

HUMAN

RIGHTS

HUMAN

**CIVIL SOCIETY REPORT**  
**ON HUMAN RIGHTS**  
IN KOSOVO IN 2022

HUMAN

RIGHTS

MAY 2023

# TABLE OF CONTENTS

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## **1. INTRODUCTION**

---

## **2. METHODOLOGY**

---

## **3. KOSOVO'S GENERAL HUMAN RIGHTS FRAMEWORK**

---

## **4. EXECUTIVE SUMMARY**

---

## **5. SECTION A: CIVIL AND POLITICAL RIGHTS**

---

- 5.1. Right to life
- 5.2. The right to humane treatment and the prohibition of torture
- 5.3. The right to liberty and security of person
- 5.4. The right to a fair trial and effective remedy
- 5.5. The freedom of expression and opinion, the right to information, and the right to privacy
- 5.6. The freedom of peaceful assembly
- 5.7. The freedom of association
- 5.8. The freedom of belief, conscience and religion

## **6. SECTION B: ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

---

- 6.1. Labour rights
- 6.2. The right to education
- 6.3. The right to health
- 6.4. Property rights
- 6.5. Cultural Rights

## **7. SECTION C: RIGHTS OF SPECIFIC PERSONS AND GROUPS**

---

- 7.1. Women's rights and gender equality
- 7.2. Children rights
- 7.3. Youth rights
- 7.4. The rights of persons with disabilities
- 7.5. Non-majority communities' rights
- 7.6. LGBTQI+ rights
- 7.7. People on the move

## **8. SECTION D: CROSS-CUTTING ISSUES/SPECIFIC HUMAN RIGHTS ISSUES**

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- 8.1. Transitional justice and human rights
- 8.2. Corruption and human rights
- 8.3. The environment and human rights
- 8.4. Non-discrimination, equality and human rights

# LIST OF TERMS AND ABBREVIATIONS

<b>Ahtisaari Plan (2007)</b>	The Comprehensive Proposal for the Kosovo Status Settlement
<b>AoK</b>	Assembly of Kosovo
<b>BPO</b>	Basic Prosecutor's Office
<b>BSPK</b>	The confederation of independent trade unions in Kosovo
<b>CAT</b>	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CPT</b>	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CERD</b>	Convention on the Elimination of All Forms of Racial Discrimination
<b>CPT</b>	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>CRC</b>	Convention on the Rights of the Child
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CRSV</b>	Conflict-related sexual violence
<b>CSO(s)</b>	Civil society organization(s)
<b>ECHR</b>	European Convention on Human Rights
<b>ECPMF</b>	European Center for Press and Media Freedom
<b>EU</b>	European Union
<b>FCNM</b>	Framework Convention for the Protection of National Minorities of the Council of Europe
<b>FLAA</b>	Free Legal Aid Agency
<b>GoK</b>	Government of Kosovo
<b>HRN</b>	Human Rights Network Kosovo
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>IDP(s)</b>	Internally Displaced Person(s)
<b>IMC</b>	Implementation and Monitoring Council
<b>IPA</b>	Information and Privacy Agency of Kosovo
<b>Istanbul Convention</b>	Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence
<b>KAA</b>	Kosovo Accreditation Agency
<b>KAS</b>	Kosovo Agency of Statistics
<b>KCS</b>	Kosovo Correctional Service
<b>KJC</b>	Kosovo Judicial Council

<b>KP</b>	Kosovo Police
<b>KPC</b>	Kosovo Prosecutorial Council
<b>KPCVA</b>	Kosovo Property Comparison and Verification Agency
<b>KPGE</b>	Kosovo Program for Gender Equality
<b>K-Albanian</b>	Kosovo Albanian
<b>K-Ashkali</b>	Kosovo Ashkali
<b>K-Egyptian</b>	Kosovo Egyptian
<b>K-Roma</b>	Kosovo Roma
<b>K-Serb</b>	Kosovo Serb
<b>LGBTQI+</b>	Lesbian, Gay, Bisexual, Transsexual, Queer and Intersex+
<b>LIK</b>	Labor Inspectorate of Kosovo
<b>MCYS</b>	Ministry of Culture, Youth, and Sports
<b>MCoR</b>	Municipal Commission on Returns
<b>MESTI</b>	Ministry of Education, Science, Technology and Innovation
<b>MICS</b>	Multiple Indicators Cluster Survey
<b>MLSW</b>	Ministry of Labour and Social Welfare
<b>MoJ</b>	Ministry of Justice
<b>MoH</b>	Ministry of Health
<b>NCPD</b>	National Council for People with Disabilities
<b>NGO(s)</b>	Non-governmental organization(s)
<b>NPM</b>	National Preventive Mechanism
<b>OECD</b>	The Organization for Economic Co-operation and Development
<b>OGG</b>	The Office of Good Governance, Human Rights, Equal Opportunities, and Non-Discrimination
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>OIK</b>	Ombudsperson Institution of Kosovo
<b>OPCAT</b>	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>PIK</b>	Police Inspectorate of Kosovo
<b>PISA</b>	Program for International Student Assessment
<b>SOC</b>	Serbian Orthodox Church
<b>SPO</b>	Special Prosecution Office of Kosovo
<b>TAK</b>	Tax Administration of Kosovo
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNESCO</b>	United Nations Educational, Scientific, and Cultural Organization
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children’s Fund
<b>UUESC</b>	The United Union of Education, Science and Culture in Kosovo
<b>Venice Commission</b>	European Commission for Democracy Through Law
<b>WGMP</b>	Working Group for Missing Persons

# 1. INTRODUCTION

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**1.** The Civil Society Report<sup>1</sup> on Human Rights in Kosovo provides an overview of the human rights situation in Kosovo during 2022, including the main problems, human rights violations and challenges to realizing human rights. The report is produced jointly by civil society organizations (CSOs) working in a number of diverse areas relevant to human rights. This report aims to serve as an independent tool to assess the overall human rights situation in Kosovo, thus filling in an existing gap in joint reporting on human rights in Kosovo at the local and international levels, in addition to enhancing cooperation and coordination between CSOs.

**2.** The report is structured into four main sections. **Section A** examines civil and political rights, including the right to humane treatment and the prohibition of torture; the right to liberty and security of person, the right to a fair trial and access to justice; the freedom of expression, opinion, information and the right to privacy; the freedom of peaceful assembly; the freedom of association, and freedom of belief, religion and conscience. **Section B** analyzes economic, social and cultural rights, such as the right to education; the right to health; labor rights; and the right to property and concludes with an overview of cultural rights. **Section C** examines the rights of persons in vulnerable positions, such as rights of children; youth; persons with disabilities; non-majority communities; LGBTQI+ persons; and people on the move. The report concludes with Section D, which elaborates on a number of cross-cutting and specific human rights issues such as, transitional justice and human rights; corruption and human rights; the impact of environmental issues in relation to human rights; and the principle of non-discrimination, equality and human rights.

## 2. A REVISED METHODOLOGICAL FRAMEWORK

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**3.** The joint CSO Report on Human Rights 2022 serves as a comprehensive overview of the human rights situation in Kosovo in 2022. The document reflects areas critical to an in-depth understanding of the development of human rights in Kosovo in the context of its ongoing development as a democratic society with universal values of human rights and freedoms at its core. The methodology is underpinned by the necessity for a broad-spectrum perspective that intersects aspects of policy, practice and experience. As such, the joint CSO report differs from many other overviews on human rights in Kosovo. Even though the report is comprehensive, it is acknowledged that there are limitations to what has been covered.

