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**Memorandum following the Commissioner's mission to Kosovo*
from 5 to 9 February 2017**

1. The Council of Europe Commissioner for Human Rights, Nils Muižnieks, (the Commissioner) conducted a mission to Kosovo from 5 to 9 February 2017.¹ The mission focused on certain issues pertaining to transitional justice and social cohesion, and on freedom of the media.
2. In the course of his mission, the Commissioner held discussions² with the Prime Minister, Isa Mustafa; the Minister of Foreign Affairs, Enver Hoxhaj; the Minister of Justice, Dhurata Hoxha; the Minister for Dialogue, Edita Tahiri; the Minister of Labour and Social Welfare, Arban Abrashi; the Minister of Communities and Return, Dalibor Jevtić; and the Deputy Minister of Interior, Valdet Hoxha. In addition, the Commissioner met with the Inter-Ministerial Working Group on Dealing with the Past and Reconciliation and the Ombudsman, Hilmi Jashari. He also met with the UN Secretary General's Special Representative for Kosovo, Zahir Tanin; the European Union Special Representative in Kosovo, Nataliya Apostolova; the Head of the European Union Rule of Law Mission in Kosovo (EULEX), Alexandra Papadopoulou; the Head of the OSCE Mission in Kosovo, Jan Braathu; and the Head of the UNHCR Mission in Kosovo, Narashima Rao.
3. Meetings were also held with civil society organisations active in the field of transitional justice, and representatives of the media sector and of the international community. In addition, the Commissioner visited the collective centre 'Samački I' in north Mitrovica/Mitrovicë, the Roma Mahalla settlement and the Shipol settlement in south Mitrovica/Mitrovicë. The Commissioner extends his thanks to all his interlocutors for their willingness to share with him their knowledge and views.
4. With this memorandum the Commissioner aims to contribute to the on-going efforts of the authorities, in co-operation with the Council of Europe, aimed at enhancing the promotion and protection of human rights in Kosovo. The Commissioner hopes that this memorandum can serve as a tool for further co-operation and follow-up. Section I of the present memorandum provides an overview of major, recent human rights developments in Kosovo. Section II addresses certain pending issues concerning transitional justice and social cohesion, such as the fight against impunity for serious violations of human rights and of humanitarian law committed during the 1998-1999 conflict, access to effective, prompt and adequate reparation to all war victims; establishing the truth about missing persons; the situation of displaced persons; and obstacles to sustainable return. Section III tackles issues pertaining to freedom of the media, with a particular focus on the protection of journalists from violence, ethical journalism and certain issues relating to public service media.

I. Overview of major developments concerning human rights protection in Kosovo

5. The Constitution of Kosovo provides for direct application of the European Convention on Human Rights and major international human rights treaties in Kosovo, and their priority over domestic law. Kosovo had a national action plan for human rights 2009-2011. A [Strategy and Action Plan on Human Rights in the Republic of Kosovo 2013 – 2017](#) were prepared but have not been adopted as

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

¹ During his mission the Commissioner was accompanied by the Deputy to the Director of his Office, Nikolaos Sitaropoulos, and his Advisers, Erliha Bičakčić and Christian Mommers.

² All references to the authorities with whom the Commissioner met shall be understood within the context of the general status neutrality of the Council of Europe.

yet. During the Commissioner's discussions about the need for a broader human rights strategy, concerns were expressed by interlocutors about the lack of effective implementation of the past sectorial strategies and action plans, due in particular to a lack of sufficient funding. Several interlocutors, including the Ombudsman, stressed that a strategy on human rights, if redeveloped, must be adequately funded and should contain clear indicators to measure progress in its implementation. Useful guidance in this context can be provided by the UN High Commissioner for Human Rights [Indicators: A Guide to Measurement and Implementation](#), which aims to assist in developing quantitative and qualitative indicators to measure progress in the implementation of international human rights norms and principles.

6. In July 2015 a new Law on the Ombudsperson entered into force, along with the Law on the Protection against Discrimination and the Law on Gender Equality, which strengthened the mandate of the Ombudsman and gave him additional powers. This included the establishment within the Ombudsman's Office of a national mechanism for the prevention of torture. Moreover, punitive measures for lack of co-operation with the Ombudsman were provided for, as well as a possibility for the Ombudsman to act as *amicus curiae* in domestic court cases relating to discrimination. The Ombudsman's Office currently has 60 staff members, with sub-offices in five regions. In his discussion with the Commissioner the Ombudsman, Hilmi Jashari, stressed his satisfaction with the powers and tools that he has at his disposal, as well as with the support the institution has received. Highlighting the importance of the effective implementation of his recommendations for the credibility of the institution, the Ombudsman noted a need for the authorities to step up their compliance with his recommendations.
7. Since the previous Commissioner's mission to Kosovo in 2009, Kosovo has become a member of the European Commission for Democracy through Law (the Venice Commission) and of the Council of Europe Development Bank, and has appointed its delegation to the Council of Europe Parliamentary Assembly (PACE). A number of co-operation programmes, including regional ones, have been implemented by the Council of Europe in Kosovo, focusing *inter alia* on the judiciary; the fight against corruption; human rights awareness-raising; freedom of expression and of the media; minority protection; and inclusive education. The Commissioner encourages the authorities to make the best use of Council of Europe mechanisms and recommendations, in order to strengthen the implementation of Council of Europe standards in Kosovo and advance the human rights of all citizens of Kosovo.

II. Major issues pertaining to transitional justice and social cohesion

1. General

8. The 1998-1999 conflict in Kosovo resulted in significant losses of life, large-scale displacement and serious human rights violations, and caused major strain to the coexistence of the main ethnic (Albanian and Serbian) communities. The Commissioner is seriously concerned about the fact that 18 years after the conflict, deeply ingrained divisions along ethnic lines persist and are evident, despite the progress achieved in the context of the dialogue between Belgrade and Pristina which is facilitated by the European Union ('EU'). Recent tensions between Belgrade and Pristina have exacerbated the existing polarisation and adversely affected inter-ethnic relations and social cohesion.
9. In 2012 an Inter-Ministerial Working Group for Dealing with the Past and Reconciliation, chaired by the Office of the Prime Minister, was established and tasked with the preparation of a transitional justice strategy. Many of the Commissioner's interlocutors, including members of the above Working Group, expressed their concern that this body failed to draw up and implement a transitional justice strategy due to the lack of political support and of necessary co-ordination between relevant ministries. Limited participation of members of minority communities and of families of missing persons in the work of the Working Group was also highlighted as a serious shortcoming.
10. During his mission, the Commissioner was informed about the initiative of the President of Kosovo aiming to establish a national truth and reconciliation commission. The president has recently taken some steps aiming to promote reconciliation. In July and December 2016, he laid wreaths at two memorials for Kosovo Serb victims of the conflict, in Staro Gracko/Gracke and in Hoqa e Madhe/Velika Hoča. On these occasions, the president stressed that the perpetrators of those crimes must be found and that the fate of all missing persons resulting from the conflict needs to be established. Reportedly, the families of the victims were not receptive to the president's visits

because the perpetrators of those crimes have not yet been brought to justice. In October 2016, the president sent four letters to Kosovo prosecutors in which he highlighted the importance of the effective investigation and prosecution of wartime crimes committed in Kosovo.

