workers. Hundreds of riot police congregated at a training centre outside Prishtina to demand promised higher pay. Patience snapped too at the Central University Clinic as new, militant and representative staff elbowed aside healthcare trade union leaders who were considered government puppets.<sup>314</sup> The government made partial concessions, cutting some separate deals, and put the lid back on. Police and healthcare workers' pay rose, unbudgeted for. A police strike leader was suspended a month later after giving a newspaper interview, a warning to others. There have been no further protests on his behalf.<sup>315</sup>

### Problems with Public Procurement

The management of public procurement has also become more arbitrary as the procurement budget has risen and after many procurement professionals were replaced, especially in 2009, usually with less or non-qualified people, more dependent on political masters.<sup>316</sup> After some years of moderate improvement, the integrity of public procurement declined from 2008, becoming a major concern in the European Commission's

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<sup>312</sup> Lulzim Demolli, "Suspendohet nga puna kryesindikalisti i administratës komunale" [Chief trade unionist of municipal administration suspended], *Koha Ditore*, 20 June 2008.

<sup>313</sup> BIRN interviews, April 2010, conducted for *Jeta në Kosovë* program on privatisation of Prishtina airport, RTK TV, 29 April 2010.

<sup>314</sup> BIRN interviews, February 2010, conducted for *Jeta në Kosovë* program on public sector strikes, RTK TV, 11 February 2010.

<sup>315</sup> Jeton Llapashtica, "Polici i harruar" [The forgotten policeman], *Zëri*, 11 March 2010.

<sup>316</sup> Interview, Ilaz Duli, President, Public Procurement Regulatory Commission, 18 December 2009.

October 2009 Kosovo annual progress report. The government promises reform.<sup>317</sup>

Actual spending doubled (not keeping pace with the budgeted-for tripling), its quality falling as it accelerated.<sup>318</sup> Single source tendering, supposed to happen in only exceptional circumstances, has tripled in value from €50 million to €164 million in three years, peaking after longstanding professional Vlora Kuçi's departure as Public Procurement Agency director in October 2008.

Coming to power in January 2008, the dominant government party the PDK secured ministries to which big capital investment budgets have been assigned: in 2009 altogether €300 million compared with LDK ministries' €50 million<sup>319</sup> in an overall government budget of €1,430 million. The Ministry of Transport's budget for road-building jumped from €22 million in 2007 to average 10% of the entire government budget in the years since: €139 million in 2008 and €160 million in 2009, before being scaled back to €124 million in 2010. The ministry committed to spending at least €700 million more over the next three years under the Bechtel-Enka highway deal, with funds earmarked to come from privatisation of PTK and other public enterprises.

Although the road and school infrastructure that have dominated the boom in government capital spending are needed, the overwhelming concentration in these two areas has left other sectors stagnant. For example, Kosovo's desperately underfunded healthcare (a less powerful LDK-run ministry) went without such exponential budget increases, nor could the extra €4 million needed annually to revamp the judiciary be found.<sup>320</sup>

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<sup>317</sup> Interview, Deputy Prime Minister Hajredin Kuçi, 20 May 2010.

<sup>318</sup> Interview, international oversight official, 19-20 April 2010.

<sup>319</sup> Foreign Policy Club draft report: "How corruption is driving away investors from Kosovo," op. cit.

<sup>320</sup> The cost of raising salaries to an appropriate level. Interview, lawyer engaged in reform initiatives since 2004, 15 February 2010.

There are signs of a “pork barrel” approach to the allocation of capital investment. The massive spending increases since 2008 have magnified the opportunities for and effects of political favouritism. The Skënderaj municipality of PDK mayor Sami Lushtaku secured €18 million in capital investment in 2008 – discretionary spending by ministries multiplying its regular budget by a factor of fifteen,<sup>321</sup> while central government money to fund social housing in opposition AAK-controlled Peja ran out.<sup>322</sup> Within Peja, central government road- and school-building appeared to be concentrated upon villages with a history of PDK support, while the mayor favoured AAK-supporting villages.<sup>323</sup> In Ferizaj villages that supported the locally governing coalition, PDK and AKR, get projects. Those that voted for the AAK or smaller parties do not.<sup>324</sup>

No real cost-benefit analysis seems to have gone into the choice of projects. For several years to come, the government has mortgaged Kosovo’s public finances to the huge Bechtel-Enka highway contract. Other countries in the region have received matching EU funds for construction of strategic highways when they advanced to EU candidate status. Kosovo’s government has assigned the Vërmicë-Prishtina-Merdare highway project sufficient importance to press ahead now, financing it entirely from its own scarce revenues. Yet economically, “It is not obvious that the highway is the very highest priority for Kosovo.”<sup>325</sup>

The project will reduce Prishtina-Tirana journey times by a further 30 minutes, after Albania’s opening of the Kalimash tunnel, due to be properly operational from mid-2010, made the breakthrough of knocking it down from 10 hours to 4 hours. At the highway’s eventual other end, Serbia is not yet cooperating with Kosovo and has no firm plans for a linking highway from Merdare. Nonetheless, creation of such an improved physical link with Albania will enhance Kosovo’s limited geopolitical and trade options.

The agreement with Bechtel-Enka in March 2010 has raised concerns that neither the plans, the funding, nor final cost have been sufficiently defined.<sup>326</sup> Because its terms were so extensively elaborated and reworked in post-tender negotiations with the US-Turkish Bechtel-Enka consortium, some critics argue that the €700 million highway deal too is effectively single-source procurement.<sup>327</sup> The contract has not been made public and it is unclear what exactly the sum stated by the government covers.<sup>328</sup> Albania’s bill for the third of its linking highway that was built by the same consortium ballooned from an original price of €416 million to over €1,000 million.<sup>329</sup>

The road-building surge of the last two years has been generally welcomed, yet has also created gridlock around Kosovo. The country has lacked the road-building capacity to easily absorb the six-fold spending increase.<sup>330</sup> The transport ministry

<sup>321</sup> Skënderaj’s regular capital investment budget in 2008 was €1.21 million. Mayor Lushtaku stated that this was supplemented by an additional €16.8 million from central government ministries. See Adem Meta, “Në Skënderaj 18 milionë euro investime, janë realizuar dhjetëra projekte” [18 million euros of investments in Skënderaj, dozens of projects implemented], *Koha Ditore*, 2 January 2009.

<sup>322</sup> Interview, Gazmend Muhaxheri, 15 December 2009.

<sup>323</sup> The Ministry of Education built a large new school for the home village of Deputy Prime Minister Hajredin Kuçi, Llutoglav, which allegedly stands nearly empty. Ibid. Deputy Prime Minister Kuçi argued that the present PDK-led government brought €7 million of capital spending to AAK mayor Ali Berisha’s home district, the Barane Valley: more than has been invested there “in a hundred years.” Interview, 20 May 2010.

