

# KOSOVO 2017 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Kosovo is a parliamentary democracy. The constitution and laws provide for an elected unicameral parliament, the Assembly, which in turn elects a president, whose choice of prime minister the Assembly must approve. The country held parliamentary elections on June 11 that international observers considered free and fair. The Assembly elected Hashim Thaci as president in February 2016. The EU's Rule-of-Law Mission (EULEX), which monitors police and the justice sector, continued to perform some executive functions, with its mission extended until mid-2018. The EU-facilitated Brussels Dialogue on the normalization of relations between Kosovo and Serbia continued fitfully, as the two presidents agreed to implement their 2015 agreement to integrate northern Kosovo judicial structures into the national structures effective October 17.

Civilian authorities maintained effective control of the security forces.

The most significant human rights issues included assaults on journalists; violence against displaced persons; endemic government corruption; lack of judicial independence, including failures of due process and selective implementation of decisions; and violence against members of ethnic minorities and members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community.

The government took steps to prosecute and punish officials who committed abuses in the security services or elsewhere in the government. Many in the opposition, civil society, and the media believed that senior officials engaged in corruption with impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

EULEX and domestic prosecutors continued prosecuting war crimes cases arising from the 1998-99 conflict. As of August EULEX prosecutors were working on 37 war crimes cases. Under the understanding in effect, EULEX may be assigned

new cases only in exceptional circumstances, with approval of the Kosovo Prosecutorial Council.

The Special Prosecution of the Republic of Kosovo (SPRK) office was, as of August, investigating approximately 104 war crimes cases, of which 44 had been suspended because the alleged perpetrators' whereabouts were unknown.

In July, EULEX and Kosovo police arrested four persons in connection with the 2004 killing of a UN Interim Administration Mission in Kosovo (UNMIK) police officer and a Kosovo police officer and the wounding of two others. Prosecutors sought a fifth suspect's extradition from Germany. Citing police sources, the media identified two of the suspects as members of a major organized crime group involved in postwar political assassinations, terrorist attacks, and extortion.

In July a EULEX-majority panel at the Supreme Court overturned the 2016 conviction of Sami Lushtaku, mayor of Skenderaj/Srbica, on war crimes charges in the so-called Drenica I case. In late 2016 the Appellate Court overturned Lushtaku's original conviction for murder and convicted him on command responsibility grounds for war crimes committed in a Kosovo Liberation Army (KLA) detention center. The Supreme Court panel upheld a five-year sentence for Lushtaku's codefendant, Jahir Demaku, former director of Kosovo Security Force (KSF) Intelligence and Security. On August 18, a EULEX-majority panel at the Supreme Court upheld the convictions of all 10 defendants in the Drenica II war crimes case. In August a retrial began for Kosovo Serb Oliver Ivanovic, sentenced in 2016 to nine years in prison for war crimes against ethnic Albanians committed in 1999. Ivanovic was released on bail pending retrial in April.

The Hague-based Kosovo Specialist Prosecutor's Office (SPO) continued to investigate crimes committed during and after the 1999 conflict. The SPO and its predecessor, the EU Special Investigative Task Force, were established following the 2011 release of the Council of Europe report *Inhuman Treatment of People and Illicit Trafficking in Human Organs in Kosovo*, which alleged crimes by individual KLA leaders. A 2016 agreement providing the legal basis for the Kosovo Specialist Chambers to conduct proceedings in the Netherlands entered into force on January 1. On December 22, a group of parliamentarians from the governing coalition attempted to abrogate the law authorizing the SPO and Specialist Chambers. Some parliamentarians reported doing so under instruction from political leaders. The initiative stalled under pressure from opposition leaders and the international community, but supporters continued to push for abrogation

through the end of the year. The SPO had not issued any indictments as of year's end.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

As of August the International Committee of the Red Cross (ICRC) listed as missing 1,658 persons who disappeared during the 1998-99 conflict and the political violence that followed. Although the ICRC did not distinguish missing persons by ethnic background due to confidentiality restrictions, observers suggested that approximately 70 percent were ethnic Albanians and 30 percent were Serbs, Roma, Ashkalis, Egyptians, Bosniaks, or Montenegrins.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and laws prohibit such practices, and there were no reports that government officials employed them.

The Police Inspectorate of Kosovo (PIK), an independent body within the Ministry of Internal Affairs, was responsible for reviewing complaints about police behavior. As of July the PIK had reviewed 678 citizen complaints regarding police conduct. The PIK characterized 404 of the complaints as involving disciplinary violations and forwarded them to the Kosovo Police Professional Standards Unit; it judged another 264 complaints to be criminal cases. As of July, 124 police personnel were under investigation, and 135 cases from 2016 remained under investigation. Allegations of excessive use of force by police in dispersing a demonstration in 2015 did not result in criminal charges, although prosecutors continued to review information provided by the PIK.

On May 13, unknown assailants beat former *Zeri* editor in chief and noted human rights advocate Arbana Xharra. On April 10, Xharra had told police that unknown persons spray-painted red crosses on her front door. An investigation was underway. Xharra told media that religious radicals and activists of opposition parties had attacked her on social media throughout the year.

On June 22, a EULEX-majority panel at the Appellate Court partially amended a 2016 judgement by the Basic Court in Mitrovica against former KLA commander

Xhemshit Krasniqi for the torture of civilians in 1999. The Appellate Court reduced the sentence from eight to seven years of imprisonment.

On August 28, two unknown persons attacked Vitore Stavileci, the wife of the Minister of Economic Development Blerand Stavileci, causing serious injuries. The attack came shortly after Minister Stavileci had publicly criticized Pristina's municipal government as incompetent and corrupt, leading NGOs and other observers to suspect political motivation.

### **Prison and Detention Center Conditions**

Prison and detention center conditions met some international standards, but significant problems persisted in penitentiaries, specifically, the lack of rehabilitative programs, prisoner-on-prisoner violence, corruption, exposure to radical religious or political views, and substandard medical care.

Former director of the Pristina Detention Center Emrush Thaci, indicted in 2016 for helping convicted war criminal Sami Lushtaku to avoid imprisonment, was still awaiting trial.

Physical Conditions: Physical conditions remained substandard in some parts of the Dubrava Prison, which were overcrowded in the first quarter of the year.

During the year the Kosovo Rehabilitation Center for Torture Victims (KRCT) received complaints from prisoners regarding inappropriate behavior, verbal harassment, prisoner-on-prisoner violence, and in some cases physical mistreatment by correctional officers, mainly at the Dubrava Prison and the Detention center in Lipjan.

On February 19, three correctional officers assaulted a detainee at the Lipjan Detention Center. The officers involved were reprimanded but not dismissed.

On February 26, two female inmates were involved in a fight in Lipjan Detention Center that resulted in injuries. The KRCT reported the fight took place in the presence of correctional officers, who did not intervene.

National media reported that prisoners raped a fellow inmate at the Lipjan Detention Center on May 15. The victim reportedly received medical and psychiatric care, and prison officials transferred one of the perpetrators to another detention center. The case was under investigation.

As of August the KRCT had received 150 complaints from prisoners that correctional staff verbally or physically abused them in the Dubrava Prison and the High Security Prison.

Due to corruption or political interference, authorities did not always exercise control over the facilities or inmates. According to the KRCT, inmates complained that officials at the Dubrava and the Smrekovnica prisons unlawfully granted furloughs and additional yard time based on nepotism or bribery. The KRCT reported that mobile phones and illicit drugs were regularly smuggled into correctional facilities, with approximately 30 percent of inmates estimated to be addicted to drugs. There were no drug treatment programs.

