



# MAPPING OF ENVIRONMENTAL CORRUPTION CASES

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*Policy Brief on Environmental Corruption*

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## Introduction

Kosovo\* is a developing economy, relatively new and with numerous prominent problems, which are normally also presented in environmental aspects. These problems are presented as the influence of the human hand, but they are often the continuation of actions as a consequence of the non-functioning of law and order, even though Kosovo has adopted most of the standards and legal instruments for environmental protection. Legal protection of the environment is summarized in the Constitution and in the primary and secondary legislation, in the criminal law, code of criminal procedure, and administrative and civil law. All these legal instruments, however, did not change the actual situation in environmental protection.

The interest in the legal regulation of conservation, protection, promotion, and development of the environment in Kosovo started to be considered a matter of great importance when the consequences of environmental pollution began to give negative results which were more visible. Kosovo has its own new environmental legislation, created mainly during the last decade. It is based on the Constitution of Kosovo and includes various types of laws, both general and specific for the environment and its components, normative acts, Government decisions, orders and instructions of ministries, specific regulations, norms, and standards.

Environmental issues are also included in the Constitution of Kosovo<sup>1</sup>, emphasizing the importance that the environment has for all living beings. While the laws formulated later are also supported in this constitutional article, which gives special importance to this concern. However, it should be noted that the legislation of Kosovo in general was drafted by external experts, relying on European legislative acts, conventions, and directives.

Besides the constitutional basis, other laws derive from the Constitution there are other laws that protect the environment. The Penal Code of Kosovo stipulates at least 13 offenses that fall within the group of criminal offenses and that fall within the protection of the environment. Criminal Law consists of a separate chapter regulating criminal offenses against the environment.

Kosovo has also adopted several laws that protect different aspects of the environment. They include Law on Environmental Protection, Law on Waste, Law on Strategic Environmental Evaluation, Law on Environmental Impact Assessment, Law on Prevention and Integrated Control of Pollution, Law on Protection from Noise, Law on the Protection of Air from Pollution, and dozens of administrative acts.

However, the environmental legislation continues to be in an intensive process, to respond effectively to the needs for contemporary policies of environmental protection, sustainable development, and the process towards the integration of Kosovo into the European Union. In Kosovo, the central level, the local level, specialized agencies, and institutes are engaged in the implementation of its

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<sup>1</sup> Constitution of Kosovo, Article 52, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

environmental legislation, while non-governmental organizations that deal with the environment are mainly engaged in the promotion of environmental values and the implementation of laws.

This policy brief will highlight the constitutional, and legislative points, actors, and agencies for the protection of the environment in Kosovo. Also, the protective instruments offered to environmental journalists and the legal points that protect this category of journalists will be part of the paper. All this with the aim of identifying the current protective points for journalists and identifying the shortcomings and their improvement in relation to environmental journalism, the protection of the environment, and the protection of journalists.

## Constitutional and legal provisions protecting the environment

The constitution of Kosovo contains provisions for environmental protection in at least two articles:

### Article 7 of the Constitution [Values]

The constitutional order of Kosovo is based on the principles of freedom, peace, democracy, equality, respect for human rights and freedoms and the rule of law, non-discrimination, the right to property, **the protection of the environment**, social justice, pluralism, separation of state powers, and a market economy.<sup>2</sup>

This Article, in fact, explains the principles by which the society is built and the principle of protection of the environment contains also principles of integrity (the state institutions ensure the integration of environmental protection and the improvement of the living environment), the principle of prevention and preventive measures, the principle of protecting the natural resources, the principle of sustainable development, etc. In realizing the right to a healthy environment, special importance is given to the principle of information which allows everyone to be informed about the state of the environment and to be part of the decision-making processes whenever they affect the living environment. The principle of environmental protection is therefore part of the key values which constitute the state.

### Article 52 [Responsibility for the Environment]

1. Nature and biodiversity, environment, and national inheritance are everyone's responsibility.<sup>3</sup>
2. Everyone should be provided an opportunity to be heard by public institutions and have their opinions considered on issues that impact the environment in which they live.
3. The impact on the environment shall be considered by public institutions in their decision-making processes.