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<sup>1</sup> See the respective Civil Society Reports for the Human Rights situation in Kosovo in the years [2019](#), [2020](#) and [2021](#). This report is delivered with the financial support of the Human Rights Component of the United Nations Mission Interim Administration in Kosovo and the Office of the United Nations High Commissioner for Human Rights (OHCHR) as well as Civil Rights Defenders (CRD).

**4.** The drafting process of the report was led by the principle of full participation and ownership by all CSOs that work in the field of human rights at the local level and Kosovo wide. The data collection for compiling the joint CSO report consisted of several approaches. First, the report is the result of the respective contributions of 37 CSOs committed to particular human rights issues. Each CSO was asked to provide essential data in their respective areas of concern. This allowed for grouping the report into four sections: Section A concerns the civil and political rights situation in Kosovo. This is followed by Section B, which addresses socio-economic and cultural issues. In Section C, the rights of persons in vulnerable positions are examined followed by intersectional topics including transitional justice, corruption, the environment and non-discrimination in Section D.

**5.** Different from previous annual reports is the manner in which the data collection has been carried out by the respective CSOs. Over the years, the annual CSO report has underscored the critical need for assessment mechanisms that can measure and monitor the implementation of human rights in Kosovo in more quantitative terms. Namely the aim underlying any annual report is the possibility for measuring and comparing the development of human rights over time. By drawing on the methodology developed by the United Nations High Commissioner's Office for Human Rights (UNHCR), which concerns the development of human rights indicators, we have worked with a revised methodology that allows for making time-scaled comparisons. On the basis of lists of indicators developed for each human rights section, the data gathered reflect not just a qualitative effort to understand the context. They are also the result of a quantitative endeavor to measure the human rights situation. Finally, the second part of the procedure included desk research. For each of the sections provided, data was amassed from a variety of reliable resources. In addition, the report was reviewed at two phases of the drafting process. By means of three consultative meetings organized by Human Rights Network<sup>2</sup> (HRN, November 2022, February 2023 and March 2023), contributing CSOs were able to address issues and provide suggestions subsequently incorporated into the joint CSO report. Furthermore, the consultative procedures were enabled by means of email correspondence between the CSO YIHR KS and contracted researchers.

**6.** The following 37 CSOs contributed to this report: Activism Roots, Advancing Together (AT), Artpolis, Balkan Sunflowes Kosovo (BSFK), BIRN Kosova, Centre for Equality and Liberty (CEL), Civil Rights Program Kosovo (CRP/K), Center for Legal Aid and Regional Development (CLARD), Coalition of CSOs for the Protection of Children in Kosovo (KOMF), Democracy for Development (D4D), FOL Movement, Group for Legal and Political Studies (GLPS), Association of Paraplegics and Paralyzed Children of Kosovo (Handikos), Kosovar Centre for Security Studies (KCSS), Kosovar Gender Studies Center (KGSC), Kosova Rehabilitation Center for Torture Victims (KRCT), Kosovar Civil Society Foundation (KCSF), Kosovo Law Institute (KLI), Kosovo Women's Network (KWN), Kosovo Women for Women (KW4W), Kosovo Young Lawyers (KYL), Missing Persons Resource Center (MPRC), Network of Roma, Ashkali and Egyptian Women's Organizations of Kosovo (RROGRAEK), Nevo Koncepti, New Social Initiative (NSI), NGO Aktiv, Partners Kosova, Roma in Action (RIA), Reconciliation Empowering Communities (REC), Roma Versitas Kosovo (RVK), Save the Children Kosovo, Syri i Vizionit, Terre des Hommes Kosovo, Voice of Roma, Ashkali and Egyptians (VoRAE), Vullnetaret e

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<sup>2</sup> Human Rights Network (HRN) (2022). The HRN is a network of seven organizations that work together on further advancing human rights for all in Kosovo. Members of the HRN are: Youth Initiative for Human Rights – Kosovo (YIHR KS), Association of Paraplegics and Paralyzed Children of Kosovo HANDIKOS, Center for Equality and Liberty (CEL), Kosovo Law Institute (KLI), Kosovar Gender Studies Center (KGSC), New Social Initiative (NSI), Voice of Roma, Ashkali and Egyptians (VoRAE). YIHR KS is the founder and the Secretariat of the HRN.

Qytetit (VEQ), Youth Assembly of Ferizaj (YAF), Youth Initiative for Human Rights - Kosovo (YIHR KS), YMCA Kosovo.

## 3. KOSOVO'S GENERAL HUMAN RIGHTS FRAMEWORK

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**7.** Kosovo's Constitution and legislation provide extensive protection for human rights and fundamental freedoms, utilizing a threefold approach. Firstly, numerous provisions throughout the Constitution ensure the protection of fundamental freedoms and human rights. Article 3 establishes the obligation for public authorities in Kosovo to ensure equal treatment of all individuals before the law and to fully respect internationally recognized fundamental human rights and freedoms. Additionally, Article 7 of the Constitution establishes that Kosovo's constitutional order is founded upon, among other values, equality, respect for human rights, freedoms, and non-discrimination, and enshrines gender equality as a fundamental value. Chapter II of the Constitution outlines specific provisions safeguarding civil and political rights, such as fair trial rights, the right to privacy, and freedom of opinion and expression, peaceful assembly, association, and movement, as well as some economic, social, and cultural rights, such as the rights to education and free choice of profession. Notably, Article 53 of the Constitution mandates that any interpretation of human rights and fundamental freedoms guaranteed by Kosovo's Constitution is in compatibility with the jurisprudence of the European Court of Human Rights.

**8.** Secondly, Kosovo incorporates several international human rights instruments into its domestic legal framework. Such entrenchment is based on Article 22 of the Constitution, which stipulates that nine United Nations (UN) and regional human rights instruments are directly applicable in Kosovo, providing an additional legal basis for protecting and promoting human rights and freedoms in Kosovo. In September 2020, the Assembly of Kosovo amended Article 22 to include the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) among the directly applicable human rights instruments, marking a significant advancement for women's rights. All of these directly applicable human rights instruments take precedence over Kosovo's legislation or other acts of public institutions in cases of conflict. Although the International Covenant on Economic, Social, and Cultural Rights (ICESCR) is not among the international human rights instruments directly applicable in Kosovo, the Assembly of Kosovo adopted the 2030 Agenda and its 17 Sustainable Development Goals in a unanimous resolution on January 24, 2018, providing a meaningful entry point for promoting and protecting economic, social, and cultural rights in Kosovo. Similarly, the Action Plan 2021-2023 for the implementation of the Program for the Protection and Promotion of Human Rights and Fundamental Freedoms 2021-2025 provides direct reference to the harmonization of the legal framework in Kosovo with the ESCR. Notably, the year 2022 marks the 75th anniversary of the Universal Declaration of Human Rights (UDHR). The UDHR serves as a landmark document that sets out fun-



damental human rights and freedoms universally recognized and protected. Its importance lies in its role as a cornerstone of international human rights law. The UDHR has been instrumental in shaping national laws and policies and promoting human dignity, equality and justice for all.

**9.** However, since Kosovo is not a member of any of the treaty bodies implementing and overseeing those instruments, the application and oversight of such instruments is partially applicable, namely the three international mechanisms are supervising compliance with relevant conventions through reports from supervisory bodies. These include the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment; The Council of Europe Framework Convention for the Protection of National Minorities and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). The three conventions through their monitoring mechanisms have published reports with recommendations during 2022. Article 53 of the Constitution mandates all institutions to interpret human rights and fundamental freedoms guaranteed by Kosovo's Constitution in line with the jurisprudence of the European Court of Human Rights. However, Kosovo is a member of the Venice Commission of the Council of Europe (CoE), which has provided valuable contributions in ensuring that the proposed legislation is compatible with human rights standards.