The KRCT documented delays and errors in the delivery of medical care to prisoners as well as a lack of specialized treatment. In many instances these conditions forced prisoners to procure needed medications through private sources. The KRCT observed gaps in the prison health-care system at the Dubrava facility and reported an insufficient number of mental health professionals.

Facilities and treatment for inmates with disabilities remained substandard. The Kosovo Forensics Psychiatric Institute provided limited treatment and shelter for detained persons with mental disabilities. Advocates for persons with disabilities faulted the government for regularly housing pretrial detainees with diagnosed mental disabilities together with other pretrial detainees. Pretrial detainees were held separately from the convicted prisoner population.

The correctional service continued to operate an interdisciplinary team to address self-inflicted injuries and suicide attempts at correctional facilities, although prisoner advocates were not aware of improvements. The KRCT noted psychosocial services at the Dubrava Prison and High Security Prison were insufficient and unsuitable for the inmates' needs, despite some improvements at the High Security Prison. There were no legal provisions or administrative instructions for the treatment of prisoners with disabilities. As of August the KCRT reported 21 attempted suicides and 100 self-inflicted injuries. Advocates cited frequent transfers and harsh treatment as contributing factors.

On August 16, masked assailants beat Kosovo Correctional Service (KCS) acting director Sokol Zogaj with metal pipes in Pristina. The Justice Ministry issued a statement soon after the attack calling on authorities to find the perpetrators and bring them to justice.

The government, with the help of international forensics experts, continued to investigate the death of Vetevendosje party activist Astrit Dehari, who allegedly committed suicide in prison in 2016. In September the Kosovo chief state prosecutor announced that the Austrian Internal Affairs Ministry completed the analysis of the video footage of the surveillance cameras in the Prizren Detention Center at the time of Dehari's death. The analysis found no sign of manipulation of the raw video surveillance footage. The State Prosecutor's office stated it would further analyze evidence related to this case.

Administration: Authorities did not always conduct proper investigations of mistreatment. The KRCT noted the internal complaint mechanism mandated by law did not function, as inmates often did not report abuses due to lack of confidentiality and fear of retribution. The KRCT observed several cases where inmates who submitted complaints were merely transferred to other prison facilities. Prisoners in some wards at the Dubrava Prison and the High Security Prison lacked complaint forms, and prison management failed to address reported concerns. Prison authorities could not intervene when some pretrial detainees used ministry of justice connections to obtain transfers to more comfortable facilities, such as the University Clinical Center in Pristina, even when the prison could provide adequate medical services.

The KRCT also noted that authorities did not provide written decisions justifying solitary confinement or confirming transfer to another facility. According to prisoners, such decisions were implemented without notice or explanation. The KRCT noted that authorities' failure to implement the law on penal sanctions resulted in a lack of clear procedures for leave and parole requests.

Both inmates and social workers characterized the conditional release panel as failing to address requests for early release in a timely fashion and for a lack of clarity in the justification of its denials. Prisoners with good behavior records criticized the panel's lack of consideration of their individual circumstances. The KCS received seven complaints during the year.

Independent Monitoring: The government permitted visits by independent human rights observers, but the national Ombudsperson Institution alone had continuous and unfettered access to correctional facilities. The KRCT and the Center for Defense of Human Rights and Freedoms were required to provide 24-hour advance notice of planned visits.

Improvements: In May the government opened an educational correctional center for juveniles at Lipjan Detention Center. Lipjan Detention Center's existing management administered the center for juveniles, in apparent violation of the legal prohibition against managers running multiple institutions.

In March the government opened a new detention center with a 300-prisoner capacity in Gjilan. Some NGOs stated that the center did not meet basic safety standards, noting poor-quality surveillance systems and cell doors.

The government also renovated Dubrava Prison during the year, partially addressing deficiencies including poor lighting and ventilation, dilapidated kitchens and toilets, lack of hot water, inadequate or no bedding, and significant delay in repairs.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and the government, EULEX, and Kosovo Force (KFOR), a NATO-led international peacekeeping force, generally observed these prohibitions.

#### **Role of the Police and Security Apparatus**

Local security forces included the Kosovo Police and the Kosovo Security Force, a lightly armed civil response force that provides disaster response and humanitarian relief, demining, search and rescue, and hazardous material containment. The law provides that police operate under the authority of the Ministry of Internal Affairs. Police maintained internal security, with assistance from EULEX as a second responder for incidents of unrest and KFOR as a third responder. The border police, part of the Kosovo Police, were responsible for law enforcement related to border management. The Ministry for the Kosovo Security Force managed the KSF.

EULEX's mandate is to monitor, mentor, and advise local judicial and law enforcement institutions. It also has some operational responsibilities, backing up the police force, including during raids and actions requiring crowd and riot control. Circumstances did not require EULEX to carry out this back-up function during the year. EULEX's independent mandate for policing operations is limited to cases of organized crime, high-level corruption, war crimes, money laundering, terrorist financing, and international police cooperation. It also engaged in witness

protection and in training police in this area. EULEX's executive role gradually diminished as envisaged in the government's exchange of letters with the EU in 2014 and as extended in 2016.

KFOR was responsible for providing a safe and secure environment and ensuring freedom of movement in the country. As of May the mission had 4,352 troops from 31 countries.

EULEX and KFOR personnel were not subject to the country's legal system but were subject to their missions' and their countries' disciplinary measures.

The government sometimes investigated abuse and corruption, although mechanisms for doing so were not equally effective throughout the country. Security forces did not ensure compliance with court orders when local officials failed to carry them out. Numerous police officers were arrested on corruption charges during the year, and impunity was a problem.

On September 8, the media reported that the Kosovo Police terminated the contracts of 57 of the 59 officers arrested in 2016 for abuse of office and bribery. Most of them were members of the traffic and highway control unit from Mitrovica/a South and Mitrovica/a North, who reportedly were caught receiving bribes after the PIK installed hidden cameras within their official patrol vehicles.

### **Arrest Procedures and Treatment of Detainees**

By law, except when a crime is in progress, police may apprehend suspects only with warrants based on evidence and issued by a judge or prosecutor. Within six hours, prosecutors must issue the arrested person a written statement describing the alleged offense and the legal basis for the charges. Authorities must bring arrested persons before a judge within 48 hours and must provide detainees prompt access to a lawyer of their choice or one provided by the state. There is a bail system, but courts seldom used it. They often released detainees without bail pending trial.

Suspects have the right to refuse to answer questions at all stages of an investigation, except those concerning their identity. Suspects have the right to free assistance of an interpreter and medical and psychiatric treatment. Police may not hold suspects incommunicado.

Following an initial ruling, a court may hold individuals in pretrial detention for 30 days from the date of their arrest and may extend pretrial detention for up to one

year. After an indictment and until the conclusion of trial proceedings, only a trial judge or a trial panel can order or terminate detention. The law allows a judge to order house arrest, confiscation of travel documents, and the expanded use of bail as alternatives to pretrial detention.

Although in some instances police were masked or under cover, they generally carried out arrests using warrants. There were no confirmed reports that police abused the 48-hour rule, and prosecutors generally either provided arrested persons with documents describing the reasons for their detention or released them. While officials generally respected the requirement for prompt disposition of cases, the KRCT reported that detainees occasionally faced delays when attorneys were temporarily not available.