Article 52 gives a more detailed explanation of rights and responsibilities regarding the protection of the environment. The protection of nature, biodiversity, environment, and national inheritance is everyone's responsibility. Yet the institutions have the main responsibility to ensure that every citizen can participate in the decision-making process when their area of work or living is affected.

Based on this, it can be concluded that Kosovo, through this Constitution, recognizes environmental protection as one of the principles on which it has established its state foundations. However, in the period of issuing laws, acts, regulations, and other documents based on this Constitution, it has been shown that a lot of work is still required to bring the preservation and protection of Kosovo's

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<sup>2</sup> Constitution of Kosovo, Article 7, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

<sup>3</sup> Constitution of Kosovo, Article 52, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

environment in line with the standards of the European Union, even though the environment life in Kosovo is a constitutional category.

The main law in the field of environment, after the Constitution of Kosovo, is the **Law on Environmental Protection in Kosovo**<sup>4</sup>. The purpose of this law is to harmonize economic development and social welfare with basic principles for environmental protection according to the concept of sustainable development and also to promote the establishment of a healthy environment for the population of Kosovo by bringing gradually the standards for the environment of the European Union.

While another very important law is **Law no.03/L-160 on air protection from pollution**<sup>5</sup>. The purpose of this Law is to regulate and guarantee the rights of citizens to live in a healthy and clean air environment, whilst protecting human health, fauna, flora, and natural and cultural values of the environment. And knowing that one of the main causes of environmental pollution in Kosovo is coal-fired power plants, then the law in question would have to work differently, but as was mentioned earlier, the adaptation of laws based on European countries does not mean operationalization immediate and regulation of the situation, but paves the way for actions and taking measures by the responsible institutions.

In addition to these laws in the protection of the environment, there are also other legal acts such as the Law on Strategic Environmental Assessment<sup>6</sup>, the Law on Environmental Impact Assessment<sup>7</sup>, the Law on Integrated Prevention and Control of Pollution<sup>8</sup>, the Law on the Inspectorate of Environment, Water, Nature, Spatial Planning and Construction, Law on Spatial Planning. All these laws in their essence have the development of the environment and its protection, clearly defining the actions allowed and those harmful and contrary to the law. In addition to the legislative framework, since 2000, work has also been done on the establishment of administrative structures for the advancement of the environment in Kosovo.

Environmental issues involve some of the world's greatest abuses of power and some of the world's greatest concentrations of power. The investigation carried out by journalists for these cases is a very dangerous experience, which during the last years in the world has resulted in more than 25 murders all over the world. Even in Kosovo, these journalists, although to a lesser extent, have an increased risk in their work regarding the protection of the environment, since environmental issues are not yet the main object of investigation.

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<sup>4</sup> Official Gazette of Kosovo, Law no. 03/L-025 on Environmental Protection, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2631>

<sup>5</sup> Official Gazette of Kosovo, Law no. 03/L-160 on air protection from pollution, accessible at: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2669>

<sup>6</sup> Official Gazette of Kosovo, Law no. 03/L-230 on Strategic Environmental Assessment, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2625>

<sup>7</sup> Official Gazette of Kosovo, Law no. 03/L-214 on Environmental Impact Assessment, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2708>

<sup>8</sup> Official Gazette of Kosovo, Law no. 03/L-043 on Integrated Prevention and Control of Pollution, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2635>