<sup>324</sup> Interview, Albulena Sadiku, INPO, 30 October 2009.

<sup>325</sup> Interview, international oversight official, 19-20 April 2010.

<sup>326</sup> Parim Olluri, “Qeveria e Kosovës kritikohet për ‘gabime në hapa’ në projektin e autostradës” [Kosovo government criticised for flagrant mistakes in the highway project], *Koha Ditore*, 28 March 2010.

<sup>327</sup> Ibid.

<sup>328</sup> Interview, international official, 19-20 April 2010.

<sup>329</sup> See Besar Likmeta, “Albania-Kosovo Highway Marks Milestone,” *Balkan Insight*, 1 June 2009. The responsible minister was even indicted, with state prosecutors and auditors claiming wrongful over-expenditure of between €114 million and €232 million. The indictment was quashed on technicalities by Albania’s Supreme Court in April 2009.

<sup>330</sup> Interview, official, Anti Corruption Agency, 15 December 2009. Transport Ministry chief of cabinet Endrit Shala acknowledged that: “Most haven’t built in Kosovo for the last 20 years. These are the companies we have in Kosovo.” Lawrence Marzouk and Petrit Çollaku, “Kosovo Minister’s Friends Flourish from Road Bonanza,” *Balkan Insight*, 8 April 2010, <http://www.balkaninsight.com/en/main/investigations/27171/>.

contracted one company, from another town, for all the eight roads to be built in Ferizaj. It lacked capacity to complete them simultaneously, and so blocked the town for months.<sup>331</sup> Moreover, there has been waste, mismatching of investment with needs and exclusion of beneficiaries from involvement. The ministry built Ferizaj's eight roads without local consultation or involving the municipal authority, resulting in some inappropriate design, and kept quality evaluation closely to itself.<sup>332</sup>

Sections of the 1,000 kilometres of roads built in 2008-9 are already severely potholed, raising questions about the standard of work and materials.<sup>333</sup> The chair of parliament's economy and transport committee alleged that: "The companies constructing roads have no clue how to build a road, they just have connections to the Ministry of Transport,"<sup>334</sup> while the Vice President of the Chamber of Commerce concluded: "If after one year we need to revisit the same road, then we're damaging the economy of Kosovo."<sup>335</sup>

At the outset in early 2008 Minister Limaj gathered together construction companies, telling them that "there is work for all," therefore none should slow down the tendering process by making complaints to the Public Procurement Regulatory Commission (since superseded by the Procurement Review Body).<sup>336</sup> For two years none did,<sup>337</sup> while media reported on the surprisingly high cost of the ministry's roads,<sup>338</sup> the over-

elaboration of some,<sup>339</sup> and the haste with which money was spent,<sup>340</sup> and unsubstantiated rumour circulated that contractors were invited to pad a kickback percentage into their price.<sup>341</sup> No tender results were protested, although over time owners of firms with the greatest capacity and experience found that they were losing out to minnow newcomers, and winning only the smallest contracts.<sup>342</sup>

In April 2010 the owner of one of Kosovo's largest road-building firms told *Balkan Insight*: "We cannot win tenders because we don't give money to the government... They come to me and ask for money, but if I give in, the price of the work would be higher... Other companies do so [pay bribes] and then miss out on laying several centimetres of gravel and asphalt, which is why the quality... is so poor."<sup>343</sup> Later that month the minister spoke again to an assembly of road-building company bosses, exhorting them to be loyal to one another, not to make negative comments or argue, because the government had €300 million more work in the pipeline for them – enough for all -- as sub-contractors on the highway contract concluded with the Bechtel-Enka consortium.<sup>344</sup>

*Balkan Insight*'s April 2010 investigation revealed dubious practices in the ministry's road construction contracting. Three contracts worth €22 million in total were awarded to firms or consortia led by two close friends of Minister Limaj, despite lower offers from rival companies

<sup>331</sup> Interview, Afrim Demiri, Ferizaj correspondent, *Koha Ditore*, 12 December 2009.

<sup>332</sup> Ibid.

<sup>333</sup> RTK news report, 28 March 2010.

<sup>334</sup> Myzejene Selmani, in Lawrence Marzouk and Petrit Çollaku, "Kosovo Minister's Friends Flourish from Road Bonanza," op. cit.

<sup>335</sup> Safet Gerxhaliu, in Ibid.

<sup>336</sup> Salie Gajtani-Osmankaq, "Ministria e Transportit punëson të gjitha firmat ndërtimore" [Ministry of Transport gives work to all the construction companies], *Koha Ditore*, 18 September 2008.

<sup>337</sup> For two years the Anti Corruption Agency received no complaints about road-building. Far from seeing this as good news, an official took it as an indication that the sector was "stitched up," with work and high prices guaranteed for all construction companies, and all happy with the situation. Interview, 15 December 2009.

<sup>338</sup> See for example Fatos Halili's report, *Jeta në Kosovë*, RTK TV, 14 January 2010. [www.jetanekosove.com](http://www.jetanekosove.com).

<sup>339</sup> The new road between Prishtina and the airport has attracted particular attention due to the amount of bridges and flyovers it incorporates, and their cost.

<sup>340</sup> See Salie Gajtani-Osmankaq, "Ministria e Financave dhe e Transportit shkelën ligjin gjatë rishikimit të buxhetit" [Ministries of Finance and Transport break the law in course of budget review], *Koha Ditore*, 31 August 2009.

<sup>341</sup> Interview, prominent businessman, 18 December 2009.

<sup>342</sup> Interview, Salie Gajtani-Osmankaq, journalist, *Koha Ditore*, 22 December 2009.

<sup>343</sup> Lawrence Marzouk and Petrit Çollaku, "Kosovo Minister's Friends Flourish from Road Bonanza," op. cit. The businessman asked not to be named, fearing that the ministry would "take revenge."

<sup>344</sup> Parim Olluri, "Ministri Limaj 'pranon' se cilesia e punëve në rrugë nuk është e kënaqshme" [Minister Limaj admits that the quality of road construction is unsatisfactory], *Koha Ditore*, 14 April 2010.

in each case, and missing documentation that should have led to disqualification from two of the tenders of consortia featuring companies run by a businessman who has acknowledged his close ties to the minister. A €3 million contract was awarded to a company one month before it registered as a business, with two employees. Overall, more than a third of the ministry's tenders were won by firms created during the two years since Fatmir Limaj took charge.<sup>345</sup>

EULEX declared that its raids on the ministry, the homes of Minister Limaj, ministry procurement chief Nexhat Krasniqi, and the owners of several road-building companies "are part of an investigation into several tenders related to the construction of roads in Kosovo in the period 2007-09."<sup>346</sup> EULEX's acting chief prosecutor confirmed that investigations began in May 2009, indicated that the minister's telephone had been tapped, named Limaj and Krasniqi as suspects in a litany of serious crimes, and stated that €2 million had been misappropriated in just one case alone.<sup>347</sup> A EULEX official said that the ministry wiped its computer server just before the raid, attempting to erase evidence of criminality.<sup>348</sup>