11. Notwithstanding the importance of these steps, the Commissioner underlines that they need to be coupled by concrete, resolute action by the authorities to fight impunity for wartime crimes, effectively resolve the pending cases of missing persons, ensure access to effective and adequate reparation for all war victims, and create conditions conducive to the voluntary return of displaced persons. Moreover, any future truth and reconciliation initiatives should draw on the lessons learned from the work of the aforementioned Working Group.
12. The Commissioner is particularly concerned about divisions along ethnic lines in public education. Children in Kosovo continue to attend either Kosovo or Serbian-administered schools, following separate curricula, with no interaction even when school premises are shared. NGOs have tried to fill this gap by organising some joint activities with Kosovo Albanian and Serb children in Pristina and Mitrovica/Mitrovicë. In its Resolution [CM/ResCMN\(2014\)13](#) on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo, the Committee of Ministers noted that despite on-going education reform processes, efforts to introduce bilingual teaching methodologies to establish genuine multilingualism in line with the Constitution and language legislation have not resulted in any major progress. The Committee of Ministers noted that a large number of textbooks and teaching material used in both systems still contain elements of nationalism and prejudice and efforts to introduce new teaching methods promoting intercultural understanding, including history, must be intensified. The authorities were called on to review teaching materials and methodology to render them appropriate for a multi-ethnic society.
13. Against this background, the Commissioner underlines the need for the authorities to live up to their obligations and redouble their efforts in the education sector, a sector which is of extreme importance for the young generations and the future of the country. Inter-ethnic tolerance and respect should be the main objectives of education and should be pursued by the authorities in a resolute and systematic manner.

2. The need to end impunity for wartime crimes and provide effective redress to all war victims

2.1 Domestic wartime criminal proceedings

14. The Commissioner reiterates that perpetrators of serious violations of international human rights and humanitarian law should be subject to effective investigation, prosecution and a fair trial. Impunity for such violations encourages recurrence, inflicts additional suffering on victims and has adverse effects on the rule of law and public trust in justice. The Commissioner emphasises the importance of effective regional co-operation in this context.
15. [The Kosovo Memory Book 1998-2000](#)³ contains narratives about 13 421 persons who were killed or who went missing during and in the aftermath of the conflict in Kosovo, more specifically from January 1998 until December 2000. 10 533 of them are Albanians, 2 238 are Serbs, and the rest come from other communities including Roma, Ashkali and Egyptians, Bosniaks and Montenegrins.
16. In 2008, EULEX took over the responsibility for the investigation, prosecution and trial of wartime crimes from the United Nations Interim Administration Mission in Kosovo (UNMIK), which had exercised executive powers in Kosovo since 1999. According to EULEX, in 2009, UNMIK handed over 1 187 war crime police files and almost 2 000 files concerning missing persons, while 47 war crime cases were handed over to the Special Prosecution Office of Kosovo, at that time headed by a EULEX Prosecutor. About 800 cases have been transferred from EULEX War Crime Investigation Unit to EULEX prosecutors working in the Special Prosecution Office of Kosovo. EULEX is currently working on 18 “priority investigations”, some of which relate to hundreds of victims. As of March 2017, 71 persons have been indicted for wartime crimes. There are 67 pending arrest orders/international warrants notices in respect of war crimes suspects. Three cases relating to war crimes are pending before domestic courts.

³ This is a book published in 2005 by the Humanitarian Law Centre and the Humanitarian Law Centre Kosovo. It was prepared by researchers and historians on the basis of material from several independent sources.

17. The Commissioner noted the concerns expressed by EULEX that in a number of cases handed over to them by UNMIK, investigations have been extremely difficult due to lack of evidence, in particular in cases relating to missing persons. Serious concern about UNMIK's failure to effectively investigate serious human rights violations committed during the conflict has been expressed by the UN Human Rights Advisory Panel (HRAP), most recently in its 2016 final [report](#). The Commissioner believes that it is essential that UNMIK follow up to the HRAP report, give effect to its recommendations and provide full redress to the victims concerned.
18. Since June 2014 EULEX's leading role in the prosecution and the judiciary has been decreasing, while Kosovo institutions have taken on responsibilities in this area. EULEX is preparing to hand over the case files to the domestic judiciary in view of the end of its mandate in June 2018. In this context, EULEX will carry out a risk assessment in respect of each case, in line with EULEX's human rights protection responsibilities, paying particular attention to witness protection concerns. About 1 500 cases related to corruption, wartime crimes and serious crimes will be handed over to the Kosovo judiciary, while a few ongoing cases will be kept by EULEX until the end of its mandate.
19. Commissioner Muižnieks has noted concerns that the work on complex war crimes cases will be a serious challenge for the domestic judiciary given the number of structural problems in the justice system and very little public trust in institutions. In her discussion with the Commissioner, the Minister of Justice mentioned the authorities' plan to carry out a functional review of the justice system in order to identify major shortcomings and propose necessary reforms. She also mentioned a planned increase in the number of judges, and the ongoing review of the Criminal Procedure Code and of the Criminal Code. Given the scope and importance of these reforms, the Commissioner strongly encourages the authorities to seek advice from the Council of Europe's Venice Commission. This is all the more important given that the success of the fight against impunity for wartime crimes largely depends on the success of these reforms.
20. Following the adoption in August 2015 by the Kosovo parliament of the necessary constitutional amendments, the Specialist Chambers and Specialist Prosecutor's Office were established to conduct trials for allegations stemming from the 2011 PACE [Report](#) on inhuman treatment of people and illicit trafficking in human organs in Kosovo. In January 2017 the Host State Agreement (HSA) between the Netherlands and Kosovo entered into force, which provides for a legal basis for the Specialist Chambers to conduct proceedings in the Netherlands. Last February, 19 judges were appointed to the roster of international judges of the Specialist Chambers. The next step is the adoption of the Rules of Procedure and Evidence. The Commissioner was informed that EULEX will not hand over cases to the Specialist Chambers, but a residual part of EULEX will stay in Kosovo to work with the Specialist Chambers. In his discussions in Pristina, the Commissioner highlighted the importance of effective co-operation of the authorities with the Specialist Chambers.
21. In its [Resolution 1784](#) (2011) on *the protection of witnesses as a cornerstone for justice and reconciliation in the Balkans*, PACE called on Kosovo to "seriously tackle problems encountered by witnesses, given the acute difficulties they are faced with, which have resulted in several of them being killed, and to enact legislation that provides for the protection of witnesses that testify in war crimes and other serious crime cases, during the investigation proceedings, the judgment and after the trial, including the creation and functioning of witness protection and support units, and implement it fully."
22. In accordance with the 2011 Law on Witness Protection, a Witness Protection Directorate was established in 2013 within the Kosovo Police, as a domestic body responsible for witness protection, functioning in parallel with EULEX's witness protection system. Potential witnesses who wish to seek protection need to come forward and request it from the above Directorate. The Directorate has had no witnesses under its protection since it became operational in 2014, reportedly due to the lack of public trust in institutions and in the justice system.
23. The Commissioner has noted reports⁴ indicating that many shortcomings remain in this field. A low potential for relocation of witnesses within Kosovo and the close links that families have with each other appear to be major obstacles to the successful protection of witnesses in Kosovo. Moreover, potential witnesses claim to be perceived as traitors if they testify in war crime cases. The Commissioner underlines the need for the authorities to take all necessary steps to ensure the provision of effective protection and support to witnesses in the context of wartime criminal