**10.** Thirdly, the Constitution dedicates a chapter to the protection and promotion of the non-majority communities in Kosovo, including several additional provisions which ensure affirmative measures in political-economic and social protection of non-majority communities in Kosovo.

**11.** In 2015, Kosovo made further progress in aligning its legal framework with international standards by adopting a package of basic laws on human rights, including Law No. 05/L-019 on Ombudsperson, Law No. 05/L-020 on Gender Equality, and Law No. 05/L-021 on Protection from Discrimination. Their full application is crucial for effectively implementing the human rights framework in Kosovo, requiring the allocation of necessary resources and serious capacity building efforts. During 2022 AoK adopted 121 laws including the Law No. 04/L-017 on Free Legal Aid, Law No. 08/L-020 on International Legal Cooperation in Civil Matters, Law No. 08/L-026 on Amending and Supplementing Law No. 04/L-213 on International Legal Cooperation in Criminal Matters, Law No. 08/L-043 On Amending And Supplementing Law No.04/L-125 on Health, Law No. 08/L-131 on Kosovo Correctional Service, Law No. 08/L-132 on The Execution of Criminal Sanctions, Law No. 08/L-109 on Crime Victim Compensation, which will have impact on overall human rights situation. Frequent changes in legislation within short periods of time remains a systemic problem and poses a threat to adequate implementation.

**12.** Kosovo has established dedicated bodies and mechanisms to promote and protect human rights. Key is the Ombudsperson Institution in Kosovo, which is an independent body responsible for monitoring and defending the rights and freedoms of individuals from unlawful acts of public authorities. The Office of Good Governance, Human Rights, Equal Opportunities, and Non-Discrimination (OGG) is a body within the office of the Prime minister. The OGG designs policies in the areas of good governance, human rights, equal opportunities, and combating discrimination, as well as oversees and provides advice to Ministries in these areas.



**13.** The Inter-Ministerial Coordinating Group on Human Rights (IMCGHR), established by the Kosovo Government in April 2016, served as a high-level political mechanism responsible for monitoring the implementation of human rights policies in Kosovo. In December 2021, it was replaced by the Inter-Institutional Human Rights Coordinating Group (IIHRCG). One of the permanent committees of the Assembly of Kosovo (AoK), the Committee on Human Rights, Gender Equality, Victims of Sexual Violence During the War, Missing Persons, and Petitions, is mandated to formulate draft laws and monitor the implementation of existing ones. Although not designed as an individual complaint mechanism, the Committee can draw attention to human rights issues and trends within the AoK and forward any appropriate individual or group complaints. No new meetings were held in 2022.

**14.** The Ombudsperson Institution of Kosovo (OIK), an independent constitutional body, is responsible for promotion and protection of individuals' rights and freedoms from maladministration of public authorities. In fulfilling its non-renewable five-year mandate, the OIK is empowered to receive complaints, initiate ex-officio investigations, make recommendations, publish reports, and advocate for changes that advance the implementation of human rights standards. The institution plays a critical role in ensuring that Kosovo respects and upholds human rights principles, particularly in the context of governmental actions. The latest elections for the Ombudsperson were held in October 2020 for a non-renewable mandate of five years.<sup>3</sup> The Ombudsperson Institution of Kosovo (OIK) except the traditional mandate as a national human rights institution in dealing with human rights, has been additionally mandated to serve as a Mechanism for the Prevention of Torture (MPT). This mandate is established by the Law on the Ombudsperson of Kosovo and is in line with international human rights standards. Accordingly, the OIK has the power to monitor and inspect all places of detention in Kosovo, including prisons, police stations, and other places where individuals may be deprived of their liberty. The OIK can also receive complaints and investigate allegations of torture and ill-treatment. In addition to its monitoring and investigative mandate, the OIK is also responsible for raising awareness of the prohibition of torture and ill-treatment and promoting respect for human rights in general. The OIK can also provide advice and support to individuals who have been subjected to torture or ill-treatment or who are at risk of such treatment.<sup>4</sup> The OIK, based on the Law 05/L-021 on Protection from Discrimination, serves as an Equality Body at national level, mandated to receive and investigate complaints on discrimination in any ground and not only against public authorities but also against private sector.

**15.** Finally, the Language Commissioner in Kosovo falls under the Office of the Prime Minister, and has the responsibility to promote and protect the rights of all communities in Kosovo to use their own languages in public life, as well as to ensure compliance with the Law on the Use of Languages (2006). The Office of the Language Commissioner also has the competence to receive complaints related to language rights violations, and to take appropriate measures to ensure that the linguistic rights of individuals and communities are respected and upheld. As part of the broader human rights framework, the Language Commissioner and the Office of the Language Commissi-

<sup>3</sup> International Ombudsman Institute (2020), [Kosovo: new ombudsman elected](#).

<sup>4</sup> OIK (2022), [Mekanizmi kombëtar për parandalimin e torturës](#).

oner also has the competence to receive complaints related to language rights violations, and to take appropriate measures to ensure that the linguistic rights of individuals and communities are respected and upheld. As part of the broader human rights framework, the Language Commissioner and the Office of the Language Commissioner play a crucial role in promoting linguistic diversity, fostering social cohesion and inter-ethnic understanding, and contributing to the overall protection of human rights in Kosovo.<sup>5</sup>

## 4. EXECUTIVE SUMMARY

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**16.** In 2022, Kosovo continued to face challenges in protecting and promoting human rights. Violations of human rights occurred in different domains. Civil and political rights remained a concern with violations in the right to a fair trial and the right to effective legal remedies in a manner not consistent with the human rights standards. Human rights questions have also arisen with reference to the transparency of the conditions of detained persons in prison institutions. Additionally, socio-economic rights also continued to be an issue. The energy crisis in the European continent had an impact on raising prices and it created a domino effect on the prices of many other items thus resulting in the economic and social situation with high levels of poverty and unemployment affecting marginalized communities in particular. Furthermore, discrimination against women, children, LGBTQI+ persons, and non-majority communities groups persisted in different forms with instances of violence and limited implementation of their legal protections.

**17.** The concerns that stand out most in the human rights report of 2022 are three issues: First, the tensions in North Mitrovica have escalated and exacerbated the interethnic discord between the K-Albanians and the K-Serbs in both the North of Kosovo as well as in the rest of the country. Following an issue over license plates, which is discussed in depth later in the report, human rights concerns emerged regarding the safety of individuals, journalists, and also public hate speech and the role of media in safeguarding the freedom of expression. Ethnic Serb mayors in northern municipalities, along with local judges and around 600 police officers, resigned in November 2022. A second important human rights dimension upon which the report sheds light is the question of women's rights in Kosovo and gender equality. Given the numerous cases of femicide, domestic violence and sexual assault and discrimination, the safety of women in Kosovo is taken into question and the protection of their basic human rights conditions as safeguarded by law. Finally, from a broader human rights perspective, the Kosovo's CoE application is also an issue that requires attention. Kosovo's application for membership in the CoE would provide access to a range of resources and mechanisms for ensuring human rights protections for its citizens.

**18.** The role of civil society organizations is pivotal and important in monitoring the human rights situation and advocating for change. Through this annual report, the HRN highlights the human rights violations in Kosovo and pushes for full implementation and accountability, while also promoting awareness and education on human rights issues. Despite ongoing challenges, CSOs have

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5 Prime Minister Office (2022), [Office of the Language Commissioner](#).

made progress in addressing human rights concerns in society and continue to work jointly towards a more just and equitable society. As a continuation of the process of cooperation with civil society, the second strategy or the Governmental Strategy for Cooperation with Civil Society 2019-2023 was adopted. It is concerning that out of the four main objectives, only two have been partially implemented concerning the adequate and proper cooperation between CSOs and the Government.