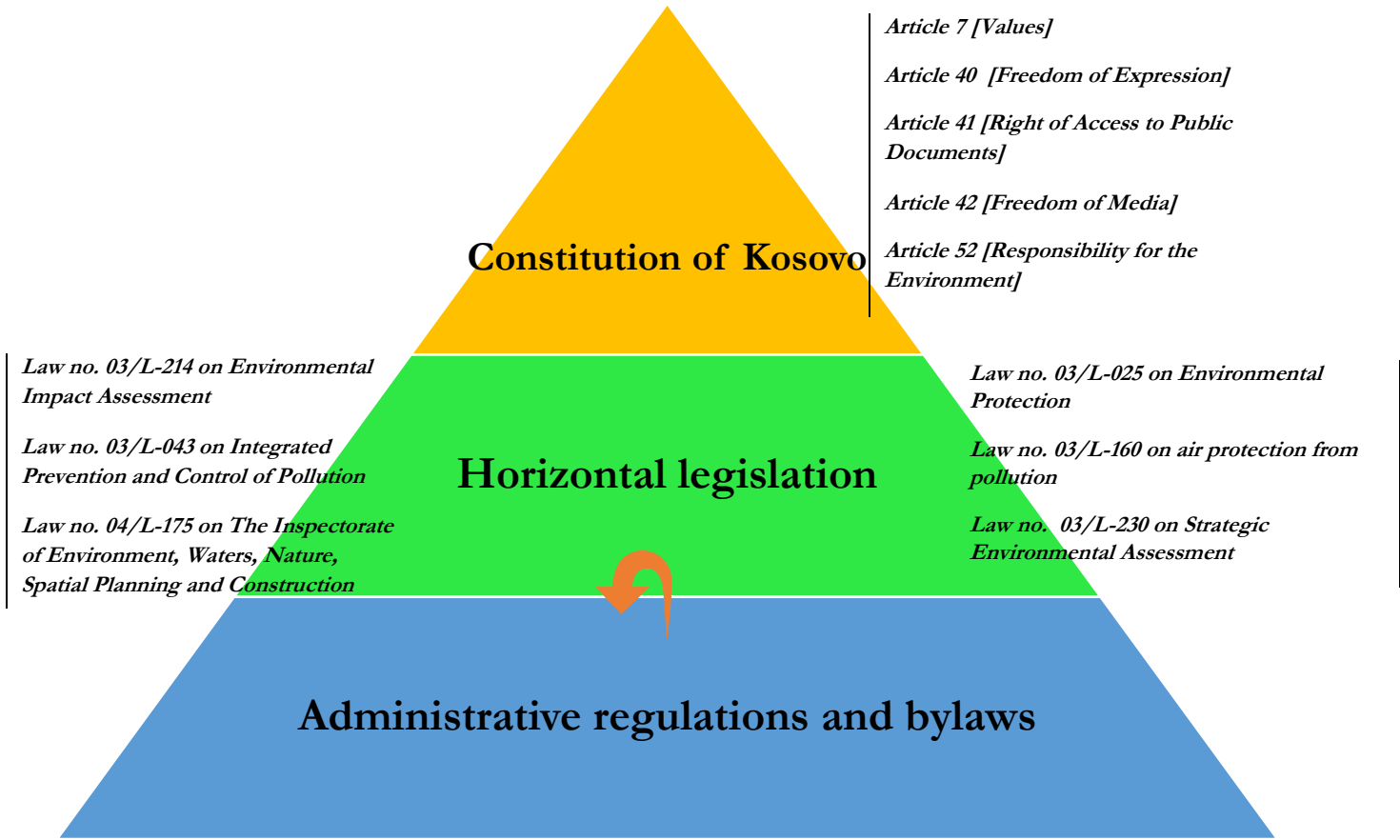


Figure 1. Legal Instruments for Environmental Protection in Kosovo



## Legal instruments for environmental protection

The Ministry of Environment, Spatial Planning, and Infrastructure is the highest body responsible for the protection of the environment, the implementation of current legislation, and the subsequent development of environmental legislation.<sup>9</sup> The Ministry also coordinates agencies for environmental protection, such as the Environmental Protection Agency of Kosovo and the Department for the Inspection of the Environment, Nature, Water, Construction, and Spatial Planning. The state institutional mechanisms of Kosovo, which have the main responsibility for environmental protection and environmental management, are determined by the current state legislation of the developing economy. The aforementioned mechanisms are part of the central level, while in addition to these mechanisms, there is also the local level that has an important role in the protection of the environment.