⁴ See, inter alia, Center for Research Documentation and Publication, [Witness protection in the Republic of Kosovo](#), September 2015.

proceedings. Moreover, any threat or intimidation of witnesses must be investigated and the perpetrators of such crimes brought to justice.

2.2 Access to adequate, effective and prompt reparations for all war victims, with a focus on victims of war-related crimes of sexual violence

24. The Commissioner highlights that all victims of serious violations of international human rights and humanitarian law have the right to adequate, effective and prompt reparation for the harm suffered in line with the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law ('2005 UN Basic Principles and Guidelines'). The application and interpretation of the Principles must be without any discrimination of any kind or on any ground, without exception.
25. In January 2012 the Kosovo parliament enacted a law (on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian War Victims and their Families) which entitles these categories of persons to family or disability pension, medical and physical rehabilitation, paid health care, professional rehabilitation and priority in employment. The law also provides for certain other privileges, such as exemption from the payment of property tax for victims with economic difficulties, and priority in accessing various social and administrative services.
26. The law defines 'civilian victim' as "a person who died, or who was wounded and then died, at the hands of enemy forces, between 27 February 1998 and 20 June 1999, as well as persons who have suffered from war remnants of explosive devices, within three years after the war ended." Due to the law's temporal scope and the use therein of the term 'enemy forces', the victims who lost their lives after June 1999 and those who were victims of forces other than the forces which the relevant authorities consider as an 'enemy', many Kosovo Serbs and Roma are excluded from its scope.⁵ The Commissioner encourages the authorities to reconsider the law with a view to broadening its scope so that all civilian war victims, without exception, have access to adequate reparation.
27. The Commissioner has noted with concern consistent reports about serious challenges facing victims of war-related crimes of sexual violence. The Kosovo Rehabilitation Centre for Torture Victims and the Kosovo Women's Network have reported widespread stigmatisation of these victims and their reluctance to report relevant incidents. A 2013 UNHCHR⁶ study noted that survivors of sexual violence continued to suffer from social and psychological problems, which were exacerbated by the lack of income-generating opportunities and affordable medical and mental health care. More recently, a UN Women report⁷ confirmed that survivors of conflict-related sexual violence continue to face enormous challenges. It added that perceived or actual community attitudes towards victims of sexual violence have led to several deaths by suicide, while some have died from domestic violence, in incidents that are considered to be honour crimes. The same report noted that access to health, employment, education and training is difficult for most of these victims, particularly for those in areas without civil society organisations providing health services and small-scale income generation activities.
28. Against this background, the Commissioner was pleased to note that in March 2014 the Kosovo parliament enacted amendments to the aforementioned reparation law which recognised the victims of sexual violence as "civilian victims", and introduced them as a new category of beneficiaries entitled to compensation. The Minister for Labour and Social Affairs, Arban Abrashi, provided the Commissioner with information about the implementation of this law and the establishment of a commission (on Recognition and Verification of the Status of Sexual Violence Victims During the Kosovo Liberation War) to deal with victims' requests. According to the Minister, five members of the nine-member commission have been appointed, while the public call for the appointment of the remaining four members has been published. A two-month training course is planned for the members of the Commission in order to sensitise and prepare them for their work. The authorities have taken the necessary measures to safeguard victims' anonymity and avoid the risk of further stigmatisation.

⁵ See Humanitarian Law Centre Kosovo, *Reparations for Civilian Victims: What Access for Communities?*, January 2017.

⁶ UNHCHR, "[Healing the spirit: reparations for survivors of sexual violence related to the armed conflict in Kosovo](#)", June 2013.

⁷ UN Women, Technical [report](#), *The conflict did not bring us flowers, the need for comprehensive reparations for survivors of conflict related sexual violence in Kosovo*, July 2016.

29. Notwithstanding these important developments, the Commissioner encourages the authorities to take further steps to ensure that these victims can fully rebuild their lives and overcome the stigma, starting with their inclusion in the development of policies and measures that affect them. The pertinent [recommendations](#) by UN Women, which the Commissioner supports, provide useful guidance in this regard.