## 5. SECTION A: CIVIL AND POLITICAL RIGHTS

### 5.1 Right to life

**19.** The right to life, which is defined as absolute right, enjoys wide protection in the international human rights law. The Right to life is recognized by Article 3 of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and Article 2 of the European Convention on Human Rights (ECHR), including other international conventions. In compliance with the definition of article 6 of the ICCPR, the right to life is “the inherent right of every person to life,” and the right to not be “arbitrarily deprived of life.”<sup>6</sup> It is important to underscore that no derogation of this right is allowed during the times of humanitarian crises or war. In Kosovo Constitution (2008), the right to life finds its legal basis in Article 25. This Article simultaneously forbids capital punishment in Kosovo, which is in line with the ECHR requirements for the prohibition of death in all circumstances. The obligation of the State with respect to the right to life has also the positive dimension, which requires from the State to take appropriate steps to safeguard the lives of those within their jurisdiction. The Kosovo Constitutional Court has established the case law on positive obligations of the right to life in the Diana Kastrati case in which the Kosovo Constitutional Court ruled that it “is the duty of state authorities not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction.”<sup>7</sup>

**20.** The principles of Effective Prevention and Investigation of Extra-Legal and Summary executions adopted by the economic and social council in its resolution 1989/65 sets forth the obligation of governments to protect individuals and groups threatened by extra-legal, arbitrary and summary executions.<sup>8</sup>

**21.** When it comes to health, nutrition and a right to an adequate standard of living, the GoK lacks a strategy at the national level. In 2021, the MoH published an action plan for the provision of

6 See [OHCHR](#)

7 Gëzim and Makfire Kastrati against Municipal Court in Prishtina and Kosovo Judicial Council, [Case No. KI 41/12](#).

8 See [OHCHR](#)

mental health services at the governmental level during and after the Covid 19 pandemic. This strategy pertained to the years 2020-2021 and was not extended for the time of the reported period. Similarly, two other strategies concerning the promotion of the health of mothers, and children as well as reproductive health pertained to 2020-2021 and were not restated in 2022.

**22.** The Police Inspectorate of Kosovo (PIK) is responsible for investigations of allegations of excessive use of force that may result in injuries and death. In 2022, it published two reports on the management and procedures of arrest and timely action of police forces during its operational activities. In both documents, no reports were made regarding the arbitrary deprivation of life by authorities and duty bearers.<sup>9</sup> While there are no official reports of police inspectorate regarding arbitrary deprivation of life in Kosovo, NGO Kosovo Rehabilitation Center for Torture Victims (KRCT) underscores that it is important to note that mistreatment and excessive use of force by the police are widespread issues that require careful attention.<sup>10</sup> While four cases of death were registered in the correctional service of Kosovo, during the year 2022, two of them were made public. In both cases there was an indication that the prisoners had health problems. Standard rules of operation of the health service determine that in each case of death an autopsy must be performed. However, the autopsy report is not sent to the management, the correctional service or the health service. If obtained, this would help to draw lessons and take appropriate actions to avoid possible mistakes. It is not known if there have been criminal investigations by the prosecution regarding these cases and what is their outcome.

**23.** The duty bearers and authorities have failed to adequately respond to the increased cases of femicide in Kosovo although the CSO report of 2021 already called for increased action in recognition of the problem of gender-related violence and death.<sup>11</sup> In January, in the city of Skanderaj, a woman was murdered by her partner.<sup>12</sup> In December 2022, two women were killed by their former spouses. In the first case, the woman was allegedly asleep when her ex-spouse murdered her with an axe. In the second instance, the victim was shot to death at the park of the Clinical Hospital Centre in Pristina/Priština, where she was expected to give birth the same night. According to media reports, the Basic Court in Ferizaj has confirmed that the victim had a court protection order, which was in effect until March 2023.<sup>13</sup> The Law on Protection from Domestic Violence makes it clear that it is the police authority that must undertake all measures for immediate monitoring and execution of all protective orders in cases of domestic violence. Likewise, the incident occurred on hospital grounds while the victim was under police protective order, instigating further public outrage about the crime.<sup>14</sup> Both deaths happened a week apart during a 16-Days of Activism Against Gender-based Violence Campaign.

9 EU Commission (2022), [Kosovo Report 2022](#).

10 KRCT (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

11 The definition of femicide borrows from [UN women](#), and can be formulated as follows: "intentional gender-related killing that may be motivated by stereotyped gender roles, discrimination against women and girls, unequal power relations between women and men, or harmful social norms."

12 UN Security Council (2022), [Kosovo Report of the Secretary-General 2022](#).

13 Nacionale (2022), [Vrasja e 35 vjecares me urdher mbrojtjes. E kujt eshte pergjegjesia dhe cfare thot ligji?](#)

14 Bota Sot (2022), [Vrasja e Hamide Magashit: cfare po ndodh me 4 zyrtaret policor te suspenduar.](#)

**24.** Pertinent to the right of life are also the health conditions of detainees and medical services provided in prisons and other correctional facilities. According to a report published by the Department of Health in Prison (DHP), between January 2022 and September 2022, 28 attempted suicides were intercepted and 4 deaths in prison reported out of a total prison population of 3,574 detainees.<sup>15</sup> The report contains no further information on the respective causes of death. This can partially be attributed to the institutional discrepancies between the Institute of Forensic Medicine (IFM) in Kosovo and the DHP. According to the DHP, the IFM does not communicate its autopsy reports to the DHP, as reported by the media.<sup>16</sup> Furthermore, KRCT draws caution to the fact that the report is not necessarily a reflection of practice and reality.<sup>17</sup>

## 25. Recommendations

- Autopsy reports about deaths in prison should be shared with correctional service management and the health care service;
- Law enforcement agencies should increase adequate resources and training on ECtHR case law related to right to life and positive obligation of state authorities to prevent and respond to threats to life, including effective monitoring and enforcement of court protection orders in the domestic violence cases;
- Measures and strategies should be undertaken by law enforcement agencies to protect people in vulnerable situations including women, children, and ethnic non-majority communities from violence and discrimination.

### 5.2 The right to humane treatment and the prohibition of torture

**26.** The right to humane treatment and the prohibition of torture finds its international recognition in the Universal Declaration of Human Rights (UDHR, Art. 5), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Art. 1), and the International Covenant on Civil and Political Rights (Art. 7). On a local scale, the Kosovo Constitution (Art. 27) prohibits any kind of inhumane treatment, torture or cruelty as fully in accordance with internationally recognized legal standards (Art. 22).

**27.** In accordance with Article 5 of the UDHR and Art 27 of the Constitution of Kosovo, the right to humane treatment and the prohibition of torture pertains, among others, to the physical and mental integrity of detained and imprisoned persons, the conditions of detention, the use of force by law enforcement officials towards civilians and individuals outside of detention and community and domestic violence.

**28.** In August 2022, the AoK adopted Law No. 08/L-132 on the Execution of Criminal Sanctions and Law No. 08/L-131 on Kosovo Correctional Service. The latter defines the systemization of Kosovo

15 To access the report of the health services provided in the KCS, please consult [the health in prison report 2022](#).

16 RTV (2022), [pse burgjeve nuk u dorezohet raporti i autopsise per te burgosurit qe vdesin](#).

17 KRCT (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

Correctional Service Employees and stipulates the prohibition of any form of ill-treatment towards imprisoned individuals and detained persons.