NGOs reported that authorities did not always allow detained persons to contact attorneys when initially arrested and in some cases permitted consultation with an attorney only when police investigators began formal questioning. In several cases detainees were allowed access to an attorney only after their formal questioning. Some detained persons complained that, despite requests for lawyers, their first contact with an attorney took place at their initial court appearance.

Arbitrary Arrest: On September 13, police raided offices of the Serbian Red Cross in seven municipalities across Kosovo. Police stated the raids were in response to what they called an illegal census operation, while Serbian Red Cross officials said their data gathering was in support of humanitarian aid delivery and monitoring. Media and international observers reported that in these raids, police relied on “oral warrants” from local prosecutors, in contravention of the law. Police detained a number of Serbian Red Cross employees temporarily. Prosecutors and police were unable to cite specifically any provision of the criminal code that the Serbian Red Cross offices had contravened.

Pretrial Detention: Lengthy detention, both before and during judicial proceedings, remained a problem. The law allows judges to detain a defendant pending trial if there is a well grounded suspicion that the defendant is likely to destroy, hide, or forge evidence; influence witnesses; flee; repeat the offense; engage in another criminal offense; or fail to appear at subsequent court proceedings. Judges routinely granted pretrial detention without requiring evidentiary justification. Lengthy detention was also partly due to judicial inefficiency and corruption.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained, regardless of whether on criminal or other grounds, are entitled to challenge in court the legal basis or arbitrary nature of their detention and obtain prompt release and compensation if found to have been unlawfully detained.

#### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, but the judiciary did not always provide due process. According to the European Commission, NGOs, and the Office of the Ombudsperson, the administration of justice was slow and lacked means of ensuring accountability by judicial officials. Judicial structures were subject to political interference, with disputed appointments and unclear mandates. Efficiency in case resolution improved during the year, but the courts were burdened by a case backlog. During the first six months of the year, the courts resolved 170,000 cases and received 130,000 new ones. According to the Kosovo Judicial Council, 358,135 civil and criminal administrative and commercial cases awaited trial as of July. In addition, 154,596 minor offenses awaited adjudication.

A mechanism for disciplinary proceedings against judges and prosecutors was in place, but it was ineffective. Authorities sometimes failed to carry out court orders, including from the Constitutional Court, particularly for rulings in favor of minorities.

Despite a Constitutional Court ruling confirming the Serbian Orthodox Church's ownership of more than 24 hectares of land adjacent Visoki Decani Monastery, local authorities in Decan/Decani failed to implement the decision. The Serbian Orthodox Church referred the issue to the Kosovo Cadastral Agency, but the registration was pending. None of the officials involved in failing to carry out the court order was sanctioned.

EULEX prosecutors and judges worked within the country's judicial system. The head of the SPRK, whose jurisdiction includes trafficking in persons, crimes against humanity, money laundering, war crimes, and terrorism, had a EULEX prosecutor as her deputy. In accordance with an exchange of letters between the government and the EU, EULEX prosecutors may act independently or together with domestic prosecutors in compliance with applicable law. Consequently, EULEX took on some new cases and processed continuing ones.

On October 24, the president issued a decree appointing 40 Kosovo Serb judges and 13 prosecutors as agreed under the Dialogue Agreement on the Judiciary. Courts in Mitrovice/a North, which had previously operated under the Serbian judicial system, were recognized as Kosovo courts and began implementing Kosovo law. A backlog of 8,000 civil and criminal cases from the four Serb-majority municipalities, which had been transferred to Vushtrri in 2016, was returned to Mitrovice/a North for processing.

### **Trial Procedures**

The law provides for a fair and impartial trial, and while there were severe shortfalls in the judiciary system, it generally upheld the law. Trials are public, and the law entitles defendants to the presumption of innocence, the right to be informed promptly and in detail of charges against them, to be present at their trials, to remain silent and not to be compelled to testify or confess guilt, to confront adverse witnesses, to see evidence, and to have legal representation. Defendants have the right to appeal. These rights extend to all citizens without exception. The country does not use jury trials.

The constitution guarantees the right to free legal aid, but international observers reported that the Agency for Free Legal Aid, mandated to provide free legal assistance to low-income individuals, was not adequately funded and not functioning as envisioned. The agency offers legal advice but does not represent cases before the court.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There are civil remedies for human rights violations, but victims were unable to avail themselves of this recourse due to complicated bureaucratic procedures and a large backlog of judicial cases. Individuals may appeal to courts to seek damages for, or cessation of, human rights violations.

Individuals may turn to the Constitutional Court for review of their rights to due process. The constitution incorporates obligations agreed to in numerous international conventions as binding. Individuals may bring alleged violations of

these conventions as well as violations of due process under domestic law before the Constitutional Court.

### **Property Restitution**

A confusing mix of laws, regulations, administrative instructions, and court practices, as well as the illegal reoccupation of properties and multiple claims for the same property, continued to hamper property restitution cases arising from the 1998-99 war. Private citizens and religious communities were largely unsuccessful in petitioning for the return of properties seized or confiscated during the Yugoslav era.

The Kosovo Property Comparison and Verification Agency (KPCVA) created in 2016 has authority to adjudicate claims through the resolution of discrepancies between cadastral documents taken to Serbia in 1999 and Kosovo's current cadastral records. Claimants have the right to appeal decisions in the courts.

As of December 2016, the Kosovo Property Claims Commission, which falls under the KPCVA, adjudicated 42,114 registered claims, and authorities notified almost all claimants of results. The commission reported that the Kosovo Property Agency (KPA) authorities implemented 39,693 of its decisions. A total of 1,293 of the commission's decisions were under appeal with the Supreme Court.

The KPA, a quasi-judicial body, had difficulty enforcing its decisions when evicting illegal occupants. The KPA also lacked funds to pay the 3.2 million euros (\$3.8 million) compensation called for in the 143 claims decided in favor of persons who lost their properties in the early 1990s due to discriminatory housing practices erratically employed at that time. The agency similarly lacked funds to remove illegal structures constructed on land after claimants had their rights confirmed. As of August the agency submitted 416 criminal charges to the Prosecutor's Office against illegal occupants who reoccupied properties after KPA evictions; 460 eviction warrants remained pending during this period. The area of the country with the highest proportion of pending evictions was Mitrovice/a, with 337, primarily affecting Kosovo Albanians.

The backlog of cases in municipal courts remained high, and approximately 50 percent of these were related to property claims. Approximately 9,000 claims remained outstanding as of December 2016, most involving compensation claims by Kosovo Serbs for uninhabitable war-damaged property. The country lacked an

effective system to allow displaced Kosovo Serbs living outside the country to file property and other claims.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, and there were no reports that the government, EULEX, or KFOR failed to respect these prohibitions.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Expression, Including for the Press**

The constitution and law provide for freedom of expression, including for the press. While the government generally respected this right, credible reports persisted that some public officials, politicians, businesses, and radical religious groups sought to intimidate media representatives. The media also encountered difficulties in obtaining information from the government and public institutions as provided by law. An Independent Media Commission regulates broadcast frequencies, issues licenses to public and private broadcasters, and establishes broadcasting policies.

On April 26, the Justice Ministry proposed articles criminalizing insult and defamation of the president and other senior officials. Convicted offenders would be subject to three months to five years of imprisonment. Following criticism from civil society, media, and the international community, the Justice Ministry rescinded the suggested changes.