2.3 The human rights of persons forcibly displaced during the 1998-1999 Kosovo conflict

2.3.1 General overview and the Commissioner's field visits

30. According to UNHCR, nearly 107 000 persons who were forcibly displaced during the conflict have displacement-related needs and are still awaiting durable solutions. 88 000 of them live in Serbia, 16 557 in Kosovo, 1 477 in Montenegro, and 674 in "the former Yugoslav Republic of Macedonia". As of December 2016, 468 displaced persons and refugees (from Croatia and Bosnia and Herzegovina) resided in 29 collective centres in Kosovo. A 2016 UNHCR assessment on the situation of vulnerable persons living in collective centres in Kosovo described the living conditions in most collective centres as poor, hazardous and undignified. The Commissioner visited the collective centre "Samacki I" in northern Mitrovica/Mitrovicë, and was appalled by the life-threatening conditions there in which 19 Kosovo Serbs, including children, have lived for years. Residents expressed to the Commissioner their profound disappointment that durable housing solutions have not yet been found for them, despite past pledges by the authorities. They also stressed that they feel like hostages to the ethnically polarised political situation in Kosovo. In his discussion with the Commissioner, the Minister for Labour and Social Affairs expressed his interest in this issue and his willingness to contribute to finding a durable housing solution for these persons. The Minister mentioned a possibility of including them in Kosovo's application to the Council of Europe Development Bank for the financing of domestic housing projects.

31. The Commissioner also visited three displaced Kosovo Albanian families in the Shipol settlement in southern Mitrovica/Mitrovicë. One of the families, with two children, has been forced to move home several times in the last 17 years. Another family talked about the challenges they face as they try to reconstruct their pre-war house in northern Mitrovica/Mitrovicë. Ten days after the reconstruction started, somebody destroyed in one night everything they had built that day and a container installed by the police near the construction site was burnt down. The third family was an elderly couple without housing, accommodated in the premises of a blind persons' association.

32. In addition, Commissioner Muižnieks paid a visit to the Roma Mahalla settlement and had an exchange with representatives of some 1 200 Kosovo Roma, Ashkali and Egyptians who live there. He was particularly interested to follow-up on the issue of the impact of lead-contamination addressed by his predecessor,⁸ since many of the families living in the settlement had been moved there from the lead-contaminated camps in northern Mitrovica/Mitrovicë. The Commissioner was informed that elevated lead levels continue to be found in some children in the settlement and that they have received medical treatment. However, this appears to be a wider problem since high lead levels have also been found in children who live in other parts of Mitrovica/Mitrovicë, due to the vicinity of the Trepca mining complex. The Commissioner urges the authorities to pay particular attention to the health-related issues of all persons affected by lead-contamination, and to provide them with adequate medical services if necessary.

33. In February 2016 the UN Human Rights Advisory Panel (HRAP) adopted an opinion⁹ in the case of 138 Kosovo Roma, Ashkali and Egyptian applicants, mostly children and women, who claimed to have suffered lead poisoning and who had subsequent health problems as a result of their living in the lead-contaminated camps in northern Mitrovica/Mitrovicë. Having established some serious shortcomings in the way that UNMIK had handled the issue¹⁰, the HRAP found a number of human rights violations, including violations of Articles 2, 3, and 8 of the European Convention on Human Rights (ECHR). HRAP also found that UNMIK's failure to relocate these persons to a safe environment constituted discrimination against the applicants as members of the Roma, Ashkali and Egyptian community in violation of Article 14 ECHR, in conjunction with the above articles of the

⁸ This issue was addressed Commissioner Hammarberg, who visited in 2009 and 2010 the lead-contaminated camps Osterode and Česmin Lug.

⁹ See UN Human Rights Advisory Panel, [N.M. and Others v. UNMIK](#), Case No. 26/08, Opinion of 26 February 2016.

¹⁰ HRAP noted that UNMIK had commissioned a report in 2000 which found extremely elevated blood lead levels of the affected community members living in the IDP camps. It did not make the report public and failed to take sufficient action to address the risks of lead exposure in the camps.

ECHR. It recommended, *inter alia*, that UNMIK publicly acknowledge its failure to comply with recognised international human rights standards, and the effects of that failure on the complainants, to make a public apology to the families and to adequately compensate the victims for material and moral damages. In his discussion with the Commissioner, the Special Representative of the UN Secretary General, Zahir Tanin, stressed that the UN Headquarters have taken the issue seriously and are looking into the practicalities of the implementation of the HRAP recommendations.

2.3.2 Obstacles to displaced persons' voluntary returns

34. The Commissioner notes with concern the existence in Kosovo of many obstacles to the voluntary return of displaced persons. As noted¹¹ by the UN Special Rapporteur on the Human Rights of Internally Displaced Persons, Serbia and Kosovo need to intensify their efforts to achieve durable solutions for those who have been living in protracted displacement for 18 years. The Commissioner stresses that this issue needs to be addressed in the context of the European Union accession framework and in the framework of the Belgrade-Pristina dialogue.
35. Although the Stabilization Association Agreement, which the EU and Kosovo signed in October 2015, reaffirms refugees' and displaced persons' right to return and the protection of their human rights, including their right to property, progress in this field has been very modest. According to UNHCR, only about 27 000 voluntary returns to and within Kosovo have been recorded in the last 17 years. From January to August 2016, 219 persons returned, the lowest number registered since voluntary returns began in 2000.
36. While the sustainability of returns is of 60% in Kosovo, as reported by UNHCR, and it appears to be higher than that of the [Regional Housing Programme](#),¹² it is of concern to the Commissioner that many obstacles to sustainable returns persist. Many houses belonging to displaced persons remain abandoned or are inhabited by other persons or only seasonally by the owners. According to UNHCR, the majority of reconstructed houses that remain vacant belong to Kosovo Serbs. In some regions the non-occupancy rates reach 58% (Gnjilan/Gnjilane) and 44% (Peć/Peja). In his discussion with the Commissioner, the Minister of Communities and Returns, Dalibor Jevtić, stressed that about 20 000 displaced persons in Serbia have expressed their wish to return to Kosovo. Some of them would only accept to return to the north, while those who have never sold their property, in particular in the Peć/Peja region, wish to return to their pre-war areas of residence. The Minister stressed that the current budget is not sufficient to respond to all displaced persons' needs.
37. The Commissioner is particularly concerned about the reported negative impact on voluntary returns of acts of hostility or flagrantly ethnically-motivated violence. According to UNMIK, in 2015 there were 92 'security incidents',¹³ 63% of which affected returnees and 7% displaced persons. In 30 % of the incidents persons belonging to minority communities were the victims. From April to October 2016 some 160 security incidents affecting minority communities were recorded. One such serious incident took place in August 2016, when 150 displaced Kosovo Serbs were prevented from participating in a religious ceremony at the site of a destroyed Orthodox church in the western Kosovo village of Mushtisht/Muštište by some 150 Kosovo Albanian residents of the village.¹⁴
38. According to information received from the authorities, 15 and 16 cases of hate crime were registered by the police in 2015 and 2016 respectively. In respect of eight of these cases a police investigation is pending, 14 cases were forwarded to the prosecution, three cases were sent to the

¹¹ The United Nations Special Rapporteur on the human rights of internally displaced persons (IDPs), Chaloka Beyani, Press release: Serbia and Kosovo*: UN rights expert calls for bold efforts to unlock protracted displacement, September 2016. The report on these visits is not public.