Minister Limaj has evaded tough questioning on the decisions made about the highway.<sup>349</sup> The fact that the weeks of negotiation preceding conclusion

of this huge contract with the US-led consortium coincided with the US government's effort to arrange a soft landing for this minister, to avoid the fall-out which would arise from EULEX's pending criminal charges, is a matter for great concern. How well-placed was a minister with a dubious procurement record and who was being offered such an amnesty arrangement to best represent Kosovo's interest in a complex negotiation, involving many hundreds of millions of euros? "The question is well put," said a European oversight official.<sup>350</sup>

Looking across the entire spectrum of public procurement, insiders assert that everything is manipulated, from selection of the winner, twisting the contract criteria, to adding annex contracts.<sup>351</sup> This distorts competition. The range of manipulations is applied equally at municipal and central government level and by public companies. Companies created on the fly, often using false documents, and claiming non-existent expertise and staff routinely win out against firms with proven track records and cheaper bids. Public authorities' tricks to ensure victory for their favoured company include either vague specification or the contrary of specifying equipment from a single supplier, including products that will be dropped in the final contract so that a firm in the know bids low on them to undercut competition on the headline price. Other tricks involve anonymous phone calls and threats to discourage outsiders' participation, removing pages or registration documentation from inconvenient bids to disqualify them, or cancelling and retendering until the desired result is achieved (helped sometimes by enabling favoured companies to copy more professional competitors' previously submitted technical documentation). Otherwise, the favoured company bids an unrealistically low price to win the tender, and it is

<sup>345</sup> Lawrence Marzouk and Petrit Çollaku, "Kosovo Minister's Friends Flourish from Road Bonanza," op. cit.

<sup>346</sup> EULEX press statement, "Construction tenders under investigation," 29 April 2010. See: <http://www.eulex-kosovo.eu/en/news/000220.php>.

<sup>347</sup> Newspaper interview, Arben Ahmeti, op. cit.

<sup>348</sup> Vehbi Kajtazi and Arben Ahmeti, "Dyshohet për 80 milionë të keqpërdorura në MTPT" [Suspicion of 80 million misused in transport ministry], *Koha Ditore*, 8 May 2010. The following day Minister of Public Administration Edita Tahiri issued a public denial that the ministry's server was tampered with. YIHR's discussions with competent sources suggest that she is misinformed. Interviews, 11 and 13 May 2010.

<sup>349</sup> A parliamentary committee's request that he appear before it to explain the route diversion was roughly rebuffed. Interview, member of parliament, 26 February 2010. Facing softball questions on RTV21's *Sy me Sy* program, 31 March 2010, Minister Limaj sidestepped a query about his non-appearance in front of this committee by emphasising the amount of inter-ministerial scrutiny the project underwent. He conditioned his appearance on Klan Kosova TV's *Zona e Debatit* program the next day with removal from the debate panel of incisive independent economic analyst Shpend Ahmeti.

<sup>350</sup> Interview, 19-20 April 2010.

<sup>351</sup> An international consultant to a central regulatory agency said every contract he had seen was a major problem, and that every municipal procurement officer he had been able to speak to privately admitted that all tender processes were being perverted. Interview, 18 December 2009.

afterward rewarded with a generous annex contract.<sup>352</sup>

Very often the announced tender winner is one of the more expensive bidders. Authorities justify this with arguments of superior quality: dismissed as “nonsense” by a regulator since meeting the tender specification should take care of the quality.<sup>353</sup> After a newspaper exposé in December 2009, the Ministry of Education cancelled a tender it had awarded to the 9<sup>th</sup> placed by price of 11 bidders for installing computer cabinets and internet across Kosovo’s schools: its €40 million bid was €24 million dearer than the cheapest.<sup>354</sup> Both the Public Procurement Agency website and the Ministry’s published reply to the newspaper hid the overall contract value, by referring only to the unit price.<sup>355</sup> Companies have also begun work, such as building roads, before any tender is announced, to assist mayors such as the LDK’s Isa Mustafa in Prishtina,<sup>356</sup> or the PDK’s Sami Lushtaku in Skënderaj,<sup>357</sup> expecting retrospective formalisation and payment. Deadline and quality penalties are not usually enforced,<sup>358</sup> and the public procurement law does not cover implementation.<sup>359</sup>

### Contamination of the business environment

Today’s developed economies are so because “governments learned to treat the national economy as a military resource, to be nurtured and

fed rather than plundered.”<sup>360</sup> By contrast, Kosovo’s late and “decaffeinated” state formation has been sufficiently safeguarded and subsidised by international sponsors for its government not to regard efficient economic policy-making as a matter of political survival. In Kosovo, state coercion is not yet used as a productive resource. Such an evolution is insufficiently incentivised. Instead, state power is used to prey upon sources of wealth. The political elite’s commitment to promoting full-blown market competition is half-hearted. The elite does not want to loosen its grip upon the levers of patronage available in a more rigged economy, and appears confident that present methods can return it to power in future elections.<sup>361</sup>

Far from eliminating malpractices characteristic of the previous AAK-LDK administration, such as creating import licensing systems that officials can use to extort money from businesses, the present government appears to have refined and scaled them up, creating a sufficient climate of fear and intimidation around those affected to keep it all out of the public eye. The government has shaped legislation and regulations that hamper private sector development, reserving space for favoured businesses. This inhibited private sector investment in 2009 and will restrict growth in 2010.<sup>362</sup>

Instead of directing time and effort into development, in 2009 many businesses and the chamber of commerce had to invest it in fighting off predatory government initiatives. In the name of quality control, these initiatives aimed to create monopolies or set up new processes of filtering, favouring certain companies and excluding others: whether monopolisation of pharmaceutical imports, fuel imports, re-registration of customs warehouses or creation of a monopoly for import

<sup>352</sup> Interviews: directors of two engineering companies, 10, 16, 18 December 2009; directors of two regulatory agencies, 15, 18 December 2009.

<sup>353</sup> Interview, Ilaz Duli, President, Public Procurement Regulatory Commission, 18 December 2009.

<sup>354</sup> Besnik Krasniqi, “Loja me milionat e shtetit” [Game with the state’s millions], *Koha Ditore*, 16 December 2009.

<sup>355</sup> See “Reagim i MASHT-it lidhur me shkrimin ‘Loja me milionat e shtetit’” [Reaction of Ministry of Education re the article “Game with the state’s millions”], *Koha Ditore*, 17 December 2009. The contract award notice posted on the Public Procurement Agency website was accessed by YIHR 18 December 2009.

<sup>356</sup> Interview, official, Anti Corruption Agency, 15 December 2009.

<sup>357</sup> Jeta Abazi’s report on municipal governance in Skenderaj, *Jeta në Kosovë*, RTK TV, 28 May 2009.