Local-level mechanisms in Kosovo in the service of environmental protection are Regional and municipal waste companies and Regional water companies. While each municipality of Kosovo has an integrated Municipal Directorate of Urbanism, Cadaster, and Environmental Protection. All these mechanisms could not be established without the approval of the relevant legislation by the Assembly of Kosovo, as a self-legislative body and the main force in the drafting of environmental legislation and policies. Based on this, the Commission for Agriculture, Forestry, Environment, and Spatial Planning is also competent in the field of the environment within the Assembly of Kosovo.

Environmental crime consists of illegal activities that damage the environment through the use or damage of natural resources, water, air, and land or damage to protected areas. This category of crime includes:

- Water pollution
- Air pollution
- Illegal cutting of trees
- Soil pollution
- Illegal exploitation
- Damage to conserved areas of nature and natural values

In addition to these activities, which are organized by individuals and different groups for material and economic benefits, the central and local actors, in cooperation with the Kosovo Police and the investigations carried out by journalists, carry out continuous monitoring, prevention, and interruption of such acts harmful to the environment.

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<sup>9</sup> Ministry of Environment, Spatial Planning and Infrastructure, accessible at: <https://mmphi.rks-gov.net/home>

## Environmental corruption risks

Corruption can be considered a catalyst for environmental crime. In particular, corruption plays an important role in facilitating fraudulent trade, forging import/export certificates, clearing customs wrongly, ignoring illegal waste disposal, and issuing licenses, among others.<sup>10</sup> Corruption in this case may affect a variety of actors, including customs officials, landowners, organized crime groups, police, shipping firms, and exporters/importers. Corruption, depending on the area it affects, can have immediate effects or later effects.

Environmental corruption risks include the potential for conflicts of interest, bribery, and fraud. These risks can lead to the mismanagement of natural resources, damage to the environment, and loss of livelihoods. They can also lead to the depletion of important biodiversity, including unique species and habitats. Environmental corruption risks need to be managed effectively to protect the environment and the people who depend on it. Corruption can undermine environmental protection efforts by diverting resources away from conservation and management activities. It can also result in environmental degradation through illegal activities such as illegal logging, mining, and land clearing. In addition, corruption can fuel environmental crime, such as the smuggling of endangered species and their products. Environmental corruption risks need to be addressed through a combination of prevention, detection, and prosecution measures. Prevention measures include raising awareness of the risks among key stakeholders, enhancing transparency and accountability, and strengthening governance structures. Detection measures include establishing early warning systems, conducting regular audits, and developing effective monitoring mechanisms. Prosecution measures include ensuring that those responsible for environmental crimes are brought to justice.

The risks caused by corruption in Kosovo can bring damage that can be irreversible. The effects of corruption, such as wrong licenses, displacement of projects, duration, and so on, cause damage to the environment, which, apart from being material, can also cause the loss of lives of living beings. The risks of corruption are the endangerment of sustainability, the impact on economic development, and the endangerment of facilities and natural resources. These risks are presented in different sectors and forms.

Technical acceptance of buildings, illegal cutting of forests, gravel extraction, quarrying, and other activities that are against the law cause significant damage to people and the environment. All these activities, even in the case of Kosovo, can take people's lives and seriously damage the environment. Although the law clearly states that these illegal activities are prohibited, illegal activities have occurred and still occur in Kosovo. Illegal cutting of forests, gravel extraction, allowing quarry activities, and technical acceptance of buildings that do not meet European construction standards, are activities that the relevant actors of Kosovo must intervene and stop.

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<sup>10</sup> U4 Expert Answer, Environmental crime and corruption, accessible at: [https://knowledgehub.transparency.org/assets/uploads/helpdesk/326\\_Environmental\\_crime\\_and\\_corruption.pdf](https://knowledgehub.transparency.org/assets/uploads/helpdesk/326_Environmental_crime_and_corruption.pdf)

Some of the biggest repercussions of environmental corruption are:

- Scarcity of critical resources like water
- Fertile land
- Pure air quality
- Medicinal problems and genetic problems
- Degradation of the environment
- Weak buildings
- Flooding

However, all these risks, which damage the quality of life, Kosovo's economy, and assets, are not comparable to the risk that corruption in the environment can cause to all living organisms that are affected by this negative phenomenon, which is not expressed only in Kosovo but almost all over the world.