¹² The Regional Housing Programme aims to provide durable integration or return solutions (local integration or voluntary return) for 73 592 refugees and IDPs in Bosnia and Herzegovina, Serbia, Croatia and Montenegro. It is endorsed and supported by the European Commission, the USA, the UNHCR and the OSCE, and managed by the Council of Europe Development Bank.

¹³ 72% of them occurred in Peć/Peja (66), followed by Gnjilan/Gnjilane (14), Pristina (7), Prizren (3) and Mitrovica/Mitrovicë (2). 63% of incidents affected returnees and 7% displaced persons. 30 % of incidents affected minority local residents. Incidents included property damage, thefts, intimidations, arsons, assaults, robberies, and stoning. 81.5% of the victims were reported to be Kosovo Serbs, 7.6% Kosovo Egyptian; 5.4% Kosovo Roma; 1% Ashkali and 4.3% were other ethnicities (Gorani, Albanian, Montenegrin). In 57.6% of these incidents, the perpetrators remained unknown.

¹⁴ UN Security Council, [Report](#) of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, October 2016.

court, three cases were sent to EULEX, and two cases were closed. The Commissioner is concerned that often the police do not classify ethnically-motivated crimes as such and that systematic monitoring of the situation in this field is lacking. The Criminal Code provides for the criminal offence of 'inciting national, racial, religious or ethnic hatred, discord or intolerance' punishable by fine or imprisonment of up to five years. It also provides that motivation based on ethnic or national origin is an aggravating circumstance of an ordinary criminal offence. The Advisory Committee on the FCNM has noted that these two provisions, when combined, allow judges to address ethnically motivated crimes, but that they are not applied in practice. Official numbers on hate crimes appear to be low given the much higher number of reported security incidents affecting minority communities.

39. The authorities are urged to intensify awareness-raising work in this context, targeting in particular law enforcement and the judicial authorities. The Commissioner notes that, in the context of the Council of Europe project "Support to the Implementation of European Human Rights Standards and the Reform of the Ombudsperson Institution", which was implemented in Kosovo in the context of the Human Rights Education for Legal Professionals (HELP) programme, a course on hate crime was organised for first instance judges and prosecutors. Additionally, training on criminal offences against human rights and freedoms has been organised for judges and prosecutors. This project ended last February. The Commissioner believes that such training for members of the judiciary and law enforcement should continue to be organised by the authorities in a systematic manner and in co-operation with the Council of Europe.
40. Another major obstacle to voluntary returns relates to pending property issues. In 2006 the Kosovo Property Agency¹⁵ was established and tasked with the registration and resolution of claims for return of displaced persons' private property, including agricultural and commercial property. The decisions issued by the Agency can be appealed to the Supreme Court of Kosovo, and subsequently to the Constitutional Court. The Property Agency registered and decided upon 42 749 claims, while some 159 decisions have been appealed and are pending. The Commissioner notes with concern the lack of effective implementation of the decisions issued by the Property Agency.¹⁶ Moreover, there are cases which have been pending for years in domestic courts relating to displaced persons' property. In his discussion with the Minister of Justice, Dhurata Hoxha, the Commissioner highlighted the need for the authorities to promptly resolve all cases relating to the restitution of displaced persons' property.
41. Last but not least, the Commissioner noted the progress made by the authorities in addressing the lack of personal identity documents by displaced Kosovo Roma in Montenegro. In co-operation with the Montenegrin authorities, steps have been taken to provide displaced Roma from Kosovo in Montenegro with personal identity documents. Of the 1 351 persons from Kosovo in Montenegro lacking personal identity documents, 1 308 have been interviewed; 1 019 have received birth certificates; 449 have received personal identity documents; and 870 were issued passports. 39 of the persons who received passports returned to Kosovo. The Commissioner encourages the authorities to resolve the remaining cases of persons lacking personal identity documents, and to take all necessary measures to ensure that all Roma are registered and provided with personal identity documents.

2.4 Missing persons

42. According to the International Committee of the Red Cross (ICRC), as of September 2016, 1 665 persons were missing due to the Kosovo conflict. The Commissioner underlines that the issue of missing persons cannot be effectively resolved without renewed political commitment by Serbia and Kosovo, and the opening of army and police archives that may contain valuable information about missing persons.
43. In 2011 a Law on Missing Persons of Kosovo was adopted which aims to protect the rights of missing persons and their families, and in particular the right to the truth. The law established the Government Commission on Missing Persons within the Prime Minister's office mandated to lead, supervise and coordinate activities with local and international institutions in this field. The ICRC-chaired working group, which was established in 2005, continues to be the framework within which Belgrade and Pristina maintain the related dialogue under UN auspices. In its 2016 report on Kosovo, the European Commission noted that the working group faced serious challenges, with only

¹⁵ In 2016 the Kosovo Property Agency was transformed into the Kosovo Property and Verification Agency.

¹⁶ See OSCE Mission in Kosovo, [Review of Illegal Re-Occupation Cases in Kosovo](#), January 2015.

four cases solved in 2015 - the lowest number since the end of the conflict. As highlighted in the Commissioner's discussions in Pristina, the government needs to appoint a file holder for the issue of missing persons and urgently address the lack of necessary expertise of the Kosovo Institute of Forensic Medicine.¹⁷

44. In its 2015 report¹⁸ following a visit to Serbia, including Kosovo, the Working Group on Enforced or Involuntary Disappearance (WGEID) noted that a major obstacle to establishing the fate of missing persons in Kosovo is the lack of reliable information on the locations of undiscovered gravesites. It noted that the Serbian authorities were believed to possess more information than that contained in the documents they had already submitted. According to WGEID there is a common perception in Kosovo that the Serbian military has complete records of the locations of gravesites, yet it has not fully opened its archives. At the same time, many believe that the authorities in Kosovo have not shared relevant information in their possession about the location of gravesites. Another difficulty is the reluctance of witnesses to provide relevant information, reportedly owing to threats, a sense of loyalty or fear that they might be perceived as accomplices to the crime.
45. The Commissioner noted the concerns expressed by the UN Human Rights Committee¹⁹ that cases of enforced disappearances and missing persons had not been properly investigated by UNMIK during its administration in Kosovo. The Human Rights Advisory Panel has also found that the investigation of enforced disappearances and missing persons carried out by UNMIK failed to meet the minimum standard of an effective investigation as required by international and European human rights standards. The Commissioner is of the opinion that UNMIK needs to examine these issues seriously and provide the victims of those failures with adequate reparation. In this vein, EULEX and the authorities should redouble their efforts to ensure access to the truth and justice for the families of missing persons.²⁰