<sup>358</sup> Interview, official, Anti Corruption Agency, 15 December 2009.

<sup>359</sup> Interview, Ilaz Duli, President, Public Procurement Regulatory Commission, 18 December 2009.

<sup>360</sup> Robert H. Bates, “Prosperity and Violence: The Political Economy of Development,” New York: Norton, 2001, p. 103.

<sup>361</sup> See *Ibid* for background, particularly on post-World War II state formations.

<sup>362</sup> Chamber of commerce president Besim Beqaj, comment made on RTV 21, February 2010.

of all animal-derived products.<sup>363</sup> Deputy Prime Minister Hajredin Kuçi acknowledged the need for wholesale reform of the government's approach to licensing: "We need to create opportunities for businesses, not obstacles."<sup>364</sup>

The government's heralded mid-2008 clean-up of the lucrative unregulated private university sector was necessary.<sup>365</sup> However, two years on several institutions are still left in limbo. Intake into the AAB-Riinvest "college" (a temporary category not stipulated in the higher education law, yet handed to several institutions) has been restricted, to 700 in 2009 (neither is such restriction foreseen in the law). The 2,000 students it has overall are too few to make ends meet. "Do they want to clear us away, to set up their own private universities?" wondered one stakeholder.<sup>366</sup> In recent months the government forged ahead with creating the new University of Prizren, a public-private partnership, intended to absorb 5,000 students in 2010. With 15,000 school leavers seeking university places each year, and University of Prishtina expanding, upping intake from 8,000 to 11,000 in 2009 and now opening five provincial branches, the private universities may have little left to play for when they are eventually permitted to operate freely.<sup>367</sup>

In early 2008 the present government started well by consulting appropriately on draft economic laws, but this was discontinued. The quality of the government's personnel was not such as to be able to sustain and follow through on that.<sup>368</sup> Instead, it has produced a welter of vague, ambiguous public law, requiring and inviting underpinning with discretionary administrative directives: "the kind of legislation you see in tin-pot one-party

dictatorships, like Uzbekistan."<sup>369</sup> The (LDK-run) Ministry of Trade and Industry's draft anti-dumping law hands the minister discretion to declare goods dumped and impose countervailing duties. In the wrong hands it creates a lever for extracting bribes either or both from importers and domestic producers wanting protectionism, at the cost of Kosovo's consumers.<sup>370</sup> A draft law on creation of state reserves of strategic products does not say what happens upon their expiry.<sup>371</sup> "They are trying to bring the law into line with corrupt practice."<sup>372</sup>

Government-favoured "political companies" are in the ascendant in several sectors – many of them previously tiny or newly formed firms whose turnover has shot up overnight into tens of millions of euros on the back of public sector contracts. Generally, because the PDK has much less of a track record in government than its present coalition partner the LDK, which until recently was Kosovo's establishment party and the largest, the circle of PDK-friendly businesses is much narrower, more closed and guarded, and suffers from a deficit of expertise and capacity, so their precipitate growth bears resemblance to a pyramid scheme.

The electricity and associated coal mining sector is affected. KEK has instituted single source "negotiated" supply for much of its high-value contracting. Its procurement is run by a cousin of the Prime Minister. Two recently created companies, Ecotrade and AC/DC, owned respectively by brothers Mehdi and Hilmi Zhugolli, who are close to the Thaçi brothers,<sup>373</sup> gained over €75 million in KEK contracts in 2008 and 2009. Nearly all the contracts awarded these two companies were "negotiated" single source

<sup>363</sup> Interviews: two senior chamber of commerce officials, 18 November 2009 and 19 February 2010; managers of two food importing businesses, 22 February and 3 March 2010.

<sup>364</sup> Interview, 20 May 2010. He explained that relevant ministers and representatives of the chamber of commerce and World Bank gathered to discuss such reform on 18 May 2010.

<sup>365</sup> See GAP Institute report, "A Review of Private Higher Education in Kosovo," 27 May 2008. <http://www.gapinstitute.org/?cid=2.25>.

<sup>366</sup> Interview, 4 December 2009.

<sup>367</sup> Correspondence with official of a private "college", 17 May 2010.

<sup>368</sup> Interview, official, Kosovo Chamber of Commerce, 19 February 2010.

<sup>369</sup> Interview, international adviser to the government, 26 March 2010.

<sup>370</sup> Ibid.

<sup>371</sup> Interviews: parliamentary deputy, 26 February 2010 and international official, March 2010.

<sup>372</sup> Interview, international adviser, 26 March 2010.

<sup>373</sup> Sources in the Kosovo Chamber of Commerce spoke of tentative moves by AC/DC owner Hilmi Zhugolli to assume the Chamber's presidency in 2009, which failed to translate into a formal stand for election. Interviews, 18 November 2009 and 19 February 2010.

arrangements, including one for €50 million: €14 million more expensive than another offer.<sup>374</sup> KEK's logic in opting for single source supply from these companies is not apparent,<sup>375</sup> since they appear to have limited capacities of their own and to act as trade intermediaries.<sup>376</sup>

Governmental favouritism for flimsy "political" companies stunts the growth of professionalised, competitive businesses, lessening their ability to build sustainable employment. The director of a Kosovo engineering company excluded from this circle argued that KEK's contracting would be better deployed in sustaining a cluster of local competing medium-sized businesses, each with employees and gaining expertise, instead of dedicated mostly to shell companies that hand work over to Serbian sub-contractors.<sup>377</sup> Ordinary firms fear to compete with the "chosen" ones, retreating from promising tenders in order to avoid trouble.<sup>378</sup> Demoralisation sets in from the wasted time, energy and expense of attempting to compete in tenders rigged against them, and from the lack of recourse - the Procurement Review Body is sewn up, and the public procurement law does not envisage cases to be taken to court.<sup>379</sup>

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<sup>374</sup> Information collated from the Public Procurement Agency website. The €50 million contract was awarded as the larger of two parcels of work comprising the turnkey refurbishment of the belt conveyers and spreaders system for overburden removal at KEK's coal mines. The contract was awarded as "negotiated" single source after KEK's tender evaluation committee disqualified the large Kopex S.A. Polish-Dutch engineering company's rival bid, priced at €35.5 million. The Procurement Review Body upheld the disqualification, although KEK's evaluation scoring seemed odd: awarding many items in Kopex's bid minimum technical marks of 1 out of 9, although sourcing was from blue-chip European manufacturers, while disqualification grounds included Kopex's offer to replace 20-year old gears with new ones, rather than to reconstruct them. See Minutes of Tender Opening, 15 September 2008, KEK Contract Award Notice, 7 November 2008 and Kopex S.A. letter of complaint to the Procurement Review Body, 15 October 2008.

<sup>375</sup> KEK officials argued simply that the Public Procurement Agency gave them permission. Shkëlzen Dakaj, "Milionat e KEK-ut për tendere njëburimor" [KEK's millions go on single source tenders], *Zëri*, 1 December 2009.