In Kosovo, the main activities or points where corruption towards the environment appears are the illegal cutting of forests, illegal extraction of gravel, dumping of waste, and pouring of sewage into rivers and lakes. In these points, it is also possible to commit criminal offenses such as bribery of customs officers and police officers, bribery of judges and other punitive actors, bribery of administrative officials who issue permits, licenses, and environmental approvals, and also bribery of environmental inspectors whom they do not report and deal with those who harm the environment. These activities have been misused by individuals or interest groups in Kosovo, for economic benefits and damage to the environment, not thinking about the economic consequences beyond, but also for the consequences which are irreparable such as the degradation of the environment, damage to plants, and animal life, and more the tragic loss of human life. The legal and decision-making authorities also play an important role in the abuse of these activities, which, by not punishing the perpetrators and neglecting cases of environmental corruption, are allowing the continuation and growth of illegal and harmful activities alongside nature. And all this is caused as a result of the legislation of Kosovo, which in one form or another allows the degradation of the environment, without being punished in the right form and manner.

An example of environmental corruption in Kosovo is the illegal cutting of forests. According to official data, Kosovo loses 656 hectares every year with forests covering one and a half football fields every day. Since the year 2000 to 2021, Kosovo lost 8,234 hectares of forests. The cuts have increased even more in 2021 and 2022 due to the increase in the cost of other resources that residents use for heating. In addition to damaging the forests, illegal cutting is also causing increased risk from floods, which often when the rains are heavier, cause problems for the residents of Kosovo, to the point where the water enters the houses, damages the technology, and other material damages. In addition to illegal logging, damage to riverbeds, gravel extraction, and so on contribute to floods in Kosovo.

The judicial system is weak in addressing cases of environmental corruption. This is often due to a lack of laws and regulations, as well as a lack of enforcement. Additionally, judges and prosecutors may be reluctant to prosecute environmental crimes, due to the complex nature of the case and the

high burden of proof. As a result, perpetrators of environmental crimes often go unpunished. This not only creates an unjust system, but it also sends a message that these types of crimes are tolerated. In order for the judicial system to effectively address environmental corruption, there must be a political will to do so. Environmental laws determine the fines for violation of the articles from €100 to €50,000 if the individual or the offender is a legal entity. But the imposition of fines faces weaknesses in the monitoring and inspection system, as well as the large number of cases remaining in the court. It was only in 2011 that an economic subject was fined for non-compliance for the first time with €40,000 for not recording emissions.<sup>11</sup>

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<sup>11</sup> World Bank, Environmental analysis of the state Assessment of the cost of environmental degradation, institutional review and review of public expenditures for the environment, Albanian version, accessible at: <https://web.worldbank.org/archive/website01352/WEB/IMAGES/KOSOV-10.PDF>

## Protection of journalists working on environmental protection

Journalists are a category of citizens who rely on statements, evidence, and data that lead to the drafting of a news story, the discovery of a crime, or the identification of irregularities. Their work in the field, meeting with different categories of citizens, dealing with problems, and preventing the clarification of cases make the work they do dangerous and not very stable. Journalists who research and are interested in environmental issues, environmental protection, corrupt affairs, and identifying the causes of the deterioration of the situation on the ground are at the same risk.

The Committee to Protect Journalists (CPJ) is the only U.S.-based organization dedicated solely to fighting for the right of journalists around the world to report the news openly and independently without fear of reprisal.<sup>12</sup> Committee to Protect Journalists defends the right of journalists to report the news safely when the law is violated and citizens are harmed, regardless of whether any corrupt affairs of any person are discovered or any organization is harmed. In Kosovo, journalists are protected in several forms.