Press and Media Freedom: Independent media were active and expressed a wide variety of views, generally without restriction, although reports persisted that government officials, some political parties, businesses connected to the government, religious groups, and disgruntled individuals exerted verbal pressure on media owners, individual editors, and reporters not to publish certain stories or materials.

Growing financial difficulties of media outlets put the editorial independence of all media at risk. While some self-sufficient media outlets adopted editorial and broadcast policies independent of political and business interests, those with fewer resources sometimes accepted financial support in exchange for positive coverage or for refraining from publishing negative stories harmful to funders' interests.

Broadcast media, particularly television channels, had more access to substantial sources of revenue than print media. The Assembly controlled the budget of public broadcasting station RTK and its affiliates. The public perceived private broadcasters as more independent than state media, but smaller stations reportedly faced an increasing risk of closure and became more reliant on scarce outside funding sources. Unregulated internet media exerted further pressure on broadcast outlets by republishing articles from print or other internet sources, mostly without attribution.

Violence and Harassment: As of August 25, the Association of Journalists of Kosovo (AJK) and media outlets reported 20 instances in which government officials, business interests, or radical religious groups abused press freedom, including by physical assaults and verbal threats directed at journalists and pressure on outlets not to publish certain materials.

On August 16, unknown assailants attacked Parim Olluri, the director of the investigative internet news portal *Insajderi*, causing minor injuries. Olluri told cable television channel Dukagjini that he believed the attack was in response to an article he had published criticizing KLA commanders.

On September 14, *Insajderi* reported that Assembly member Beke Berisha threatened to kill its editor in chief, Vehbi Kajtazi, because of an article the portal published alleging that recently appointed advisor to the prime minister Gazmend Sylja had criminal affiliations. The article also claimed Berisha had been convicted of murdering his neighbor before 1999. The AJK condemned the threat.

Censorship or Content Restrictions: There were no reports of direct censorship of print or broadcast media; however, journalists claimed that pressure from politicians and organized criminal groups frequently resulted in self-censorship. Some journalists refrained from critical investigative reporting due to fear for their physical or job security. Journalists occasionally received offers of financial benefits in exchange for positive reporting or for abandoning an investigation. According to the AJK, government officials, as well as suspected criminals, verbally threatened journalists for perceived negative reporting. According to some editors, government agencies and corporations withdrew advertising from newspapers that published material critical of them.

Journalists complained that media owners and managers prevented them from publishing or broadcasting stories critical of the government, political parties, or

particular officials. In some cases owners reportedly threatened to dismiss journalists if they produced critical reports. Journalists also complained that owners prevented them from reporting on high-level government corruption.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

As of August the Regulatory Authority of Electronic and Postal Communications reported that approximately 79 percent of households had broadband internet connections.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of peaceful assembly and association, and the government, EULEX, and KFOR generally respected these rights.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government and EULEX generally respected these rights. Nevertheless, interethnic tensions, roadblocks placed by hardliners, and real and perceived security concerns restricted freedom of movement. Security concerns also limited the number of displaced Kosovo Serbs seeking to return.

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees,

returning refugees, asylum seekers, persons at risk of statelessness, and vulnerable minority communities.

In-country Movement: Freedom of movement across the Austerlitz Bridge connecting Mitrovica/Mitrovice North and South was impeded despite a 2016 agreement between the prime ministers of Kosovo and Serbia to open the bridge. North Mitrovica/e's mayor halted reconstruction work on the northern side of the main bridge in April citing security reasons and a rise in interethnic incidents. As of September work had not resumed. The Austerlitz Bridge remained open to pedestrians and other bridges connecting Mitrovica/Mitrovice North and South remained fully open.

In December 2016 Mitrovica/e North municipal authorities began building a concrete wall near the main bridge in Mitrovica/Mitrovice, impairing freedom of movement and raising tensions between Kosovo Serbs and ethnic Albanians. International observers claimed the Serbian government had ordered the construction. The Kosovo government considered the construction a violation of an EU-backed 2015 agreement between Kosovo and Serbia. In February, North Mitrovica/Mitrovice mayor Goran Rakic and spatial planning minister Ferat Shala signed an agreement to dismantle the wall. The North Mitrovica/Mitrovice government subsequently removed the wall, but full implementation of the 2015 agreement was still pending.

The government did not consider Serbian-issued personal documents bearing Kosovo town names to be valid travel documents, making it difficult for many members of the Kosovo Serb community to enjoy freedom of movement. The government took steps to remedy this problem by adopting an administrative instruction facilitating easier access to government-issued personal documents for citizens not previously registered in the country's system, but it failed to issue a final implementing instruction to civil registry offices to bring the administrative instruction into effect. Kosovo Serbs who possessed only personal documents issued by Serbia were unable to obtain Kosovo identification cards or register as Kosovo citizens.

Exile: The return to the country by Ashkali, Egyptian, and Roma refugees from the war in 1999 remained a problem. Their institutional representatives believed that social prejudice prevented the return of nearly 400 Ashkalis, Egyptians, and Roma who were formerly resident in the country and have informed UNHCR that they were ready to return from Macedonia and Montenegro.

The Ministry for Communities and Returns reported that, as of September, an interministerial commission it chaired to facilitate the return process had made no serious progress in establishing a special judicial panel to address displaced persons' claims to regain their previously seized property. The ministry also noted displaced persons still had difficulties in obtaining personal documents and cadastral services from municipalities.

### **Internally Displaced Persons (IDPs)**

According to UNHCR, 106,000 persons formerly resident in the country remained displaced by the war and its aftermath in neighboring states. In all, 8,367 displaced persons (2,104 families), primarily Kosovo Serbs, had registered their interest in returning to the country with UNHCR. Of these, 307 individuals had returned through October 31. The government repeatedly invited all displaced persons to return to the country; however, obstacles persisted in terms of the allocation of land for housing reconstruction, limited funds, and a lack of socioeconomic prospects. According to UNHCR, the lack of a detailed census and adequate profiling data left IDPs excluded from human rights protections and development plans.

The return process in some areas of the country continued to be marked by security incidents or local communities' reluctance to accept minority returnees. To date, no Kosovo Serb has yet returned to Gjakove/Djakovica. UNHCR observed limited interaction between returnees and receiving communities as well as the returnees' lack of trust in law enforcement. In addition, minority returnees were beset with security difficulties, and officials in Istog/Istok, Kline/Klina, Mamushe/Mamusa, Mushtishte/Musutiste, and Mitrovica/Mitrovice North often discouraged their return. UNHCR reported significant delays in providing spontaneous returnees with reintegration assistance. A UNHCR and OSCE initiative to address problems facing Kosovo returnees held two meetings during the year, but no budget was allocated and no concrete actions taken.

Despite official calls for the return of displaced persons, the government did not take steps to eliminate obstacles to housing repossession or assistance. Such obstacles included land allocation for housing construction, security problems in some areas, and overall lack of socioeconomic prospects for returnees. UNHCR claimed that government reintegration programs for displaced persons remained largely unsuccessful due to a lack of proper needs assessment and failure to select and prioritize beneficiaries based on vulnerabilities.

UNHCR reported that Kosovo Police maintained an increased presence in areas with returnees to prevent interethnic violence. UNHCR recorded 10 incidents of violence against returnees during the year and seven against IDPs.