<sup>376</sup> Ecotrade delegated the work on the €50 million contract, the largest it has won, to the Serbian company IMK 14 Oktobar. See KEK Contract Award Notice, 7 November 2008.

<sup>377</sup> Interview, director, engineering company, 10 December 2009.

<sup>378</sup> Interview, company marketing director, 18 December 2009.

<sup>379</sup> Ibid and Interview, director, engineering company, 10 December 2009.

Failure to secure public sector tenders prevents family businesses from growing into medium-sized enterprises,<sup>380</sup> from developing the capacity to dent Kosovo's unemployment problem and augment its pitiful export sector. Some are driven to closure. This is particularly unfortunate, given that most Kosovo companies are "small and stagnant, resulting in low and stagnant labour demand."<sup>381</sup> Most generate less than €25,000 in yearly revenue, and employ up to five workers. Very few are increasing profits and taking on more staff: some are laying workers off.<sup>382</sup>

The earlier discussed infusion of informal groups into the government apparatus, including former SHIK personnel, maintains this atmosphere. This government is "more threatening" than its predecessor, confided a businessman.<sup>383</sup> If former AAK Prime Minister Haradinaj had an active younger brother to oversee certain areas of family interest, the present Prime Minister has more than one brother: one taking a leading role in the insurers' association.<sup>384</sup> In June 2009, the latter reportedly administered a beating to former PTK director Etrur Rrustemaj.<sup>385</sup> In the Kosovo Chamber of Commerce member businesses raise concerns about the brothers' influence in the economy "every day."<sup>386</sup>

However, businessmen are afraid to go public or provide evidence of extortion by government circles, since: "My business would be gone."<sup>387</sup> A parliamentary deputy notes that although

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<sup>380</sup> Interview, company marketing director, 18 December 2009.

<sup>381</sup> World Bank Kosovo Country Economic Memorandum, op. cit., p.63.

<sup>382</sup> Ibid.

<sup>383</sup> Interview, company marketing director, 18 December 2009.

<sup>384</sup> Interviews: commentator, 4 November 2009; Kosovo Chamber of Commerce officials, 18 November 2009 and 19 February 2010; prominent businessman, 18 December 2009.

<sup>385</sup> Kastriot Jahaj, "Etrur Rrustemi akuzon vëllanë e kryeministrit për sulm fizik ndaj tij" [Etrur Rrustemi accuses prime minister's brother of physically assaulting him], *Koha Ditore*, 12 June 2009.

Rrustemaj's brother Naim, a parliamentary deputy, later raised the matter in parliament. Agron Halitaj, "Rrustemi: Kryeministër, pse ma sulmuat familjen?!" [Rrustemi: Prime Minister, why did you attack my family?], *Koha Ditore*, 26 June 2009.

<sup>386</sup> Interview, senior official, Kosovo Chamber of Commerce, 19 February 2010.

<sup>387</sup> Ibid.

businessmen complain of being obliged to pay up to 50% of a contract value to win a tender, “When I ask them for documentary proof, they say they are afraid for their families.”<sup>388</sup> Complaints to Kosovo’s Chamber of Commerce embrace abuse of all kinds of licensing processes, but members’ fear and reluctance to be identified,<sup>389</sup> and the Chamber’s political balancing act with the government have so far prevented their vigorous representation.<sup>390</sup> Businesses keep quiet to avoid confrontation with the government and being identified as an opponent.<sup>391</sup>

Privately, businessmen complain that government authorities assume them to be criminal profiteers, treat them as such, and even push them toward criminality.<sup>392</sup> “They try to corrupt you, to tie your hands.”<sup>393</sup> The Tax Administration is cited for cutting deals with some companies, launching punitive inspections against others.<sup>394</sup> The IMF has inquired why companies file so few complaints of over-taxation; their answer was fear of ruinous retribution.<sup>395</sup> Only the customs service treats businesses as partners, holding monthly meetings. That service was established by UNMIK; other relevant agencies and ministries began as Kosovo-run, founded on subsistence pay – with staff of low professional quality, some of them corrupt, preventing an inflow of greater professionalism.<sup>396</sup> Revenues from the customs service have kept pace with Kosovo’s GDP growth; those from the Tax Administration have stagnated. It has failed to expand the tax base, and to reduce the large informal economy.<sup>397</sup>

<sup>388</sup> Interview, 26 February 2010.

<sup>389</sup> Interview, senior official, Kosovo Chamber of Commerce, 19 February 2010

<sup>390</sup> Interview, marketing director, food importing company, 3 March and 19 May 2010.

<sup>391</sup> Ibid, 3 March 2010.

<sup>392</sup> Ibid.

<sup>393</sup> Interview, parliamentary deputy and former company director, February 2010.

<sup>394</sup> Interviews: Kosovo Chamber of Commerce official, 18 November; marketing director, food importing company, 3 March 2010.

<sup>395</sup> Interview, senior official, Kosovo Chamber of Commerce, 19 February 2010.

<sup>396</sup> Interview, marketing director, food importing company, 3 March 2010.

<sup>397</sup> Interview, international oversight official, 19-20 April 2010.

While some businesses mature and their readiness to absorb regulation and pay dues and taxes grows year upon year, government is unable to keep up, to deliver.<sup>398</sup> It is slow to eliminate the unfair competition from informal commerce and smuggling that harms tax-and regulation-abiding firms.<sup>399</sup> Allegedly, it even pushes in the opposite direction: “The government is the biggest black market operator and threat to business.”<sup>400</sup>

Meat import is proving a crucial test ground for the relationship between government and business. Moving the Veterinary and Food Agency (VFAK) from the Ministry of Agriculture into the Prime Minister’s Office prefigured the latter’s July 2009 initiative. In the name of safety, this took the shape of an Administrative Directive and tender announcement, to impose one foreign company’s monopoly control of all animal product imports,<sup>401</sup> worth up to €600 million annually.<sup>402</sup> This was withdrawn after business associations’ protests and the US embassy’s intervention. Denied this, VFAK is reported instead to be experimenting with quietly extending informal control and illicit taxation over food imports, sector by sector. So far, this has affected chicken breasts and

<sup>398</sup> Interview, marketing director, food importing company, 3 March 2010.

<sup>399</sup> Ibid and interview, director, food importing company, 22 February 2010.

<sup>400</sup> Interview, director, food importing company, Ibid.