Apart from CPJ, journalists working in Kosovo are protected by the laws of Kosovo, the constitution of Kosovo as well as government organizations such as the Association of Journalists of Kosovo (AGK). The legal framework currently applicable in Kosovo is also positively evaluated by AGK and various international organizations, which in their reports emphasize the guarantees offered to the media and journalists by this legal framework, which, although good, is not sufficiently implemented. Based on the analysis made of the legal framework related to the freedom and work of the media and journalists, including the freedom of expression, it can be said that the legal framework analyzed with the descriptive method, such as Articles 40, 41, and 42 of the Constitution of Kosovo, the Law on the Protection of Journalists' Resources, the Law on the Protection of Whistleblowers, the Law on Access to Public Documents, the Civil Law Against Defamation and Insult and the Work Law, are generally considered good and in harmony with international standards.

### Article 40 [Freedom of Expression]

1. Freedom of expression is guaranteed. Freedom of expression includes the right to express oneself, and to disseminate and receive information, opinions, and other messages without impediment.<sup>13</sup>
2. Freedom of expression can be limited by law in cases when it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity, or religion.

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<sup>12</sup> Philanthropy News Digest, Committee to Protect Journalists, accessible at: <https://philanthropynewsdigest.org/features/nonprofit-spotlight/committee-to-protect-journalists>

<sup>13</sup> Constitution of Kosovo, Article 40, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

## **Article 41 [Right of Access to Public Documents]**

1. Every person enjoys the right access to public documents.<sup>14</sup>
2. Documents of public institutions and organs of state authorities are public, except for the information that is limited by law due to privacy, business trade secrets, or security classification.

## **Article 42 [Freedom of Media]**

1. Freedom and pluralism of media are guaranteed.<sup>15</sup>
2. Censorship is forbidden. No one shall prevent the dissemination of information or ideas through media, except if it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity, or religion.
3. Everyone has the right to correct untrue, incomplete, and inaccurate published information if it violates her/his rights and interests in accordance with the law.

All three of these articles of the Constitution of Kosovo give full rights to journalists and the media in the exercise of their duty, access to documents that can lead to the clarification of corrupt affairs, the protection of the environment, and the identification of those who harm the developing economy.

Investigative Journalism means the unveiling of matters that are concealed either deliberately by someone in a position of power, or accidentally, behind a chaotic mass of facts and circumstances and the analysis and exposure of all relevant facts to the public.<sup>16</sup> In this way, investigative journalism crucially contributes to freedom of expression and media development. This category of journalists is typical for the topic of environmental protection, due to the fact that the big benefits that are in the framework of the environment, and the corrupt affairs that are hidden behind it, are not easy to discover.

Environmental reporting is a branch of journalism with high risks and increased influence due to the fact that reporters covering the environment often tackle sensitive issues or stories involving influential businesses, criminal activities, or high-risk incidents, like land-use conflicts. Well, such a summary is international, since Kosovo, as far as the protection of journalists is concerned, is at a very pleasant and safe level. This is due to the fact that the number of journalists who deal with environmental issues and crimes against the environment, even though there is no accurate data, is quite small. It is this category of journalists who discovered violations with hydropower plants in Kosovo, which led to the suspension of permits and licenses for the construction of new hydropower plants.

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<sup>14</sup> Constitution of Kosovo, Article 41, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

<sup>15</sup> Constitution of Kosovo, Article 42, accessible at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

<sup>16</sup> UNESCO, Investigative Journalism, accessible at: <https://en.unesco.org/investigative-journalism>

## Conclusions

Investigative journalism is a powerful weapon in the fight against environmental crime. By shining a light on illegal activities, such as illegal logging or wildlife trafficking, journalists can help to bring about change. Moreover, investigative journalism can help to raise public awareness of environmental issues and build support for conservation efforts. In recent years, investigative journalists have played a vital role in exposing environmental crimes and bringing those responsible to justice. As the world becomes increasingly aware of the need to protect our environment, it is clear that investigative journalism will continue to be an important tool in the fight against environmental crime.