On January 6--Orthodox Christmas Eve--approximately a dozen Vetevendosje party activists protested the visit of 50 displaced Kosovo Serb pilgrims to the Serbian Orthodox church in Gjakove/Djakovica. Protesters threw stones and red paint at the visitors' bus, damaging one window, and spray-painted "Murderer" on the church's outer wall. Kosovo Police dispersed the protesters and arrested seven for disobeying police orders and vandalism.

In April local residents protested the return of 13 Kosovo Serb IDPs to their place of origin in Lubozhde/Ljubozde. The Ministry of Communities and Returns housed the IDPs temporarily while considering whether to fund reconstruction of their ancestral homes.

In April the UN Human Rights Advisory Panel found UNMIK responsible for violations of human rights connected with lead poisoning in Roma camps following the 1999 conflict. The United Nations committed to establish a trust fund to finance the improvement of health services, economic development, and infrastructure projects in North Mitrovica/e, South Mitrovica/a, and Leposavic/q municipalities where those affected resided. The United Nations did not pay compensation to Roma and other minority communities in Kosovo despite urging from human rights organizations.

### **Protection of Refugees**

Access to Asylum: The law provides for granting asylum or refugee status. The government has a system for providing protection to refugees but, according to UNHCR, lacked effective mechanisms and practices for identifying persons in need of international protection as well as the countries of origin of undocumented individuals. According to the Ministry of Interior, none of the 1,038 asylum applications processed between 2008 and June resulted in the granting of refugee status, while only 13 individuals received subsidiary protection during this period. As of November there were 231 pending asylum applications. All asylum seekers departed the country before their claims were processed.

Authorities transferred to the asylum center all foreigners who were intercepted while illegally crossing borders and who subsequently sought asylum. Independent observers had access to the center. UNHCR reported that asylum

seekers received accommodation, regular meals, and clothing provided by the center, while UNHCR partner organizations provided psychological assessment, counseling services, and legal aid. The lack of interpretation services in a number of languages remained a problem.

Reception facilities at the asylum center can host children, but the facility lacked standard operating procedures for the treatment of unaccompanied children seeking asylum and for determination of eligibility.

Safe Country of Origin/Transit: The law recognizes the safe country of origin concept under international law but had yet to apply it. According to UNHCR, the country's definition of safe country of origin complies with EU standards.

Temporary Protection: The government also provided temporary protection, called subsidiary protection, to individuals who may not qualify as refugees. From independence in 2008 until June, the government provided subsidiary protection to 13 persons.

### **Stateless Persons**

Official figures on stateless persons were not available. The law contains no discriminatory provisions that might cause groups or individuals to be deprived of or denied citizenship. Children acquire citizenship from their parents or by virtue of birth in the country in cases of children born to parents of certain minority communities whose citizenship is not documented. Government procedures provide for access to naturalization for those granted stateless or refugee status five years after the determination.

Laws relating to civil status permit stateless persons to register life events such as birth, marriage, and death, implementation varied among municipalities. The government's capacity to identify stateless persons and those with undetermined nationality remained inadequate.

During the year UNHCR assisted 360 stateless ethnic Ashkalis, Egyptians, and Roma. Unregistered family members did not receive social assistance benefits and pension rights and could not register property titles or retain rights to inherited or transferred property. Children who were born of parents displaced outside the country and who entered with their readmitted parents often lacked documentation, including birth certificates, from their place of birth. Authorities acknowledged the problem but did not develop a systematic solution. In 2015 the Civil Registration

Agency of the Ministry of Internal Affairs promoted free birth registration and late registration by removing the expiration date that would have triggered fees or penalties for many registration services for ethnic Roma, Ashkalis, and Egyptians.

In August the Ministry of Interior reported that 618 Ashkalis, Egyptians, and Roma were “legally invisible” due to their inability to provide evidence of their birth in the country. During the year the ministry’s Civil Registration Agency provided birth certificates, identification, and/or passports to 924 displaced persons from the country who were living in Montenegro.

Kosovo Serbs in four northern municipalities were not able to register births, marriages, or divorces and thus obtain official government documents because their existing documents of life events were registered only under the government of Serbia’s parallel system. During the year the government worked to establish civil registry offices in Kosovo-Serb majority areas in the north of the country, although they struggled to open them and implement a new arrangement to permit registration. At the end of 2016, the Civil Registration Agency announced that citizens who had previously been registered in the country’s system could renew identification cards, passports, drivers licenses, and vehicle registrations in Zubin Potok, Leposavic/q, Zvecan, and Mitrovice/a, all Serb-majority municipalities.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot based on universal and equal suffrage.

Despite undertaking to dismantle them, the Serbian government continued to operate some illegal parallel government structures in Serb-majority municipalities. Illegal parallel institutions also operated in Serbian and Gorani enclaves throughout the southern part of the country.

#### **Elections and Political Participation**

Recent Elections: Parliamentary elections--including in northern Kosovo--took place on June 11. International and independent observers evaluated the vote as generally free and fair. The campaign was marked, however, by a pattern of intimidation within Kosovo-Serb communities, as some Kosovo Serbs brought pressure to bear on fellow Kosovo Serbs aligned with parties other than pro-Serbian Srpska List (SL). Candidates not affiliated with SL were pressured to withdraw from the race. Isolated incidents of violence occurred, including a

gunfire attack on the office of the Party of Kosovo Serbs (PKS) in Leposavic/Leposaviq on May 22 and a violent clash between supporters of PKS and SL resulting in the temporary detention of the PKS leader on June 4.

Delay in forming a governing coalition brought government institutions to a halt for nine weeks following the parliamentary elections, negatively impacting the country's economy and preventing progress on key issues in international and domestic affairs.

On October 22, Kosovo held municipal elections, which observers regarded as generally free and fair despite isolated irregularities. The precampaign period was marked by several incidents of intimidation within Kosovo-Serb communities. Ahead of local elections, Skenderaj/Srbica assembly candidate Beqir Veliu was physically assaulted in an allegedly politically motivated attack.

Political Parties and Political Participation: Party affiliation played an important role in access to government services and social and employment opportunities. Clan loyalties also played an important role in political organizations. Ethnic minorities' representation in the Assembly was more than proportionate to their share in the population, but political parties representing ethnic minorities criticized majority parties for not consulting them on important issues. The incidents of violent disruption by Assembly members from some parties that occurred in 2016 did not recur in the current year.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process, and they did participate.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides for criminal penalties for corruption by officials, but the government did not implement the law effectively and corruption remained a serious problem. A lack of effective judicial oversight and general weakness in the rule of law contributed to the problem. Corruption cases were routinely subject to repeated appeal, and the judicial system often allowed statutes of limitation to expire without trying cases.

Corruption: The Kosovo Anticorruption Agency (ACA) and the Office of the Auditor General shared responsibility for combating government corruption. As of June the SPRK had received 38 cases from the ACA. The ACA provided one case

to the basic prosecution office in Mitrovica/e. Convictions on corruption charges continued to represent a small proportion of those investigated and charged.

A report by NGOs Cohu and Communication for Social Development identified numerous alleged failures of the judiciary system to prosecute corruption. The report stated that only 13 of 140 cases brought against senior officials resulted in indictments. The NGO Kosovo Justice Institute reported that prosecutors dismissed 55 percent of corruption cases brought before them in the first four months of the year. Sentencing of high-level officials convicted of corruption was often lenient. The institute reported that indictments often failed because prosecutors filed incorrect charges or made procedural errors.