<sup>401</sup> Administrative Directive 07/2009. After the first protests the government offered the compromise of a tender which would instead award import licences to several companies (not necessarily international). Shkëlzen Dakaj, “Qeveria heq nenin 8, mishtarët prapë të pakënaqur” [Government removes article 8, meat industry unhappy again], *Zëri*, 7 July 2009. Analyst Shpend Ahmeti disputed whether the process proposed by the government could legitimately be called a tender at all, since it was neither buying goods nor services. Shkëlzen Dakaj et al, “Mishtarët porosisin qeverinë: Mos pritni që e tërë Kosova të dale në rrugë!” [Meat industry’s message to government: Don’t wait until the whole of Kosovo comes onto the streets!], *Zëri*, 11 July 2009. Even after the proposed compromise, the Public Procurement Regulatory Commission concluded that the government’s “tender” was in conflict with existing law. Valon Maloku and Serbeze Haxhiaj, “Tenderi për mish – i jashtëligjshëm” [Meat tender – illegal], *Koha Ditore*, 13 July 2009.

<sup>402</sup> Estimate by director, food importing company, interview, 22 February 2010.

bananas,<sup>403</sup> with indications that it is extending to other meats.<sup>404</sup>

Several big importers' consignments of these goods have been blocked by VFAK since mid-2009, left to rot at the border. Two of those interviewed gave up on these import sectors to save other parts of their business: forced to acquiesce to the exclusivity government people are creating for their favoured companies.<sup>405</sup> Others are alleged to have succumbed to a scheme obliging them to pay €8,000 per lorry to a company registered in the Prishtina suburb of Vranjevc in order to obtain VFAK border clearance, and to sell and buy back consignments to and from this company: allowing money laundering, manipulation of VAT certificates, and conversion of what started as official imports into unregulated ones.<sup>406</sup> Chicken retail prices, for example, rose 10-20% in recent months.<sup>407</sup>

Allegedly, people in government use such levers to take desirable companies and private sector investment projects under control: demanding a surrender of equity, a share of profits, or guaranteed employment of designated people on inflated salaries: "Businesses that get larger and more successful attract their attention."<sup>408</sup> One interviewed company was in an especial bind – VFAK had partially blocked its stream of meat imports, required for a processing factory it has established, employing 70, and as cash-flow to fund a projected dairy factory, set to start with 50 workers, rising to 150 if plans to supply the region's market succeed. As the second part of its alleged pincer move, staff of VFAK demanded to be cut in as business partners – failing which they

said that further problems would ensue, with border control and the Tax Administration.<sup>409</sup> In April 2010, Prime Minister Thaçi replaced the VFAK chief,<sup>410</sup> but the situation did not appear to change.<sup>411</sup>

The government has appeared set upon control rather than regulation; "Even now, you can't exist as a company if you are not in line with them... if we continue like this year we will only have 20 companies left – all close to government, all in crime."<sup>412</sup> So far the Chamber of Commerce has been measured in its resistance to officials' harassment of member businesses, taking care not to rupture relations with the government. Since the departure in April 2010 of former president Besim Beqaj to take up the new post of Minister of European Integration, some member businesses have considered electing a replacement who is ready to take a more openly defiant stance, and even to make the Chamber a vehicle of the political opposition.<sup>413</sup>

Despite their inviting rhetoric, government officials have done little to accommodate foreign investors who decline to enter the Kosovo market on their terms. Several world-renowned companies expressed interest in the second mobile phone operator licence, before one by one all withdrew.<sup>414</sup> On the other hand, the US embassy

<sup>403</sup> Interviews: Kosovo Chamber of Commerce officials, 18 November 2009 and 19 February 2010; Ibid and marketing director, food importing company, 3 March 2010.

<sup>404</sup> Interview, director, food processing company, 10 March 2010.

<sup>405</sup> Interviews: director, food importing company, 22 February 2010, and marketing director, food importing company, 3 March 2010.

<sup>406</sup> Interviews: senior officials, Kosovo Chamber of Commerce, 18 November 2009 and 19 February 2010; one indirectly-affected businessman, 18 December 2009, and three directly-affected businessmen, 22 February, 3 March, 10 March 2010.

<sup>407</sup> Interviews, food importers, 22 February and 3 March 2010.

<sup>408</sup> Interview, international adviser, 26 March 2010.

<sup>409</sup> Interview, director, food processing company, 10 March 2010.

<sup>410</sup> Nebih Maxhuni, "Sharra e shëndetshme" [the healthy saw], *Express*, 8 April 2010. The Prime Minister's statement cited abuses listed in a report by the Auditor General, many complaints about poor controls on the quality of retailed food, and poor management as reasons for the dismissal of Qaush Kabashi.

<sup>411</sup> Interview, marketing director, food importing company, 19 May 2010. YIHR put the allegations of VFAK's behaviour to Deputy Prime Minister Hajredin Kuçi. He suggested that affected businesses should address complaints to the Kosovo Police or EULEX for investigation. Interview, 20 May 2010.

<sup>412</sup> Interview, official, Kosovo Chamber of Commerce, 18 November 2009.

<sup>413</sup> Interview, marketing director, food importing company, 19 May 2010. In a mirror image of the tentative moves in 2009 to promote the candidature of Hilmi Zhugolli, a businessman close to government, now the opposition AAK-supporting businessman Ramiz Kelmendi, owner of the ELKOS importing company, is considering running for the vacant post.

<sup>414</sup> Foreign Policy Club draft report: "How corruption is driving away investors from Kosovo," op. cit. The report detailed this and two privatisation case studies that showed a similar pattern. All three

argued forcefully that the award of the Prishtina airport public private partnership twenty-year concession on 14 May 2010 to the French-Turkish consortium of Aéroport de Lyon and Limak Holdings “represents a paradigm shift,” proving wrong sceptics who doubted Kosovo’s institutional capacity to attract respectable long-term investors.<sup>415</sup>

The projected privatisation of PTK will show whether or not this holds good. Concerns have been raised from several quarters over the government’s choice of transaction adviser, the little-known Liechtenstein-registered Telco AG. It does not appear to have a track record of such work. When selling a company whose worth could be 12.5% of Kosovo’s GDP, “you should be careful about the adviser you choose.”<sup>416</sup> Some have estimated PTK’s value to be more than €800 million.<sup>417</sup> Voices close to the present process have suggested €300 million.<sup>418</sup> An international official noted that investors linked to the government would value privatised assets lower than would an efficient outside investor, who is able to make them work to the maximum.<sup>419</sup>

A World Bank survey in 2009 discovered that investors were stepping back from Kosovo because they could not find ways round the “jungle” of corruption, 80% citing obstructive or rent-seeking behaviour by public officials.<sup>420</sup> An auto manufacturer’s interest in acquiring a parts factory fizzled out after the company was channelled to the Prime Minister’s Office and burdened with requests for several generously salaried positions; people from municipal authorities have conditioned foreign companies’

proposed investments with demands for a 10-20% share of profits, to ensure smooth running; reports too have ministry officials requiring down-payments of €10,000 for permissions and ministerial access.<sup>421</sup>

## Consequences

Individual businesspeople find it harder to exercise and develop their profession as they would wish; doors are being closed. Kosovo’s weak, thin business community is cowed, a beleaguered rather than growing constituency.<sup>422</sup> Healthy influences are slackening, and pressures inducing criminality strengthening. Rather than regulating and protecting, state bodies have become predatory. “Everything is getting centralised, so one can order: ‘tomorrow you will steal for me.’”<sup>423</sup> As the government narrows ownership, with leaders taking more under their own control, decentralisation and diversification of economic power are prevented from taking root. The vibrant commercial society often seen as a driver for open society and catalyst for further reform cannot arise. “When I am afraid to tell you what is going on in the market this is not any longer a democracy,” confided a businessman.<sup>424</sup>

In rigidifying the economic status quo under its wing, the political elite stunts the economy, creating a system that is nearly feudal, an unaccountable hierarchy in which much of the population become their dependents. Those holding the reins of government, and therefore of ownership, are insulated from the economic costs of this destructive policy, and count upon buying and ordering their way to repeated election victories. As EU candidacy is in reality so distant for Kosovo, they believe they will not have to pay a price for flunking conditionality within the next few years. Indeed, the government has grown

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cases dated from the period of the previous AAK-LDK government of 2004 to 2007.

