

Reporters Without Borders

<http://www.rsf.org/kosovo-new-criminal-code-poses-threat-to-24-04-2012,42350.html>

Europe/Ex-USSR - Kosovo

Vigilance still needed

Kosovo president sends new criminal code back to parliament

9 May 2012

Reporters Without Borders hails the refusal yesterday by President Atifete Jahjaga to promulgate Kosovo's new penal code until the National Assembly has revised articles that threaten freedom of the press (see below).

"We hail this decision by the president, who has shown herself to be attentive to the concerns of local journalists and the international community," the press freedom organization said.

"The dangerous implications of the law in its present form have at last been acknowledged at the highest level.

"However, we remain extremely vigilant and shall be following the parliamentary debates very closely. It is vital that journalists enjoy legal protection and are not subject to criminal penalties for doing their job. The president must pursue all means within the terms of her mandate to shield news organizations from legal pressures, which do nothing but strengthen self-censorship."

Approved by parliament last month, the new criminal code provides for prison sentences for journalists found guilty of breaches of the code for what they report in the media or refusing to reveal their sources.

The president's office said in a statement the articles concerned were not compatible with the constitution or European standards of human rights.

Local journalists held massive demonstrations in protest against the law outside the National Assembly on 23 April and, on World Press Freedom Day on 3 May, they boycotted all news about parliament and government institutions.

24.04.2012 - New criminal code poses threat to fundamental journalistic principles

Reporters Without Borders firmly condemns the new criminal code that Kosovo's national assembly adopted on 20 April 2012, as it contains articles that criminalize defamation and force journalists to reveal their sources on pain of criminal proceedings.

"These provisions are unacceptable," Reporters Without Borders said. "They are clearly aimed at silencing the kind of journalism and investigative reporting that makes the government uncomfortable."

Journalists should not go to prison because of what they report or because they refuse to reveal their sources. The right to practice journalism and protect sources of information must continue to be fundamental principles. Flouting them would be a major step backwards. This new criminal code puts media freedom in great danger and represents a serious attack on democracy."

"We urge President Atifete Jahjaga to refuse to promulgate the new criminal code and to return it to the national assembly for changes that bring it into line with international standards. The president needs to make clear that she does not want any part in this kind of behaviour, which threatens journalists." We also call for the intervention of European experts to help rewrite the controversial articles and we hope the European Union will undertake to ensure that media freedom is respected and to protect journalists in Kosovo."

Reporters, editors, photographers and cameramen from various local media gathered outside the national assembly yesterday to protest against the new provisions, which would probably have the effect of gagging the media and reviving self-censorship. A demonstration of this kind by media personnel has not been seen since the late 1990s.

Articles 37 and 38 of the new criminal code are the source of the controversy. Under article 37, a journalist can be the target of a criminal prosecution for an offence "carried out throughout media." It says "the author of the information bears penal responsibility if a criminal offence has been carried out throughout the publication of the information in a newspaper or in other forms of regular print publication, or on radio, television, on the Internet or via other media."

The lack of precise definition of what is meant by "offence" leaves considerable room for interpretation and could result in many abuses by the authorities, especially as regards defamation.

Until now, defamation has been the subject of civil actions only, not of criminal prosecutions. Under the new provisions, journalists who do investigative reporting on corruption abuse of authority or leading politicians would be exposed to the threat of jail terms. Aside from the actual penalty, this article considerably reduces the journalist's room for manoeuvre, encouraging self-censorship or even censorship and much more editorial control by media owners.

Article 38 says journalists would be held "criminally responsible" in cases in which they refused to reveal their sources in order to prevent "an attack that consists of an unavoidable threat against the life or personal integrity" or to prevent "a criminal act punishable by a prison sentence of at least three years."

The application of this article would also jeopardize investigative journalism, which is already limited in Kosovo, and would considerably reinforce the monopoly of the pro-government media and government propaganda.

This is a difficult time for the Kosovar press and if the new criminal code is not withdrawn, it will lead to more harassment of the media, which the international community would presumably not welcome. Kosovo is ranked 87th out of 179 countries in the Reporters Without Borders press freedom index.

(Photo : <http://www.demotix.com>)