**29.** According to the EU Commission report 2022, the prevention of torture and ill treatment in 2022 is satisfactory and the Kosovo authorities continue to show commitment to preventing these practices in all circumstances. In this respect, the National Preventive Mechanism (NPM) operates under the supervision of the Ombudsperson Institution. During 2022, it carried out 22 visits to places of deprivation of liberty.<sup>18</sup> The Police Inspectorate of Kosovo registered three cases between January and June 2022 concerning incidents of torture and ill-treatment by the police. Furthermore, the PIK registered 11 cases of suspicion of ill-treatment with 16 officers as possible suspects.<sup>19</sup>

**30.** In accordance with the EU Commission report, the implementation of equal treatment of detainees in the correctional system cannot be fully understood as standardized individual assessments are yet to be adopted.<sup>20</sup>

**31.** Based on the monitoring and assessment of the NGO KRCT the situation in Kosovo regarding the right to humane treatment and prohibition of torture during 2022 has not changed significantly from the previous year. Improvements have been observed in terms of legal framework advancement. In 2022, the legislative package regulating the governance of inmates entered into force (the new Law on Execution of Criminal Sanctions, the Law on Correctional Service, and the Law on Probation Service). The new Law on Execution of Criminal Sanctions has brought positive improvements in terms of fulfilling the demands of prisoners, by increasing the number of week-end days outside institutions, allowing food packages, and the right to appeal the decision of the Conditional Release Panel.<sup>21</sup>

**32.** New correctional centers that have been built and operationalized in recent years have improved the level of general material conditions. Also, renovations were carried out continuously in correctional facilities. Therefore, KRCT estimates that the accommodation of inmates in terms of material conditions, in general, has been at an acceptable level. Improvements also include the recruitment of 50 new correctional officers, who have completed the seven-month training at the Kosovo Academy for Public Safety, and are engaged in the High Security Prison, the Pristina/Priština Detention Center, and the Dubravë/Dubrava Correctional Center. In November 2022, a call for recruiting 50 female correctional officers was published.<sup>22</sup>

**33.** KRCT has managed to conduct 14 monitoring visits to correctional institutions during 2022. In a limited number of cases, KRCT has received allegations of using force against inmates in some instances and verbal harassment from prison staff. Inter-prisoners violence have been reported occasionally, in some of the correctional institutions, mostly in the Correctional Center in Dubravë/Dubrava, but also in the High Security Prison, Detention Center in Pristina/Priština, and Detention Center in Gjilan/Gniljane.<sup>23</sup> Furthermore, The KCS has not yet managed to implement proper

18 EU Commission (2022), [Kosovo Report 2022](#).

19 EU Commission (2022), [Kosovo Report 2022](#).

20 EU Commission (2022), [Kosovo Report 2022](#).

21 KRCT (2022), input for the joint CSO report on Human Rights in Kosovo.

22 KRCT (2022), input for the joint CSO report on Human Rights in Kosovo.

23 KRCT (2022), input for the joint CSO report on Human Rights in Kosovo.



rehabilitation and reintegration programs for convicts based on individual requests and needs, thus this issue remains a challenge regarding the reintegration of the prisoners after finishing the sentence. During 2022, the Ministry of Justice has started with the revision of rehabilitation plans and programs for prisoners, but this process has not yet been completed. Notably, the lack of probation services in the North of Mitrovica has limited the ability of the justice system to effectively carry out alternative sentencing and rehabilitation measures, particularly for individuals who have been convicted of non-violent crimes. As a result, many individuals have been incarcerated in prisons, which are often overcrowded and have poor living conditions.

**34.** Although the agreement for transferring of prisoners from Denmark to Kosovo is still in the process, 2022 has not brought greater clarity regarding the timeline aspects of when the agreement can be approved, or other details for the relocation of the prisoners in the Detention Center of Gjilan/Gnjilane, the renovations that will be carried out in this center, when it is expected to come the first contingent of prisoners from Denmark, etc. This action of the Ministry of Justice, KRCT sees with reservations, because the resettlement of 200 prisoners currently in the Detention Center of Gjilan/Gnjilane would result in overcrowding and deterioration of conditions in other correctional centers. Overcrowding has already been an overarching issue for Kosovo's correctional institutions and has been assessed as meeting the required international standards. Therefore, KRCT assesses that this good standard already established in correctional institutions of Kosovo can be violated very easily through the accommodation of prisoners from Denmark.<sup>24</sup>

**35.** The functioning of the Conditional Release Panel (CRP) remains an issue of concern for convicts. The main complaints of the convicts relate to the content of the reasoning of the Panels' decisions and the delays in the review and response. The reasoning are mainly as models/templates and are often not in line with the positive reports provided by correctional institutions or the benefits that convicts enjoy as a result of their behavior while serving their sentence. An improvement in terms of the CRP, is that the new Law on Execution of Criminal Sanctions provides the convicts the right to appeal decisions of the panel before the Supreme Court.<sup>25</sup>

**36.** The phenomenon of smuggling continued to be present in KCS in 2022. The cases of smuggling involving the staff of correctional institutions remain a concern. Disciplinary measures are taken against them. Although smuggling is present, it is worth mentioning the efforts and success of KCS in preventing a number of smuggling cases as well as their transparency in publishing cases of smuggling.

**37.** The placement and treatment of perpetrators with mental disorders remains one of the most challenging issues in the KCS. The criminal legislation has provided special provisions in the Criminal Code of Kosovo (CCK) and the Code of Criminal Procedure of Kosovo (CPCK) for their placement and treatment. However, these legal provisions have not been implemented in practice. While, article 509, part. 2 of the CPCK stipulates that the detention of perpetrators with mental disorders be held in health care institutions, our correctional and health system does not have sp-

<sup>24</sup> KRCT (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

<sup>25</sup> KRCT (2022), input for the joint CSO report on Human Rights in Kosovo 2022.



ecial institutions for the application of detention for such cases. An initiative of the Ministry of Justice, to arrange the Pavilion D of the Correctional Center in Dubravë/Dubrava as a special facility to accommodate perpetrators with special needs, has started in 2021. Although it was planned that the renovation of this Pavilion would be completed during 2022, it has not yet been completed.

**38.** As per the DPH report and noted upon in the EU Commission report 2022, an increase in preventive measures for self-harm and suicide can be observed in the form of psychological treatment and mental care. The DPH has taken measures for increasing the detection and management of high-risk cases of self-harm and suicide. Yet in spite of these measures, a comparative examination between the years 2021 and 2022 brings to focus an increase in instances of self-harm, suicide and other forms of bodily injuries related to mental illness in 2022 compared the year before.<sup>26</sup>

**39.** KRCT received complaints about delays or lack of responses to requests and complaints. In some prisons convicts must request and come in person to receive these forms themselves when they wish to file a complaint, while the Correctional Staff or Head of the Pavilion will provide them with a copy of the complaint upon submission of the form. Some prisoners stated that they did not file complaints because they feared that correctional staff would retaliate against them. Furthermore, inmates have complained that the internal complaints mechanism does not provide sufficient safeguards to their own confidentiality. In June 2022, for the first time unannounced monitoring visits were allowed as a result of the Cooperation Agreement with the Ministry of Justice, but unfortunately KRCT's full access to prisons was not allowed by the Prison Health Department (Ministry of Health).