III. Freedom of the media

1. General

46. The Constitution of Kosovo provides for freedom of expression and freedom of the media, as well as the right of access to information. The 2010 Law on Access to Public Documents, the 2011 Law on Whistleblowers, the 2012 Law on the Independent Media Commission and the 2013 Law on Protection of Journalists' Sources are the main pieces of legislation pertaining to the work of journalists and the media. Kosovo has a sound legal framework governing the media field, but lacks effective implementation.²¹ Concerns have been expressed that the parliament has fallen short of assuming a more active role in monitoring respect for media freedom and ensuring a free media environment. Media pluralism is ensured, however media organisations operate in a very difficult economic context. Due to the small advertising market many broadcasters, in particular local and regional ones, appear to be financially unsustainable.
47. Kosovo decriminalised defamation in 2012, which is now a civil offense punishable by a fine. The Commissioner has noted that domestic courts have not yet developed case-law in this field. Reportedly, there are approximately 20 defamation cases against journalists pending in domestic courts, six of which were initiated by public officials. 44% of the Kosovo journalists interviewed for research in 2016 on media freedoms and journalists' safety in the Western Balkans stressed that the threat of defamation has a chilling effect on their work.²²
48. Recalling the Council of Europe Committee of Ministers [Recommendation Rec\(2004\)4](#) on the European Convention on Human Rights in university education and professional training, the Commissioner underlines the importance of initial and continuous professional training, especially of judges and prosecutors, for a Convention-compliant interpretation and application of domestic

¹⁷ See also EC Kosovo 2016 [Report](#), November 2016, p. 31.

¹⁸ Human Right Council, [Report](#) of the Working Group on Enforced or Involuntary Disappearance, Mission to Serbia including Kosovo, August 2015.

¹⁹ See Human Rights Committee, [Concluding observations on Kosovo](#) (Serbia), August 2006.

²⁰ See also the Commissioner's Issue Paper, [Missing Persons and Victims of Enforced Disappearance in Europe](#), March 2016.

²¹ See Western Balkans regional platform for advocating media freedoms and safety of journalists, [Indicators](#) on the level of media freedom and journalists' safety (Kosovo), December 2016.

²² Ibid. p. 12.

legislation. It is noted in this regard that the ongoing regional CoE-EU joint programme “Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe” ([JUFREX](#)), including Kosovo, aims to promote freedom of expression and freedom of the media in line with Council of Europe standards, with a specific focus on the judiciary. One of its objectives is to enhance the application of the European Convention on Human Rights and the case-law of the European Court of Human Rights in the field of freedom of expression in the daily work of the judiciary through the interpretation and implementation of the legislation in line with European standards.

49. Concerns were raised with the Commissioner by several media representatives about shortcomings in the implementation of the 2010 Law on Access to Public Documents. Public institutions are not always responsive to journalists’ requests for access to public documents, while domestic courts are slow in responding to complaints relating to access to information due to court backlogs. One particular case which was highlighted in the discussions relates to the rejection by the Prime Minister’s office of the request by Balkan Investigative Reporting Network (BIRN) to release documents detailing current and former officials’ travel expenses. After three years of litigation, in October 2015 a domestic court ordered the Prime Minister’s office to comply with the request. According to information provided to the Commissioner during the mission, the judgment had not yet been enforced.
50. The Commissioner expresses his concern that in certain cases of high public interest court hearings have been held *in camera* even though there seemed to be no reason for this to happen. One such recent case relates to the decision in December 2016 to hold a hearing in a criminal case involving senior politicians and judges *in camera*, which the Association of Journalists of Kosovo and the European Federation of Journalists have denounced.²³ The Commissioner underlines in this context that the public character of proceedings is one of the means whereby confidence in the courts can be maintained. Rendering the administration of justice transparent encourages a fair trial, which is one of the pillars of democratic states.²⁴

2. Protection of journalists from violence and impunity for crimes against journalists

51. Threats, physical attacks against journalists and impunity for crimes against journalists have been long-standing issues of serious concern to the Commissioner. In the 2014 OSCE report²⁵ on freedom of the media and safety of journalists in Kosovo, it was noted that “intimidation, threats, and violence against journalists, as well as the weak judicial prosecution of perpetrators remain serious challenges to the freedom of media.” According to the report, the Association of Journalists of Kosovo had reported 27 and 24 cases of threats and physical attacks against journalists in 2011 and 2012 respectively.
52. According to the authorities, 154 cases of threats and attacks against journalists or their property were registered from 1999 to 2016. 15 of these cases relate to physical attacks, while the rest of them concern threats, hacking journalists’ computers, damage to journalists’ property and burglaries. In respect of 17 of these cases, police investigation is pending, and the other cases have been sent to the prosecution. The Commissioner has noted concerns expressed by media representatives that the police and the judiciary lack experience and training in addressing cases of violence and threats against journalists. The aforementioned report has noted that journalists felt pressured by the police and prosecutors to report threats as not being related to their profession. The misuse of public funds, corruption and organised crime are reportedly the topics that generate the majority of cases of threats and violence against journalists. Reportedly, in recent years, journalists covering Islamic radicalism have also received death threats. In September 2015, the Association of Journalists of Kosovo, in co-operation with the OSCE, created a hotline for journalists to report threats against them.
53. In 2016, the OSCE Representative on Freedom of the Media reacted with public statements to three cases of physical attacks against journalists. In January, in a joint [statement](#) with the Head of the OSCE Mission in Kosovo, she expressed her concern regarding the physical attack on 26 January

²³ The [case](#) relates to the prosecution of 37 senior politicians and judges for organised crime and money laundering. In October 2016 the Kosovo special prosecution indicted these persons for having allegedly illegally appropriated land near Pristina, by falsifying the ownership documents and by obtaining unlawful court decisions.

²⁴ See, *inter alia*, European Court of Human Rights, judgment [Welke and Białek v. Poland](#), March 2011, §73.