<sup>415</sup> Christopher Dell, US Ambassador to Kosovo, “Airport Concession,” 18 May 2010. See: [http://pristina.usembassy.gov/dell\\_statements.html](http://pristina.usembassy.gov/dell_statements.html).

<sup>416</sup> Interview, international oversight official, 19-20 April 2010.

<sup>417</sup> Lawrence Marzouk, “PTK to be Sold by August,” *Prishtina Insight*, 29 January 2010.

<sup>418</sup> Interview, consultant, 9 February 2010.

<sup>419</sup> Interview, international oversight official, 19-20 April 2010.

<sup>420</sup> Conference address by Ranjit Nayak, Kosovo World Bank representative, Prishtina, 16 December 2009.

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<sup>421</sup> Interviews, representatives of international NGOs, 28 October 2009 and 26 March 2010

<sup>422</sup> “If it was vibrant, the risks would be less,” said an international oversight official. Interview, 19-20 April 2010.

<sup>423</sup> Interview, Kosovo Police officer, 3 December 2009

<sup>424</sup> Interview, director, food importing company, 22 February 2010.

accustomed to the Quint shielding it from the consequences of its misdemeanours.

The material damage is great: preventing dues from reaching the state budget, siphoning money out of it, or allocating much of it to wasteful capital spending prevents pensions and social security payments from rising even to subsistence level, and stops pay for the majority of public sector workers rising above it. Import schemes affecting fuel, the electricity sector, food products and procurement manipulations raise prices and lower quality across the board, taxing everyone. In a society as poor as Kosovo's, these differences are not marginal: they have a serious impact on lives, limiting them, keeping more people shackled to a desperate or draining existence at the edge, allowing fewer to break free from poverty, to have energy and resources spare for self-expression and involvement in their country's civic life.<sup>425</sup>

The moral damage done to Kosovo's society by current processes in its economic life is also immense: "In Bulgaria horizontal criminal groups are linking with the government; here the government is the criminal group – it solicits crime."<sup>426</sup> "Organised crime is reshaping – today you have to be connected with someone in the government or you will not survive."<sup>427</sup> Many ordinary citizens are pushed into the arms of criminals, such as networks arranging for illegal migration into the EU. The human cost was exposed by the October 2009 tragedy in which fifteen Kosovo Albanians drowned in the River Tisza as they were ferried clandestinely from Serbia to Hungary.

These growth-restricting policies also increase Kosovo's vulnerability to social turmoil, and consequent disintegration of state institutions that however imperfect, guarantee civil peace and thus basic freedom of expression. Several of those interviewed voiced fear that rising disaffection, brittle institutions, and "a house robbed by its own master" could give rise to a collapse similar to Albania's in 1997.<sup>428</sup> Half the citizenry does not earn its own money, relying on others' mercy.<sup>429</sup> The 40-48% without a job, indeed 74% of those under 25, have no stake in the stability of the system being created. Damage done to job-creating and import-substituting investment highlighted by the example of the blackmailed meat processing company and the rise to a dominant role in the economy of pyramid-like, empty "political companies" exacerbate Kosovo's social and economic fragility.

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<sup>425</sup> One commentator from the business world conjectured as to whether Serbian extremists could ever have dreamt up policies so damaging to Kosovo as its own government had. Interview, November 2009. A journalist had a more charitable view: the government knows its actions are harmful, yet they "need to do this to repay the debts they incurred in getting elected." Interview, Salie Gajtani-Osmankaq, *Koha Ditore*, 22 December 2009.

<sup>426</sup> Interview, senior official, Kosovo Chamber of Commerce, 18 November 2009.

<sup>427</sup> Interview, Kosovo Police officer, 3 December 2009.

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<sup>428</sup> Interviews: Shpend Ahmeti, director, GAP Institute, 11 December 2009; chair, parliament committee, 26 February 2010; marketing director, food importing company, 3 March 2010; Nexhmedin Spahiu, director, TV Mitrovica, 10 March 2010. Bujar Bukoshi, LDK politician, address to Foreign Policy Club conference, "The Burden of Corruption" op. cit.

<sup>429</sup> Blerim Shala, "Fundosja e iluzioneve," [Sinking of Illusions], *Express*, 2 November 2009.

## CONCLUSION

The governance practises described in this report are dissipating the dignity and hope Kosovo's citizens gained following the territory's declaration of independence. Rather than achieve a greater opening to the outside world on behalf of its citizenry, Kosovo's political class seems to have adapted itself only too well to the new state's condition of semi-isolation, and to making a living from appropriation of a share of that captive citizenry's limited wealth. The trajectory of Kosovo's continuing state formation clearly requires adjustment.

Rather than expanding freedoms for its citizens, Kosovo's governing class seems to be restricting them. Public servants and members of the business community alike appear to be intimidated. Those who report on governance malpractices come under pressure. The first elections in independent Kosovo marked a deterioration of the process.

The independent checks and balances required for a state to function in the service of its citizens are proving insufficiently robust. Instead of providing impartial, confident professionalism exercised in the public interest, many institutions have been rewired as conductors of top-down decisions from Kosovo's political leadership. The concept of the public interest is not projected vividly enough.

Due to a variety of reasons, there is a crisis of professionalism. In Kosovo, professional expertise, identity and pride are paper-thin. With many honourable exceptions, this affects civil servants, regulators, the judiciary, election administrators, and procurement officials. It extends too into the business world. Strengthening professionalism will be crucial to the state's success. Empowering even one strategic professional group to stand up together and not "get picked apart and bought off"<sup>430</sup> could encourage similar developments in other parts of society.

One of the aspects that was most shockingly new in the newspaper interview given by EULEX acting chief prosecutor Johannes van Vreeswijk to rebut comments made by the Prime Minister the previous day was the very spectacle of a confident professional, sure of his ground and determined to defend his corner against inappropriate encroachment from whomever. It demonstrated how alien that is to Kosovo's experience.