**40.** An important case that raises continued is about the state of human rights and justice in Kosovo concerns that of Astrit Dehari. In December 2022, the MoJ announced that twelve samples have disappeared from the Toxicology Laboratory at the Institute of Forensic Medicine. The samples are necessary to clarify the circumstances surrounding the death of Dehari, who was found dead in his prison cell in 2016. The circumstances surrounding his death and the conditions of his imprisonment have been the subject of ongoing controversy and debate.<sup>27</sup>

**41.** In addition to the correctional system, ill-treatment and torture in the context of community-based violence is an essential investigative domain related to human rights violations. In this respect, gender-based violence remains a pressing issue in the context of Kosovo. The GoK approved a Strategy Against Domestic Violence and Violence Against Women for 2022-2026. Between 25 November and 9 December, a UN Women study was conducted regarding women in politics and the forms of ill-treatment and violence against them in political parties and institutions. This study finds patriarchal hierarchies as deeply entrenched societal dynamics contributing to attitudes towards women.<sup>28</sup>

**42.** UNMIK and the Kosovo Law Institute (KLI) have drafted a guide on establishing specialist support services for victims of sexual violence offences. As the UN Security Council Report denotes, the roadmap will be of particular assistance for the government in the inclusion of the require-

26 DPH (2022), [summative report of the activities for January 2022-September 2022](#)

27 Koha (2022), [zhduken mostrat e Astrit Deharit](#).

28 [National strategy on the protection against domestic violence and violence against women 2022-2026](#).

ments of article 25 of the Istanbul Convention. For a more in-depth tableau on sexual violence against women and gender-based violations against humanity, consult section C of this report (7.1).

### 43. Recommendations

- Any allegations of degrading inhuman treatment or torture must be investigated in accordance with the positive obligations and in accordance with the case law of the ECtHR and in case of finding violation, compensation must be awarded;
- The MoJ and KCS should work together to provide a special place for prisoners with mental disorders, therefore since the Ministry has allocated the budget for the renovation of Pavilion D for prisoners with special needs, we recommend taking into account the special spaces for juveniles and female prisoners;
- The management of correctional institutions should exercise continuous vigilance regarding use of force or verbal insult and hold the staff responsible and accountable for any actions where no more force than is strictly necessary and proportionate was used towards prisoners;
- The Ministry of Justice through KCS should support the Social Service in correctional institutions and increase the capacity of staff both in terms of number and professional capacity as the main component of the rehabilitation and reintegration of convicts, in this regard it would be easier to implement programs based on the needs and individual approaches of convicts.

### 5.3 The right to liberty and security of person

**44.** The right to liberty and the security of a person finds its most overt international recognition in Articles 3, 4, and 9 of the UDHR, and in Article 5 of the European Convention of Human Rights. In its clearest definition, the right to liberty and security is a compound notion, meaning that security and liberty cannot be treated separately from one another. Article 29 of the Kosovo Constitution provides that “No one shall be deprived of liberty except in the cases foreseen by law and after a decision of a competent court” in the following situations: pursuant to a sentence of imprisonment for committing a criminal act; for reasonable suspicion of having committed a criminal act, only when deprivation of liberty is reasonably considered necessary to prevent commission of another criminal act; for the purpose of educational supervision of a minor or for the purpose of bringing the minor before a competent institution in accordance with a lawful order; for the purpose of medical supervision of a person who because of disease represents a danger to society; for illegal entry into Kosovo or pursuant to a lawful order of expulsion or extradition. Lawful restrictions to a person’s liberty are further stipulated in the Criminal Procedure Code of Kosovo and the Code of Juvenile justice.

**45.** The Law No. 05/L-003 on Electronic Supervision of Persons whose movement is limited by court decision has yet to be implemented seven years after its entry into force in 2015. Prompted by the murder of Hamide Magashi and other incidents where the perpetrators were under court restraining order, the AoK brought the issue of electronic surveillance back to centerstage in December 2022.<sup>30</sup>

**46.** The prevention of violent extremism and radicalization in the correctional system is a priority area of intervention in the DHP.<sup>31</sup> In particular, the DHP states that in the framework of the project supported by the American Embassy through ICITAP for the fight against violent extremism in prisons, psychiatrists and other prison workers offer their support to the multidisciplinary commissions for the de-radicalization of prisoners. Noteworthy is that this document fails to describe the particular manner in which this support is presumably offered. Statistical data provided in the EU Commission report 2022 paint a clear picture of the degree of radicalization in Kosovo prisons. In total, 23 persons sentenced or detained for terrorism related crimes were in prisons in Kosovo: 17 of them were detained in high security prisons, and 6 in the Dubrava Correctional Center. Between January 2022 and April 2022, a total of 4 prisoners sentenced for terrorism related crimes were conditionally released with a risk-attentive approach to the level of radicalization.<sup>33</sup>

**47.** The security provided by the GoK to vulnerable groups of migrants and asylum seekers remains challenging. A protection-sensitive entry system has yet to be established for the identification, and screening of persons seeking international protection in Kosovo. Furthermore, the authorities continue to adopt detention measures for the mixed flow of migrants to Kosovo when alternative solutions should be provided.<sup>34</sup>

**48.** Security issues and political developments with human rights impact have resurfaced in the north of Kosovo after a series of events followed the decision of the GoK to place temporary license plates at the border crossing points of Kosovo for drivers with license plates issued by Serbia. The mass resignation of ethnic Serb representatives from their government-held positions was the first outcome in November. As a manner of protest to the decision by Kosovo's government to ban Serbia-issued vehicle license plates, K-Serb police officers handed over their weapons and cuffs followed by other Kosovo-Serb officials' resignations from state institutions.<sup>35</sup> Ahead of the municipal elections on December 18, local media and the KP reported on 11 December 2022 the barricading of roads in the Serb-inhabited municipalities of northern Kosovo, as well as explosions and shootings. In order to defuse the security situation, the President of Kosovo issued the decision to postpone the elections until April 2023.<sup>36</sup>

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30 Kallxo (2022), [Vrasja e shtatzënës, Kurti kërkon mobilizimin e institucioneve për mospërsëritje të rasteve.](#)

31 DPH (2022), [summative report of the activities for January 2022-September 2022](#)

32 DPH (2022), [summative report of the activities for January 2022-September 2022](#)

33 EU Commission (2022), [Kosovo Report 2022.](#)

34 EU Commission (2022), [Kosovo Report 2022.](#)

35 Balkan Insight (2022), [Kosovo Serbs continue mass resignations from state institutions.](#)

36 The GoK - President of Kosovo website (2022), [President Osmani sets April 23 2023 as the new date for the holding of the early elections for the municipalities of North Mitrovica.](#)

**49.** The Rapid Response Civic Group (RRCG) originally established by the NGO Aktiv with the aim of overseeing the implementation of measures relating to the COVID-19 outbreak by relevant institutions in K-Serb-majority communities has transformed into a group that records instances of reported excessive use of force in northern Kosovo. According to the NGO AKTIV, based on their monitoring process a total of 86 incidents were recorded involving the security of non-majority communities with a third directed towards the Serbian Orthodox Church (SOC).<sup>37</sup> By December 2022, the number of total incidents that have been targeted at the K-Serbs can be divided into 24 incidents involving religious property of the Serbian Orthodox Church, 19 incidents concerning damage to households and break-ins or robberies, 16 with anti-Serbian spray paintings and graffiti, 11 involving physical attacks, 9 involving theft and damage to private movable property and 7 targeted at public institutions with theft and damage as the main objective. The numbers compared to the previous reported periods suggest an unimpeded continuation of security incidents targeted at K-Serbs. In 2020, AKTIV reported 76 s compared to 87 in 2021.