On May 8, the Peja/Pec Basic Prosecution Office filed an indictment against Peja/Pec Mayor Gazmend Muhaxheri for not executing an Appellate Court decision to reinstate an employee after the court determined the employee was protected by whistleblower provisions. Separately, in May the SPRK initiated an investigation against Muhaxheri and three municipal employees for improper accounting of a 152,000 euro (\$182,000) security contract.

Financial Disclosure: The law obliges all senior public officials and their family members to declare their property and the origins of their property annually. Senior officials must also report changes in their property holdings when assuming or terminating their public service. The ACA administers the data, verifies disclosures, and publishes them on its website. Based on a random sampling during the year, the agency reported that approximately 98 percent of officials declared their property and finances. Authorities may fine officials charged with minor breaches of the requirement or prohibit them from exercising public functions for up to one year. The ACA referred all charges against those who had not filed to prosecutors.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A wide variety of domestic and international human rights groups operated, generally without government restriction, investigating and publishing their findings on human rights cases. The government was cooperative and somewhat responsive to their views.

Government Human Rights Bodies: The Ombudsperson Institution (OI) has authority to investigate allegations of human rights violations and abuse of

government authority and acts as the national preventive mechanism against torture. The OI is the primary agency responsible for monitoring detention facilities; its seven field offices enabled it to maintain contact with all of the country's municipalities. Whenever its recommendations were not followed, the OI could bring cases to court against governmental bodies, including to the Constitutional Court. Based on powers granted by the Assembly, as of December 14, the OI filed three amicus curiae briefs with the Constitutional Court. The OI can also make recommendations on the compatibility of laws and other sublegal or administrative acts, guidelines, and practices.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law criminalizes rape but does not specifically address spousal rape. By law rape is punishable by two to 15 years in prison.

EULEX noted that courts often applied more penalties lighter than the legal minimum in rape cases, particularly in cases where the victim was a minor. EULEX found that courts rarely took steps to protect victims and witnesses, nor did they close hearings to the public as required by law. A section of the Office of the Chief State Prosecutor helped to provide access to justice for victims of all crimes, with a special focus on victims of domestic violence, trafficking in persons, child abuse, and rape.

The law treats domestic violence as a civil matter unless the victim suffers bodily harm. Failure to comply with a civil court's judgment relating to a domestic violence case is a criminal and prosecutable offense, although prosecutions for this offense were rare. According to the Kosovo Women's Network, more than two-thirds of women had been victims of domestic violence. When victims pressed charges, police domestic violence units conducted investigations and transferred cases to prosecutors, though the rate of prosecution was low. Advocates and court observers asserted that prosecutors and judges favored family unification over victim protection, with protective orders sometimes allowing the perpetrator to remain in the family home while a case was pending. Sentences were frequently lenient, ranging from judicial reprimands to imprisonment of six months to five years.

Kosovo's judicial system adopted new standard operating procedures and improved priority assignment of prosecutors for domestic violence cases during the

year. The law permits individuals who feel threatened to petition for a restraining order, but violation of a restraining order seldom led to criminal charges. Courts rarely gave recidivists enhanced sentences as required by law.

On August 21, the Prizren Municipal Court approved a prosecutor's appeal in the murder case of Zejnepe Berisha, stabbed to death by her husband, Nebih Berisha, in 2015, and increased his prison sentence from 12 to 17 years. The prosecution appealed the sentence as too lenient following significant media and civil society attention and protests by women's rights organizations. Zejnepe Berisha's murder followed a long history of domestic violence marked by at least 16 separate police reports from her prior to her death. Activists criticized the original sentence as too light because the country's legal framework suggests between 10 years and life in prison as the recommended sentence for the murder of a family member.

The Ministry of Labor and Social Welfare included a unit dedicated to family violence. The government and international donors provided support to seven NGOs to assist children and female victims of domestic violence. There were 10 shelters for victims of domestic violence.

On April 27, the government created an independent committee to verify and recognize the status of survivors of wartime sexual assault. Survivors of wartime sexual violence complained that EULEX prosecutors did not successfully prosecute any cases. The Ministry of Justice led a working group, including EULEX and the SPRK, to prioritize cases, but no action was taken in any case.

Sexual Harassment: In civil proceedings, the law defines sexual harassment. While the criminal code includes the offense of sexual harassment, it does not contain a specific standard or definition. The code stipulates enhanced penalties for sexual harassment against vulnerable victims, including victims of sexual abuse. Varying internal procedures and regulations for reporting sexual harassment hampered implementation of these laws.

According to women's rights organizations, workplace sexual harassment was common.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at:

[www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: The law provides the same legal status and rights for women as for men. The law requires equal pay for equivalent work. The law stipulates that the partners in marriage and civil unions have equal rights to own and inherit property, but men commonly inherited family property. In rare instances Kosovo Albanian widows, particularly in rural areas, risked losing custody of their children due to a custom requiring children and property to pass to the deceased father's family while the widow returned to her birth family.

Relatively few women occupied upper-level management positions in business, police, or government.

Gender-biased Sex Selection: According to the Kosovo Agency for Statistics, in 2012, the date of the most recent census, the male-to-female gender ratio at birth was 110.7 to 100. According to UNICEF, the government did not take steps to address the imbalance.

## **Children**

Birth Registration: Children acquire citizenship from their parents or by virtue of birth in the country for children born to parents from certain minority communities whose citizenship was not documented. Those not registered were primarily from the Roma, Ashkali, and Egyptian communities. UNICEF indicated lack of registration could adversely affect access to social assistance, particularly for repatriated children. Children who were not registered were considered stateless.

Child Abuse: In 2015 UNICEF found that 30 percent of children in the country and 40 percent of ethnic Romani, Ashkali, and Egyptian children were victims of abuse (see [data.unicef.org/topic/child-protection/violence/](http://data.unicef.org/topic/child-protection/violence/)).

Early and Forced Marriage: The law allows persons to marry at age 16. Child marriage was rare but continued in certain ethnic communities, including among Roma, Ashkalis, Egyptians, and Gorani. According to a separate MICS report that focused on these communities, approximately 12 percent of children, mostly girls, married before the age of 15.

Sexual Exploitation of Children: The minimum age of consensual sex is 16. Statutory rape is a criminal offense punishable by five to 20 years in prison. The law prohibits possession, production, and distribution of child pornography. Persons who produce, use, or involve a child in making or producing pornography

may receive a prison sentence of one to five years. Distribution, promotion, transmission, offer, or display of child pornography is punishable by six months' to five years' imprisonment. Possession or procurement of child pornography is punishable by a fine or imprisonment of up to three years.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

Approximately 50 Jewish persons resided in the country, according to the Jewish Community of Kosovo. In 2016 the Simon Wiesenthal Center in France issued a public letter to the president criticizing the ready availability in the country of anti-Semitic literature, allegedly translated into Albanian and published in Egypt by the Muslim Brotherhood. The Wiesenthal Center stated it had lodged a complaint with the Ministry of Interior. In November 2016 the president announced a decision to prohibit the sale and distribution of anti-Semitic books. As of September no administrative action had been taken to implement the decision.

In July a mayoral candidate in Rahovec/Orahovac stated on social media that Israel will soon be “vanished from the earth” in response to incidents in Jerusalem. After receiving domestic and international criticism, including from the president and from the leader of his own political party, he deleted the post and apologized.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not effectively enforce these provisions, and persons with disabilities suffered discrimination.