The parties currently in government bear responsibility for practices that have harmed the young state's public sphere from the outset. They are responsible for such predatory practices as procurement abuses that have drained the budget of tens of millions of euros at least. Such policies denude the country of the economic growth it desperately needs to maintain social cohesion and exit the ghetto in which its citizens currently find themselves. The government's promised reform of licensing and procurement practises must bear fruit. Also, Kosovo's institutions must make a reality of the US ambassador's call for Kosovo to consolidate a paradigm shift, so as to attract reputable long-term foreign investment.

Responsibility for misgovernment does not lie with the ruling parties alone. Current malpractices such as creation and abuse of licensing schemes are mostly elaborations of scams pioneered by this government's predecessor. Each has demonstrated a knack for building upon previous worst practices. Reversing this into a virtuous circle of best practice is now required. In municipalities where the political opposition is in power, patterns of behaviour similar to those of the governing parties are evident. There is no reason to believe that replacing some parties in government with others will by itself lead to any significant improvement. Currently, no political force appears capable both of winning elections and changing the system.

Today, Kosovo's political parties function to channel power and patronage over state resources to party leaderships that are difficult to hold accountable or dislodge. They overwhelm public and state institutions. The country's institutions

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<sup>430</sup> Interview, former Kosovo director, aid agency, February 2010.

must be liberated and reclaimed for the public interest. They must grow their own professional identity. Political parties need to be levered open to allow accountability and ideas to flow through them. The current political class appears both well-entrenched and ill-equipped to guide Kosovo towards satisfactory social, economic and institutional development.

It is unclear to what degree the political parties are a cause or a symptom of malaise. Society itself is weak and deferential. There is a lack of a vibrant culture of association. A sense of citizenship, of having and exercising rights, and of ownership is meagrely developed. The international oversight presences partially compensate for Kosovo society's minimal ability to hold its own institutions to account. Kosovo society must pick up more of this burden.

The possibilities of breaking free of the current trajectory, to achieve a state of enablement rather than one of constriction, are reduced by the very restricted room for manoeuvre that Kosovo and its international sponsors have. The incomplete process of international recognition of Kosovo's statehood imposes limitations, and much of the international political investment made in Kosovo is to ensure stability and to hold things in place. Meaningful reform suggests upheaval, which Kosovo's brittle society and institutions may or may not be able to manage without turmoil. While they want Kosovo to rid itself of organised crime and corruption, Kosovo's international sponsors are also risk adverse, mindful of the territory's recent legacy of inter-ethnic conflict and geared to a policy of "more of the same".

For there to be an evolutionary rather than revolutionary remedy for the problems identified in this report, some will say that the best answer is a raft of legislative and institution-building fixes. The government has already said it will revise licensing, procurement and election law. Yet without domestic political will for real reform, ways and means will be found to circumvent or neutralise such fixes.

Some fear that Kosovo is too small for a state's separation of powers ever to work well.<sup>431</sup> The present hybrid arrangement, involving the ICR's oversight and EULEX's international prosecutors and judges substituting for Kosovo cadres in sensitive areas, is designed to address that challenge, but it cannot be a permanent solution. Just two years after independence, tension between these presences and the government is rising.

Realistically, any change is likelier to come as a consequence of initiatives or prompts by Kosovo's international sponsors and overseers, rather than be generated entirely by domestic actors. If EULEX does go ahead with high-level corruption arrests, some might see such "surgical" intervention upon Kosovo's body politic as an opportunity allowing space for new political movements to grow.

An alternative policy is for international presences' powers to be scaled back, to allow a policy of conditionality full play: so that Kosovo's citizens can hold its government unambiguously accountable for its successes or failures in advancement toward EU visa liberalisation and candidacy, and EU structural aid funds granted or withheld. This is less likely. EU disunity on Kosovo's status means that it may not be in a position to offer these rewards.

The fear of permitting Kosovo's leadership free rein for criminality, and concern that Kosovo may drift into instability and a resumption of inter-ethnic violence will prevent Kosovo's sponsors from letting go. But if they keep hold, they must help effect change. Kosovo's present form of stability is of a brittle, stifling and constrictive variety.

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<sup>431</sup> It is "a place of peculiar relationships between very small groups of people." Ibid. Former Yugoslav republic Slovenia has a population similar to Kosovo's, 2 million, and is now a EU member state. Nevertheless, its record of economic, social and institutional development has differed markedly from Kosovo's.

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**List of Acronyms**

<b>AAK</b>	Alliance for the Future of Kosovo
<b>AKR</b>	Alliance for a New Kosovo
<b>BBC</b>	British Broadcasting Service
<b>BIRN</b>	Balkan Investigative Reporting Network
<b>CEC</b>	Central Election Commission
<b>DFID</b>	UK Department for International Development
<b>EBU</b>	European Broadcasting Union
<b>ECAC</b>	Elections Appeal Body
<b>EU</b>	European Union
<b>EULEX</b>	EU Rule of Law Mission to Kosovo
<b>EUSR</b>	European Union Special Representative
<b>ECLO</b>	European Commission Liaison Office
<b>FDI</b>	Foreign Direct Investments
<b>FPC</b>	Foreign Policy Club
<b>GAP</b>	The Institute for Advanced Studies GAP
<b>ICO</b>	International Civilian Office
<b>ICR</b>	International Civilian Representative, ICO chief
<b>IMF</b>	International Monetary Fund
<b>INPO</b>	Initiative for Progress
<b>KCIC</b>	Kosovo Center for International Cooperation
<b>KCSF</b>	Kosovo Civil Society Foundation
<b>KEK</b>	Kosovo Energy Corporation

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<b>KIPRED</b>	Kosovo Institute for Policy Research and Development
<b>KFOR</b>	NATO-led Kosovo Force
<b>KLA</b>	Kosovo Liberation Army
<b>KPS</b>	Kosovo Police Service
<b>KTV</b>	Koha Television
<b>LDD</b>	Democratic League of Dardania
<b>LDK</b>	Democratic League of Kosovo
<b>LPK</b>	pan-Albanianist Kosovo People's Movement
<b>NATO</b>	North Atlantic Treaty Organization
<b>NGO</b>	Non-governmental organization
<b>OSCE</b>	Organization for Security and Cooperation in Europe
<b>PDK</b>	Democratic Party of Kosovo
<b>PTK</b>	Post and Telecom of Kosovo
<b>RTK</b>	Radio Television of Kosovo
<b>RTP</b>	Radio Television of Prishtina
<b>RTV21</b>	Radio Television 21
<b>SHIK</b>	Informative Service of Kosovo
<b>YIHR</b>	Youth Initiative for Human Rights
<b>UNDP</b>	United Nations Development Programme
<b>UN</b>	United Nations
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNMIK</b>	United Nations Mission in Kosovo
<b>VFAK</b>	Veterinary and Food Agency