**50.** Related to the previous paragraph, the question of security among the K-Serb community remains pertinent. A number of individual cases of excessive use of force by the police have been self-reported, raising the question of security among members of the K-Serb community in the South as well as in the North and issues concerning the Right to Liberty and the Right to Freedom from Arbitrary Detention. In November 2022, the Executive Director of NGO AKTIV stated to have been physically and verbally assaulted by members of the Special Operations Unit of the KP in the vicinity of the Jarinje crossing.<sup>38</sup>

## 51. Recommendations

- The CSK should prioritize the prevention of violent extremism and radicalization in the correctional system by providing support to mechanisms for the de-radicalization of prisoners, as well as offering mental health and psychological support to prisoners;
- The MoJ should take active steps to implement Law No. 05/L-003 on Electronic Supervision of Persons whose movement is limited by court decision;
- The Kosovo authorities should address and prioritize the security concerns among non-majority communities by taking concrete steps to investigate and prevent incidents of excessive force and ensuring that all citizens feel secure and protected;
- The Kosovo authorities should enhance accountability and investigation mechanisms concerning police misconduct;
- The KJC and the Supreme Court should call on all criminal courts to properly implement the provisions related to the use of pretrial detention and consider alternatives instead of detention on remand.

<sup>37</sup> Aktiv (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

<sup>38</sup> Aktiv (2022), [excessive use of force by the Kosovo police](#).

## 5.4 The right to a fair trial and effective remedy

**52.** The right to a fair trial and effective remedy finds its international recognition as a fundamental human right in Article 10 of the UDHR which states that “everyone is entitled in full equality to a fair and public hearing [...]”.<sup>39</sup> Article 6 of the ECHR also includes the right to a fair trial and further stipulates that “everyone is entitled to a fair and public hearing within a reasonable time [...]”.<sup>40</sup> In Kosovo’s legislative framework, these international legal standards are mandatory; they are enshrined in the Constitution by means of Article 22. Furthermore, Article 30 stipulates the rights of the accused with Article 31 highlighting the provisions for a fair and impartial trial. Article 32 of the Constitution stipulates the right of everyone to pursue legal remedies “against judicial and administrative decisions which infringe on his/her rights or interests.”<sup>41</sup> In addition to the Constitution, other laws and regulations adopted by the GoK regulate the right to fair trial in the judicial proceedings in criminal, civil and administrative matters. These include the Code No. 08/L-032 on the Criminal Procedure Code, Code No. 06/L-074 Criminal Code, Law No. 03/006 on the Contested Procedure, and Law No. 05/L-031 on the General Administrative Procedure.

**53.** In 2022, the AoK adopted the Code No. 08/L-032 Criminal Procedure Code.<sup>42</sup> According to the EU commission report 2022, the new Code corresponds with the EU standards in that from a procedural standpoint, the rights of the suspects and accused are safeguarded including the right to a lawyer, presumption of innocence, and the right to interpretation and translation to name but a few legal standards.<sup>43</sup> Notably, however, concerns have been raised about amending the Code to allow for trials in absentia in terms of the Right to a Fair Trial of accused persons.

**54.** The Law 04/L-017 on Free Legal Aid was amended in part to include free legal assistance for different beneficiaries, i.e. journalists, photo-reporters, and other actors, when sued for a variety of alleged violations including defamation and strategic lawsuits against participation.<sup>44</sup> Another important dimension of the law concerns the incorporation of The Free Legal Aid Agency (FLAA) in the MoJ. The incorporation of the FLAA into the MoJ reflects the transition of an independent agency into a unit under the umbrella of the MoJ. According to the NGO KLI, this development is unconstitutional. Namely it provides the MoJ with authority to establish the criteria to free legal aid.<sup>45</sup>

**55.** Significant discrepancies persist between policy and practice in Kosovo’s judicial system. Particularly victims of crime are insufficiently informed about legal proceedings and rarely assisted by professional representatives. As per the data provided by the EU Commission report, the budget allocated for legal aid, while improved compared to 2021 with a two percent increase, remains inadequate (see table 1 below).<sup>46</sup> In part, this has to do with a generally low public awareness about free legal aid as a possibility.

39 UDHR, [Article 10](#).

40 ECHR, [Article 6](#).

41 Kosovo Constitution (2008), Articles 30-31.

42 [Code No. 08/L-032 Criminal Procedure Code](#)

43 EU Commission (2022), [Kosovo Report 2022](#).

44 Law no. 08/L-035 on amending and supplementing the Law no.04/L-017 on free legal aid.

45 KLI (2022), [Politicization against the constitution of the FLA](#).

46 EU Commission (2022), [Kosovo Report 2022](#).

**Table 1. Government budget allocated for legal aid**

	<b>2022</b>	<b>2021</b>	<b>2020</b>
Total budget allocated by the GoK for legal aid in EUR	1,702,676	1,686,056	1,398,442

**56.** According to the NGO KLI, the handling of cases within a reasonable time remains problematic: the average duration of civil cases from initiation to final decision is five years and four months.<sup>47</sup> Violations of the right to a fair trial within a reasonable time have been reported in the Ombudsman Institution as well with 356 cases of complaints and 137 opened for investigation.

**57.** An ongoing problem in this respect remains the backlog of cases which inadvertently results in the violation of public hearings within a reasonable time. A statistical report published by the Kosovo Judicial Council (KJC) depicts an overburdening of judicial cases at different court levels.<sup>48</sup> During the reported period 190.938 cases were inherited from the previous years and 128.138 new cases accepted, resulting in a severe backlog of court cases. By the end of December 2022, 221.620 cases remained pending.

**58.** The administration of court cases remains likewise inadequate. The KLI monitored 3,042 court hearings in the Basic Court of Pristina/Priština throughout the reported period (1 January 2022 – 23 December 2022). From this total, 931 cases or 30.6 percent have been postponed resulting in a range of factors. Retrials are also frequent. Following changes in trial panel members, delays in due schedules often exceed legal periods of three months since the last hearing. As the KLI notes, this has resulted in continuous retrials. This holds also true for criminal cases with procedural delays that inadvertently violate the right to a trial within a reasonable time.<sup>49</sup> In criminal cases judges do not decide on legal property claims. Out of 108 cases analyzed, KLI found that judges only in 10 of them decided on legal property claims, while 98 other cases were instructed to civil litigation. Thus, the parties are obliged to wait for the conclusion of two court proceedings, none of which ends within the deadlines set by law, in order to realize their rights.<sup>50</sup>

**59.** Another issue raised by KLI in its annual monitoring of court cases is that judgements insufficiently provide the necessary rationale underlying the court decisions. In the context of punitive judgements in particular, a lack of rationale explicating the type and length of the punishment in

47 KLI (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

48 Kosovo Judicial Council (2022), [Statistical report of the courts](#).

49 Kadriu, M, Shahini-Grajqevci, V for KLI (2022), [“Challenges in investigating and prosecuting serious crimes” KLI](#).

50 Kadriu, M, Shahini-Grajqevci, V for KLI (2022), [“Challenges in investigating and prosecuting serious crimes” KLI](#).



in the decisions undermines transparency.<sup>51</sup> Furthermore, the KLI found that this holds particularly true when assigning and continuing detentions.

**60.** The Kosovo Constitutional Court has also issued a few judgments during 2022 by which it has declared court judgments unconstitutional for violation of the constitutional right to a fair trial. Hence in the case *Ademi v. Kosovo Supreme Court*, the Kosovo Constitutional Court argued that the conclusion of the Court of Appeals and Supreme Court through the decisions, of which the Applicant's statement of claim is rejected as inadmissible, were rendered in violation of the Applicant's right of access to the court provided by Article 31, par. 1 of the Constitution, in conjunction with Article 6, par. 1 of the ECHR.<sup>52</sup> Moreover, in such cases of delays in judicial proceedings, until now the citizens have not been compensated for the violation of this constitutionally guaranteed right.