Kosovo has its rules, principles, and laws dedicated to the environment, which in the beginning were inspired towards aspirations for full harmonization and compliance with international environmental principles and rules. These laws and regulations are in line with European laws and directives. Undoubtedly, the challenges in the environment are not small, but not unsurmountable if the law is implemented more precisely, if citizens are made aware, and if journalists grow up and investigate environmental issues more.

Kosovo has integrated environmental issues into the Constitution of Kosovo, its laws, and administrative acts. Article 7 and Article 52 of the Constitution of Kosovo are constitutional acts that protect the environment throughout all territory. While in addition to this, the main laws for environmental protection in Kosovo are the Law on Environmental Protection in Kosovo, the Law on air protection from pollution, the Law on Strategic Environmental Assessment, the Law on Environmental Impact Assessment, the Law on Integrated Prevention and Control of Pollution, Law on the Inspectorate of Environment, Water, Nature, Spatial Planning and Construction and Law on Spatial Planning.

Legal instruments for environmental protection in Kosovo and at the same time the main central actors are the Ministry of Environment, Spatial Planning, and Infrastructure together with the agencies operating within its framework, such as the Environmental Protection Agency of Kosovo. As for the local level, Regional and municipal waste companies and Regional water companies are some of the actors that contribute to environmental issues.

Environmental journalists in Kosovo are protected by the Constitution of Kosovo, the laws of Kosovo, non-governmental organizations such as the Association of Journalists of Kosovo (AGK), and international organizations such as The Committee to Protect Journalists (CPJ). However, the number of environmental journalists is small, knowing that the problems with the environment are not few in our developing economy.

## Recommendations

The judicial system should increase transparency towards investigations, indictments, summonses, and judicial processes in the field of environmental protection and corruption cases in particular. The Judicial Council needs to ensure that data on environmental degradation cases is accurate and up-to-date. This will enable the Council to treat cases with the urgency they deserve and make sure that resources are used efficiently. Inaccurate data on environmental degradation cases is a major impediment to effective action being taken.

Journalists play an important role in bringing attention to cases of corruption and environmental degradation. However, they often lack the training and resources necessary to effectively investigate and report on these complex issues. As a result, media self-regulatory mechanisms, such as the Print Media Council, should receive the appropriate training in the field of environmental protection. This training would equip journalists with the knowledge and skills necessary to effectively investigate and report on cases of corruption and environmental degradation. In addition, it would help to build the capacity of these media self-regulatory mechanisms to better protect the rights of journalists and hold the media accountable for its reporting.

An online platform that tracks cases of environmental corruption would be a valuable resource for journalists and civil society organizations working to expose environmental crimes. Such a platform could provide up-to-date information on ongoing investigations, allow users to search for specific cases, and provide contact information for key informants. In addition, the platform could serve as a repository for court documents and other relevant materials. By making this information more readily available, we can help to ensure that environmental crimes are investigated and prosecuted more effectively.

The Ministry of Environment, Spatial Planning, and Infrastructure should draw up and publish a map of environmentally damaged areas and publish regular information on their status in order to increase the opportunities for greater media coverage. By doing so, the media will be able to more easily report on the status of these areas and the progress of cleanup efforts. This will also help to raise public awareness of environmental damage and the importance of protecting our natural resources. In addition, the publication of this information will allow environmental groups to monitor the status of damaged areas and hold the government accountable for its cleanup efforts.

Cases of environmental degradation and environmental corruption must be treated with priority. Different modalities can be used in order to give priority to the cases of environmental corruption and to protect the journalists who report these cases. Strengthening the environmental inspectorate is also a possibility that should be considered in order for cases of environmental corruption to be effectively handled by inspection and administrative bodies.

Organize an awareness campaign for the citizens of Kosovo and for the opportunities of reporting negative impacts on the environment. The creation of a special platform through which citizens can contribute with reports of criminal offenses, illegal activities, and denunciations of persons who are involved in crimes against the environment, would have a positive effect on stopping corruption and environmental crime.