²⁵ OSCE Mission in Kosovo, [Freedom of Media and Safety of Journalists in Kosovo](#), June 2014.

against Gazmend Morina, a journalist with the Mitrovica South-based news portal Veriu.info.²⁶ The second [statement](#) concerned the physical attack, last May, near Pristina, on a TV Most crew.²⁷ Lastly, in August, she [condemned](#) the bomb attack on the premises of Radio Television Kosovo (RTK) in Pristina.²⁸ There is no publicly available information on judicial follow up on these cases.

54. Other cases reported last year²⁹ concern a physical attack in January 2016 on two RTK journalists and a journalist from the Radio-Television of Serbia during a protest in Pristina. In June, the office of the Serbian-language news portal KoSSev, based in north Mitrovica/Mitrovicë, was sprayed with bullets, and in November a vehicle belonging to one of its journalists was set on fire. No one was hurt in either of these cases. In June, the president of the Association of Journalists of Kosovo received a text message threatening him with beheading if he continued to pursue an investigation about corrupt practices at a petrol company. Reportedly, there has been no judicial follow-up to these cases. On a positive note, in November 2015 the persons who physically attacked³⁰ the journalist Milot Hasimja in 2014 were convicted of attempted murder and sentenced to four years' imprisonment.
55. The most serious, long-pending cases concern the murders and disappearance in Kosovo of thirteen Kosovo Albanian (six) and Serb (seven) journalists from 1998 to 2005, namely Afrim Maliqi, Enver Maloku, Shefki Popova, Xhemajl Mustafa, Bekim Kastrati, Bardhyl Ajeti, Djuro Slavuj, Ranko Perenić, Ljubomir Knežević, Marjan Melonaši, Milo Buljević, Aleksandar Simović and Momir Stokuća. According to information available to the Commissioner, the Special Prosecution Office investigated the murders of Enver Maloku and Xhemajl Mustafa in 1999 and 2000 respectively, but no information is available on the killings in 1998 and 2000 respectively of Afrim Maliqi and Shefki Popova. In 2016 the Special Prosecution closed the investigation into the killing of Bekim Kastrati in 2001 due to the main suspect's death. The Special Prosecution's investigations into the killings of Aleksandar Simović and Bardhyl Ajeti in 1999 and 2005 respectively, and into the disappearances in 1998 of Djuro Slavuj and Ranko Perenić have been closed due to lack of evidence. No official investigation has been initiated into the disappearances of Ljubomir Knežević and Milo Buljević. In 2011 the Special Prosecution transferred the case related to the disappearance of Marjan Melonaši to the Pristina prosecution. There has been no investigation into the killing of Momir Stokuća in 1999.
56. In January 2015, the Association of Journalists of Kosovo and Metohija and the Journalists' Association of Serbia published a statement in relation to the cases of the murdered and missing Kosovo Serb journalists in which they supported the work of the HRAP and requested UNMIK, EULEX and the Kosovo institutions to comply with the HRAP's recommendations and conduct effective investigations into these cases, bring the perpetrators to justice and compensate the families of the victims. The press statement refers to the opinions³¹ of the Human Rights Advisory Panel which found violations of Articles 2 and 3 of the European Convention on Human Rights due to UNMIK's failure to investigate the aforementioned cases. EULEX and other competent authorities were called upon by HRAP to take all possible steps in order to bring the perpetrators of those crimes to justice. The HRAP also called on UNMIK to publicly recognise its responsibility in this context and to offer an apology and compensation to the families of the victims.
57. During his mission, the Commissioner was very concerned by the authorities' lack of awareness of the adverse impact that attacks against journalists and impunity for such attacks have on freedom of the media, and, as a consequence, on democracy. Recalling the Council of Europe Committee of Ministers 2016 [Recommendation CM/Rec\(2016\)4](#) on the protection of journalism and safety of

²⁶ Morina was physically attacked by two people, one of them a municipal assembly member, following his critical reporting on the management of the Trepca mining complex.

²⁷ A crew from TV Most, including journalist Jasmina Stojković and a cameraman were verbally and then physically attacked by an unknown person. According to reports, the cameraman was attacked with a shovel while the crew was filming a story about humanitarian aid allocation to a school in Obilic.

²⁸ An explosive device was thrown into the yard of the RTK premises, close to its transmission antennas. No one was injured in the explosion.

²⁹ Freedom House, [Freedom of the Press 2016](#), Kosovo.

³⁰ In October 2014 a man walked into the newsroom of the private television station Klan Kosova and repeatedly stabbed this journalist in his head and neck as he sat at his desk. See, the Guardian, [TV journalist in Kosovo stabbed by man angered by televised report](#), October 2014.

³¹ See, *inter alia*, HRAP, [Ljubica Buljević v. UNMIK](#), December 2013 and [Goran Knežević v. UNMIK](#), February 2014.

journalists and other media actors, the Commissioner stresses the importance for the authorities to fulfil their positive obligation to protect journalists and other media actors from all forms of attacks and to end impunity for such attacks. Moreover, all past cases of murders and disappearances of journalists need to be effectively investigated and the perpetrators brought to justice.³²

3. Journalists' labour rights and ethical journalism

58. The Commissioner has noted reports indicating that journalists in Kosovo have few professional rights, earn low wages, and often work without contracts, which leaves them vulnerable to corruption and prone to self-censorship.³³ The two main journalists' associations, the Association of Journalists of Kosovo and the Association of Journalists of Kosovo and Metohija, advocate for journalists' rights, however they do not speak with one voice due to the division in this field along ethnic and linguistic lines. Although there is interaction between Kosovo Albanian and Serb journalists, attempts to strengthen and formalise the co-operation between the associations have not been successful to date. The Commissioner stresses that this division is harmful to journalism in Kosovo and to social cohesion more broadly, and encourages all media actors to engage in a serious discussion as to how to overcome it.

59. The Commissioner underlines the important role played by journalists in contributing to a fairer and more tolerant society by practicing ethical and responsible journalism. He cannot over-emphasise the responsibility of the media to promote inter-ethnic tolerance and the need for them to refrain from propagating stereotypes or inflaming any existing tensions. This is crucial in the context of violent incidents or tensions of an inter-ethnic nature.³⁴

60. In their discussion with the Commissioner about ethical journalism, some media representatives recalled past cases of unethical media reporting which had dramatic consequences and a serious negative impact on inter-ethnic relations. For example, in 2004 the way in which some media reported about the tragic drowning of a group of Albanian children was said to have contributed to the eruption of violence during which 19 Kosovo Albanians and Serbs lost their lives. The OSCE Representative on the Freedom of the Media noted in a 2004 report that certain media, specifically in the broadcasting sector, have "displayed unacceptable levels of emotion, bias, carelessness, and falsely applied 'patriotic zeal'".³⁵ The report was very critical of the editorial policy of the Radio-Television of Kosovo during these events.