According to Handi-Kos, a disability rights organization, health, social assistance, rehabilitation, and assistive devices for persons with disabilities remained

insufficient, and physical access to public institutions remained difficult even after the implementation of bylaws on building and administrative support.

The law regulates the commitment of persons to psychiatric or social care facilities and protects their rights within such institutions but has not been implemented. The KRCT described mental health facilities as substandard. The KRCT reported that several persons with mental disabilities were in detention without any legal basis but noted courts were reviewing some cases.

### **National/Racial/Ethnic Minorities**

Ethnic minorities, including the Serb, Romani, Ashkali, Egyptian, Turkish, Bosniak, Gorani, Croat, and Montenegrin communities, faced varying levels of institutional and societal discrimination in employment, education, social services, language use, freedom of movement, the right to return to their homes (for displaced persons), and other basic rights.

The prime minister's Office of Community Affairs noted discrimination in public-sector employment in almost all local and national institutions. Although the law mandates that 10 percent of employees at the local and national levels of government be members of minorities, their representation remained limited and generally confined to lower-level positions. Smaller communities, such as Gorani, Roma, Ashkali, and Egyptians, were particularly underrepresented. There were no legal remedies to address these concerns.

NGOs reported attempts by universities to discriminate in admissions and hiring against persons wearing Muslim religious garb, including hijabs. The law prohibits the wearing of religious symbols in elementary schools, but antidiscrimination statutes protect religious dress at the university level. Romani, Ashkali, and Egyptian communities experienced pervasive social and economic discrimination. They often lacked access to basic hygiene, medical care, and education and were heavily dependent on humanitarian aid for subsistence.

The law requires equal conditions for all schoolchildren and recognizes minority students' right to public education in their native languages through secondary school. This law was not enforced, with the country's Bosniak, Croat, Gorani, Montenegrin, Romani, and Turkish leaders noting that their communities lacked textbooks and other materials.

Access to justice for non-Albanian communities, particularly for Kosovo Serbs and displaced persons, remained a concern. Poor or no translation in proceedings before the courts, a backlog of cases, the nonexecution of decisions, limited numbers of non-Albanian staff, inconsistency between Albanian and Serbian translations of legislation, and the lack of functional judiciary system in northern Kosovo hindered proper delivery of justice. Security incidents against Kosovo Serbs persisted, particularly in the Peje/Pec, Istog/Istok, and Kline/Klina regions. In the first seven months of the year, there were more than 105 incidents involving thefts, break-ins, verbal harassment, and damage to the property of Kosovo Serbs and the Serbian Orthodox Church.

Kosovo Serb representatives continued to call for increasing the number of Kosovo Serbs on the police force, particularly in returnee areas. The number of Kosovo Serbs in the KSF almost doubled during the year, with 58 additions.

On January 10, a hand grenade detonated in front of Hotel Sasa in North Mitrovica/e North, damaging windows and two parked vehicles. The hotel hosted a small number of government branch offices as part of Brussels Dialogue implementation. An investigation was underway.

On January 14, the government denied entry to a special train from Belgrade emblazoned with nationalistic statements and Serb religious imagery, while Kosovo Police deployed special units in northern Kosovo, increasing tensions between Kosovo Serbs and Kosovo Albanians. On January 15, almost 2,000 Kosovo Serbs gathered in Mitrovica/e North to protest government and police actions.

On the evening of February 14, a group of 20 young Kosovo Albanians chanted anti-Serb slogans and sprayed anti-Serb graffiti in a Kosovo Serb-inhabited area of Gjilan/Gnjilane, including on the Serbian Orthodox church and a Serbian-language school's outer walls. The graffiti included "Kill Serbs," a swastika symbol, and "UCK--Kosovo Liberation Army." Anti-Serb graffiti also appeared in an ethnically mixed village in nearby Novo Brdo/Novoberde municipality. Kosovo Police arrested one Kosovo Albanian minor.

On May 29, unknown assailants fired a dozen bullets at a building containing PKS offices in the northern Kosovo municipality of Leposavic/q. No injuries were reported, but the bullets damaged windows and a wall. In July, two Kosovo Serb opposition politicians were victims of vehicle arson in Mitrovica/e North. No injuries were reported, and an investigation was underway.

The language commissioner monitored and reported on the implementation of legislation that conferred equal status to the country's two official languages, Albanian and Serbian, as well as official languages used at the local level, including Bosnian, Romani, and Turkish. In February the commissioner told the media that local municipal administrations did not fully respect the Law on Use of Languages, citing lack of political will. He also noted the lack of translation into Serbian language within several institutions, including the Ministry of Health and the national power company.

Amendments to administrative rulings permit Bosniaks, Roma, and Turks to have identity documents issued in their own languages, but minority representatives often complained of poor implementation.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution and law prohibit direct or indirect discrimination based on sexual orientation and gender identity in employment, health care, and education. When the motivation for a crime is based on gender, sexual orientation, or perceived affinity of the victim with persons who are targets of such hostility, the law considers motivation to be an aggravating circumstance.

According to human rights NGOs, the LGBTI community faced overt discrimination in employment, housing, determination of statelessness, and access to education and health care. The NGOs said societal pressure persuaded most LGBTI persons to conceal their sexual orientation or gender identity. NGOs noted that police were insensitive to the needs of their community.

On February 15, a prosecutor filed an assault indictment against a defendant accused of attacking an LGBTI person on the basis of sexual preference in July 2016. According to NGOs, as of September LGBTI persons reported no hate crimes during the year, although they emphasized that fears of retribution discouraged reporting.

An Advisory and Coordinating Group consisting of representatives of eight ministries, the Office of Good Governance, and three NGOs cooperated to protect and promote the rights of the LGBTI community, including by developing an National Action Plan. Government officials signaled support for LGBTI rights by sponsoring and attending numerous public events.

## **HIV and AIDS Social Stigma**

While there were no confirmed reports of official discrimination against persons with HIV/AIDS during the year, anecdotal reports of such discrimination persisted.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join independent unions, bargain collectively, and conduct legal strikes. The law prohibits antiunion discrimination and the violation of any individual's labor rights due to his or her union activities. The law requires reinstatement of workers fired for union activity, including in essential services. The law applies equally to all individuals working in the public and private sectors, including documented migrants and domestic servants.

Authorities did not effectively enforce the labor law, which includes regulations, and administrative instructions that govern employment relations, including rights to freedom of association and collective bargaining. According to the Association of Independent Labor Unions in Kosovo (BSPK), resources, inspections, and remediation were inadequate, and penalties insufficient. As of July the Ministry of Labor and Social Work's Labor Inspectorate had issued 170 fines during the year. The BSPK described the fines as insufficient to deter violations. Administrative and judicial procedures were circuitous and subject to lengthy delays or appeals.

According to the BSPK, the government and employers in the country generally respected the right to form and join unions in both the public and private sectors. Political party interference in trade union organizations and individual worker rights remained a problem. According to union officials, workers in the public sector commonly faced mistreatment, including sexual harassment and the loss of employment, based on their political party affiliation. Employers did not always respect the rights of worker organizations to bargain collectively, particularly in the private sector. The BSPK reported that many private sector employers essentially ignored labor laws. The BSPK reported continued difficulty in establishing unions due to employer interference in workers' associations and unions, particularly in the banking, construction, and hotel sectors. Representatives from these sectors told the BSPK anonymously that employers used intimidation to prevent the establishment of unions. The Labor Inspectorate

reported receiving no formal complaints of discrimination against employees who tried to join unions during the year. The BSPK claimed the inspectorate was not fully functional due to budgetary and staffing shortfalls.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but forced child labor occurred during the year (see section 7.c.).

