

Mrs. Atifete Jahjaga
President of Republic of Kosovo

Stockholm April 24th, 2012

Dear Madam President,

On behalf of Civil Rights Defenders, I would like to express my deepest concern regarding adoption of the Criminal Code, which regulates and stipulates criminal responsibility of the editors in chief, publishers, print houses and producers. If signed by you, such law will undoubtedly leave severe consequences to the freedom of expression; limit the work of the media and public's right to receive accurate information.

On April 20, the Parliament of Kosovo adopted the new Criminal Code. Article 37 of the Criminal Code stipulates criminal liability for editors in chief, publishers, print-houses and producers. However, it does not clearly stipulate specific criminal offences that editors in chief, publishers, print-houses and producers are to be sanctioned for, thereby leaving room for free interpretation by judges and prosecutors and creating possibilities for wide misuse of the law by duty holders. Furthermore, Article 37 suggests that the only information that can be considered accurate is the one obtained from public officials, or through official (authorized) announcements and statements. This will have chilling effect on journalists and media freedoms, opening room for self-censorship and dis-encouragement in delivering timely and accurate information to the public and perform basic function of society watchdogs.

Moreover, if the current version of the Criminal Code (that passed Parliament procedure) if signed by you, Article 37 will breach not only with European standards regulating the freedom of speech and media, but also Kosovo's existing media legal framework. Kosovo made a huge step forward towards promoting right to freedom of expression by decriminalizing defamation in 2008 by adopting Civil Law on defamation and insult, which was completed by Kosovo's Supreme Court decision dated February 2012, that defamation and libel should be a matter of civil and not criminal courts. This decision was in line with the international human rights law and European standards. If the new Criminal Code containing Article 37 enters into force, it will be an indicator of huge setback in implementation of human rights standards.

Kosovo has a duty to respect and protect the freedom of expression in accordance to the human rights standards embedded in Kosovo Constitution, where European Convention for the Protection of Human Rights and Fundamental Freedoms is directly applicable.

Madam President, with this letter I urge you not to sign the changes in the Criminal Code of Kosovo and to send the Criminal Code back to Parliament for the readjustment in accordance to European human rights principles and standards.

Sincerely,

Robert Hardh

Executive director, Civil Rights Defenders

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