61. In this context, the Commissioner noted the concerns that self-regulation of media remains a challenge across all platforms of journalism. The Independent Media Commission³⁶ and the Press Council of Kosovo³⁷, as media regulatory bodies, have their codes of conduct to which all journalists should adhere. While there is more general awareness and knowledge among journalists about the role and work of the regulatory bodies, lack of commitment to ethical standards of accuracy, impartiality and transparency remain serious problems. Media professionals have highlighted the need to strengthen ethical practice at all levels, in particular within online journalism where sensationalism and unethical practice dominate.³⁸

62. The Commissioner notes with interest that in the context of the ongoing EU-UNESCO regional project "[Building Trust in Media in South East Europe and Turkey](#)", the Ethical Journalism Network³⁹ has prepared guidelines and proposals to help media in the region, including Kosovo, to improve their ethical reporting.

³² See the Commissioner's [Positions on Freedom of the Media](#), 2010.

³³ Freedom House, [Freedom of the Press 2016](#) – Kosovo and South-East European Media Observatory, Media Integrity [Report](#), June 2016.

³⁴ See Council of Europe Commissioner for Human Rights (ed.), [Human Rights and a Changing Media Landscape](#), 2011.

³⁵ OSCE Representative on the Freedom of the Media, [Report](#) on the Role of the Media in the March 2004 Events in Kosovo, April 2004.

³⁶ The Independent Media Commission (the IMC) is responsible for the regulation of broadcasting frequencies, issuing of broadcast licenses and for promoting ethical and professional standards in the broadcasting sector. Its competencies extend to broadcast and audio media, while print media and internet-based media are not required to have a state license but are registered as businesses.

³⁷ The Press Council of Kosovo is a self-regulatory body for the print and online media.

³⁸ European Federation of Journalists, Kosovo: [Ethical media audits and guidelines for quality journalism](#), April 2016.

³⁹ The Ethical Journalism Network (EJN) is a non-profit entity which aims to strengthen the craft of journalism and to promote high ethical standards in journalism for the public benefit.

63. Recalling the Council of Europe Parliamentary Assembly (PACE) [Resolution 1003](#) (1993) on Ethics in Journalism, the Commissioner stresses that the media must undertake to submit to firm ethical principles guaranteeing freedom of expression and the fundamental right of citizens to receive truthful information and honest opinions. He underlines the need to strengthen ethical journalism and ensure that the mechanisms for self-regulation are effectively used.

4. Major issues of concern related to public service media

64. The Commissioner recalls that public service media play a specific role with regard to the respect of the right to seek and receive information and the provision of varied and high-quality content, contributing to the reinforcement of democracy and social cohesion, and promoting intercultural dialogue and mutual understanding.⁴⁰

65. The Commissioner has noted discussions concerning the need to ensure sustainable funding for the public broadcaster, Radio-Television of Kosovo. The 2012 Law on Radio-Television of Kosovo provided for transitional three-year funding amounting to 0.7% of the annual state budget, until a sustainable funding solution based on subscriptions is found. However, Radio-Television of Kosovo continues to be funded from the state budget, given that the parliament has not yet agreed on another model. The Commissioner has been informed⁴¹ that the Kosovo parliament has shown limited commitment to finding a solution for sustainable funding of the public broadcaster, leaving it vulnerable to political pressure. The parliament has been discussing amendments to the 2012 Law on Radio-Television of Kosovo in this regard.⁴²

66. Recalling PACE [Recommendation 1878 \(2009\)](#) on Funding of Public Service Broadcasting, the Commissioner underlines that public service broadcasters must be independent from the government and be able to function without its political interference, and their funding model should reflect this independence. As noted in the Recommendation, the funding of public service media may be ensured through various means, including a licence fee, taxation, state subsidies, subscription fees, advertising and sponsoring revenue.⁴³ Furthermore, public service media may have mixed funding similar to other public cultural institutions such as orchestras, theatres or museums. Whatever funding model is chosen, it must enable public service broadcasters to meet the public service requirement of accessibility and affordability for the public at large.⁴⁴

67. During his mission the Commissioner became aware of concerns about alleged censorship and political influence on editorial policies of Radio-Television of Kosovo. Following the dismissal by the Director of Radio-Television of Kosovo of two members of the television's trade union, and the repeated labelling of some journalists and editors as "politically influenced", in April 2015 60 editors and journalists of Radio-Television of Kosovo publicly accused the Director of censorship and mismanagement.⁴⁵ Journalists and employees of Radio Television of Kosovo organised a public protest in front of the television's offices, where about 80 persons participated.

68. Reportedly,⁴⁶ last February, the Director of Radio-Television of Kosovo published a post on Facebook in which he verbally attacked and insulted members of the Trade Union of Radio-Television of Kosovo because of their recent discussion with the speaker of the parliament and MPs about violations of labour rights in Radio-Television of Kosovo. The Commissioner considers

⁴⁰ Council of Europe Committee of Ministers [Recommendation CM/Rec \(2012\)1](#) on media pluralism and diversity of media content, February 2012.

⁴¹ EC, Kosovo 2016 [Report](#), November 2016, p. 5.

⁴² EU Office in Kosovo, [EU in Kosovo concerned over lack of transparency in amending RTK Law](#), January 2017.

⁴³ Other models mentioned in the Recommendation include specialised pay-per-view or on-demand services, the sale of related products such as books, videos or films, and the exploitation of a public broadcaster's audiovisual archives

⁴⁴ The Committee of Ministers [Recommendation No. R \(96\) 10](#) on the Guarantee of the Independence of Public Service Broadcasting provides a useful list of principles that should apply in cases where funding of a public service broadcasting organisation is based either entirely or in part on a regular or exceptional contribution from the state budget or on a license fee.

⁴⁵ Osservatorio balcani e caucasio transeuropa, [Journalists' solidarity in Kosovo: the RTK case](#), January 2016.

⁴⁶ Association of Journalists of Kosovo, [AJK reacts against RTK director](#), February 2017.

unacceptable the use by public officials of inflammatory remarks, including personal insults, against journalists and their work. Such public discourse may lead to self-censorship and discourage journalists from performing their important role of “public watchdogs”. The authorities must take all possible measures to ensure that the independence of public service media is preserved and to refrain from any action that could lead to censorship and threaten editorial independence.