Government resources, including remediation, were insufficient to bring about compliance, identify and protect victims, and investigate claims of forced or compulsory labor. There were limited investigations, prosecutions, or convictions of forced labor due, according to the Labor Inspectorate, to inadequate resources. Penalties ranged from imprisonment to a fine of up to 500,000 euros (\$600,000) and were sufficiently stringent compared with those for other serious crimes. As of October authorities did not remove any victims from forced labor.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum age for contractual employment is 15, provided the employment is not harmful or prejudicial to school attendance. If the work is likely to jeopardize the health, safety, or morals of a young person, the legal minimum age is 18. In 2013 the government agreed with the International Labor Organization on protections from hazardous labor for children in agriculture, street labor, construction, and the exploitation of natural resources. Regulations forbid exploitation of children in the workplace, including forced or compulsory labor. The government maintained a committee for prevention and elimination of child labor to intervene in cases of forced or hazardous labor. The committee was constrained by limited resources. The government also maintained a National Authority against Trafficking in Persons that investigated cases of children trafficked for labor.

Inspectors immediately notify employers when finding minors working in hazardous conditions. As of May the Municipal Social Work Offices (MSWO) reported only eight cases of minors working in hazardous conditions to the Ministry of Labor and Social Welfare, but it had no information on whether the children returned to school. The ministry noted that the MSWO often misreported

cases of minors working in hazardous conditions to the ministry due to poor understanding of a new reporting tool allowing for simultaneous reporting to the ministry and the MSWO.

NGOs reported that MSWO budgets were insufficient to offer social services to children engaged in street labor. The MSWO continued to request budget support for on-premises centers to offer daily social services to children engaged in elicited labor.

Under the labor code, inspectors may fine employers from 100 euros (\$120) to 10,000 euros (\$12,000) for subjecting a worker to hazardous working conditions. Fines were double for offenses committed against a minor. Enforcement was poor due to inadequate training and resources. The law provides additional penalties for employers and families that engage children in labor practices or fail to meet their parental obligations resulting in the illegal employment of a minor. The law permits authorities to remove a child from the home if that is determined to be in the best interests of a child.

The Coalition for Protection of Children (KOMF) reported that children working in the farming and mining sectors encountered hazards associated with operating farm equipment and extracting ore from hard-to-reach areas underground. KOMF reported that engagement of children in farming persisted as traditional activity. Government-run social work centers reported that children engaged in farming activities were not prevented from attending school. KOMF also reported that the total number of child beggars remained unknown. While children were rarely their families' main wage earners, child labor contributed substantially to some family incomes.

Young children in rural areas often assisted their families in agricultural labor, typically including work during school hours. Urban children often worked in a variety of unofficial construction and retail jobs, such as selling newspapers, cigarettes, food, and telephone cards on the street. Some children also engaged in physical labor, such as transportation of goods.

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

Discrimination in employment and occupation occurred across sectors with respect to sex, gender, gender identity, disability, religion, and minority status (see section 6). During the year the BSPK received reports from labor unions and individuals also claiming discrimination based on union membership, age, and family status. BSPK claimed to be the only entity where workers reported discrimination due to fear of employer retribution. The BSPK noted that employment often depended on the employee's political status and affiliation. The BSPK also stated that due to high unemployment, employees were reluctant to report discrimination, fearing retaliation by their employer. Most often employees addressed their work-related matters internally and informally with their employers. The BSPK also reported instances of employers discriminating against female candidates in employment interviews and illegally firing women for being pregnant or requesting maternity leave.

International observers reported discrimination in university employment against individuals wearing hijabs or other symbols of Islam. Universities sometimes rejected candidates on this basis, justifying the practice as a counterradicalization effort.

The law does not protect against discrimination based on HIV status or other communicable diseases. According to the NGO GAP Institute, the penalties were adequate, but enforcement was insufficient for the system to function properly.

By law foreigners must obtain work permits prior to seeking work in the country. According to the Labor Inspectorate, there were no reports of foreign workers denied work permits, and there were no reports of violation of foreign workers' rights during the year.

#### **e. Acceptable Conditions of Work**

The government-set minimum wage was higher than the official poverty income line of 1.82 euros (\$2.18) per day. The law provides monthly benefits of up to 120 euros (\$144) for families eligible for social assistance and up to 40 euros (\$48) monthly for individuals. Families and individuals could also receive discounts on up to 400 kilowatt-hours of electricity and free health care.

The law provides for a standard 40-hour workweek, requires rest periods, limits the number of regular hours worked to 12 hours per day, limits overtime to 20 hours per week and 40 hours per month, requires payment of a premium for overtime work, and prohibits excessive compulsory overtime. The law provides for 20

days' paid leave per year for employees and 12 months of partially paid maternity leave. The labor law sets appropriate health and safety standards for workplaces and governs all industries in the country.

Ministry of Labor inspectors were responsible for enforcing all labor standards, including those pertaining to wages, hours, and occupational safety and health. Unions and the labor inspectorate considered the fines and the number of inspectors insufficient to monitor the formal and informal sectors effectively.

According to the Labor Inspectorate and the BSPK, the labor code is comprehensive and its provisions on work hours are adequate for the equal protection of public and private sector workers. According to the BSPK, the government's lack of enforcement stemmed from a paucity of unionized workers as well as resource and capacity limitations of the Labor Inspectorate.

The Ministry of Labor continued efforts to compile amendments to the labor code, needed to implement the government-sponsored Collective Contract. The Collective Contract establishes the rights and obligations of the employer and the employee, including provisions on work hours, night work, annual leave, maternity leave, job safety, and employee health benefits. The contract also includes all of the protections in the labor laws and applies to all workers in the informal as well as formal economies. Observers noted that the agreement was intended to reduce the size of the informal economy, which the government and international organizations estimated at 30 percent of the overall economy, by penalizing employers who do not register employees.

According to the BSPK, employers failed to abide by official labor standards that provided equal standards of protection to public and private sector workers. The BSPK reported a lack of government oversight and enforcement, particularly with regard to the standard workweek and compulsory and unpaid overtime. Many individuals worked long hours in the private sector as "at-will" employees, without employment contracts, regular pay, or contributions to their pensions. The BSPK reported that employers ignored legal provisions and fired workers without cause in violation of the law and refused to respect worker holidays. As of September the Labor Inspectorate received 204 formal complaints of violations of workers' rights in the public and private sectors. Women's rights organizations reported that sexual abuse and harassment occurred on the job but went unreported due to fear of dismissal or retaliation.

While the law provides for the protection of employees' health and working conditions, private and public institutions failed at times to comply. The Labor Inspectorate and BSPK officials reported difficulties in obtaining accurate information about compliance, because workers rarely disclosed the problems due to fear of losing their jobs. The Labor Inspectorate reported 10 private sector workplace fatalities as of October.

No law specifically permits employees to remove themselves from a dangerous work situation, but the law requires every employer to provide adequate work conditions for all employees based upon job requirements. According to the Labor Ministry, informal employer-employee arrangements may address when and whether employees may remove themselves from work due to dangerous work situations. The country's institutions did not track these arrangements. According to experts, violations of wage, overtime, and occupational health and safety standards were common for men and women, as well as foreign migrant workers, particularly those who faced hazardous or exploitative working conditions.