**61.** The impartiality of courts is a crucial prerequisite for safeguarding the right to a fair trial. Concerns of judicial impartiality were raised by the Kosovo Constitutional Court judgment in the case KI 196/21 where the applicant alleged a violation of the principle of "the impartiality of the court" as a result of the participation of a judge at two different levels of jurisdiction for the criminal case against him. The Kosovo Constitutional Court ruled that the Supreme Court Judgment was rendered in violation of Article 31 of the Constitution because it was rendered by the composition of a Panel, which contrary to the relevant provisions to the criminal proceedings, was attended by a judge who was also part of the decision making in the earlier stages of the same criminal case.<sup>53</sup> However, this remains an issue of concern in Kosovo because the judicial system is both directly and in more covert terms contingent on the political climate as well as relevant interest groups and other external factors.<sup>54</sup> To mitigate outside interference, a judicial vetting system can serve as a key policy tool. Yet while such an initiative has been proposed, the KLI underscores that the process itself is unnecessarily prolonged. A special committee assigned by the GoK and AoK is engaged with the draft constitutional amendments, which will provide for the vetting of the KJC and KPC including Court Presidents in accordance with the Venice Commission's recommendations.

**62.** In addition to impartiality, the presumption of innocence is central to the protection of human rights in the judicial domain. The European Court of Human Rights denotes that public figures can be violators of this principle through public statements they make concerning the criminal responsibility of individuals on trial.<sup>55</sup> Accordingly, the number of public statements made by political actors via different media on issues relating to individual cases has been particularly disturbing.<sup>56</sup> Such statements before trial pose a direct violation of the principle of presumption of innocence.

**63.** The publicity of trials is another central dimension protected by law. According to Law No. 06/

51 KLI (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

52 Case No. KI55/21, Constitutional review of Judgment Rev. no. 387/2020 of the Supreme Court, of 13 January 2021.

53 Case No. KI 196/2, Constitutional review of Judgment PML. No. 310/2021 of the Supreme Court of the Republic of Kosovo, of 14 September 2021

54 Venice Commission (2022), [Opinion on the draft document on the vetting of judges and prosecutors and draft amendments to the Constitution](#).

55 European Union Agency for Fundamental Rights (2021), [Presumption of innocence and related rights: perspectives](#).

56 Albanian Post (2022), [Sveçla for the Brezovica action: Our fight against crime will continue in the coming days](#)



L-054 on Courts, judgements have to be published on the official website “within sixty (60) days from the date of issuance [...] in accordance with the legislation in force.” It is important to add that a case management information system (CMIS) is consolidated, which shall improve the administration of justice in Kosovo and will make the justice system more efficient and transparent.<sup>57</sup> Through its systematic monitoring of the judicial process, the KLI has evidenced tangible improvements on an annual basis. Although courts are yet to comply fully with the Law No. 06/L-054, increasingly more court decisions are made public via the official website compared to previous years. However, to attain full compliance with this legislative obligation an increase in judicial capacities is essential.<sup>58</sup>

**64.** The protection of language rights during court proceedings in the Basic courts of Prishtina/Priština, Mitrovica and Peja/Peć as a central aspect of the right to a fair trial has been satisfactorily safeguarded during the reported period according to the KLI monitoring system, with, as per the KLI, “some exceptions that do not affect the overall assessment.”<sup>59</sup>

**65.** With specific reference to the right to an adequate remedy, current legislation is in misalignment with the Constitution of Kosovo. Contrary to the Constitution, the current legislation does not guarantee access to justice to the decisions of the State Prosecutor for the dismissal of criminal charges or the termination of investigations.<sup>60</sup> Similarly, the new Criminal Procedure Code No. 08/L – 032 provides the right of appeal to the Appeals Prosecutor’s Office in Article 84 paragraph 5, but the same does not hold with regards to the court.<sup>61</sup>

**66.** In January, KALLXO published an investigation on Judge Riza Livoreka, a member of the judiciary in the municipality of Kaçanik.<sup>62</sup> The publication uncovered footage of the judge pressuring a defendant to settle their case outside of court, under threat of property seizure. Since the offered agreement was refused by the defendant, on December 31, 2021, Judge Livoreka issued a decision to take the property from the Malsiu family and give it to the Tusha family. Less than 24 hours after the broadcast of the investigation in the “Kallxo Pernime” program, the Kosovo Judicial Council (KJC) suspended Judge Livoreka.

**67.** Criminal cases involving juvenile proceedings are regulated in Juvenile Justice Code No. 06/L-006. The Justice Academy is tasked with providing training to judicial employers concerning the protection of human rights as a whole, and in accordance with the European Court of Human Rights (ECtHR). It also provides training for judges and staff in ways to treat juvenile cases.<sup>63</sup> Because the media and CSOs are restricted to accessing these cases, a lack of data and insights exist concerning the juvenile justice system.

57 <https://www.u4.no/blog/digitising-kosovos-justice-system-to-prevent-corruption>

58 KLI (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

59 KLI (2022), input for the joint CSO report on Human Right in Kosovo 2022.

60 KLI (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

61 Criminal Procedure Code No. 08/L – 032, Article 84 paragraph 5.

62 Kallxo (2022), Pas hulumtimit të emisionit “Kallxo Përnime” suspendohet gjyqtari Riza Livoreka.

63 Justice Academy (2022), [Meeting calendar](#).

**68.** The right to a fair trial with respect to domestic violence cases has been a core dimension of analysis in a recent report by the NGO GLPS.<sup>64</sup> The GLPS conducted an in-depth examination of 43 judgments published by the Basic Court of Pristina/Priština, in the period January-August 2022. The analysis found that in 70 percent of cases the legal deadlines were not respected. Moreover, the initial review sessions were held as determined by the KPPR in only 30 percent of cases. A numerical examination of GLPS evidences that on average the court requires approximately 952 days (2 years, 7 months and 9 days) to just set the initial review session from the day the indictment is filed. Subsequently, the trial proceedings take on average another 8 months. Concerning the punitive consequences stipulated by law, the GLPS notes that in 81 percent of cases accorded with a conviction verdict followed by the acquittal of 14 percent of cases and the rejection of 5 percent. In reality, the criminal verdicts pronounced by the court in Pristina/Priština constituted a majority of suspended sentences (20), followed by 5 prison sentences, 5 fines and other punishments. This suggests an overall low sentencing culture that discords with the type of criminal offenses. Related to the reasonable time principle, the initiative of the AoK in 2021 to introduce a draft civil rights law that would enable citizens the realization of civil rights including the right to a fair trial within a reasonable timeframe has not materialized in 2022.<sup>65</sup>

## **69. Recommendations**

- The judicial system must implement the constitutional obligation to interpret all human rights and freedoms in accordance with the case law of ECtHR in its judgments;
- The Academy of Justice should adapt the training curricula in accordance with the case law of the ECtHR;
- The Law Faculty should also adapt the curriculum of legal studies in accordance with the constitutional requirements for the implementation of international standards;
- Domestic courts are urged to increase their efficiency in handling domestic violence cases and to apply an adequate punishment policy to those who are found guilty of violence against their family members;
- The AoK and the GoK should take measures to ensure the independence of the judiciary. This includes implementing a justice system vetting;
- The GoK should prioritize the process of the vetting of the KJC and the KPC including Court Presidents in accordance with the Venice Commission opinion;
- Political actors should refrain from making statements about criminal responsibility before trial proceedings;
- Compensation must be provided for wrongful convictions or violations of any human rights or freedoms, not through a new case which could be initiated, but during the same proceeding where violation(s) has been established;

64 GLPS (2022), [The reporting and handling of domestic violence cases January – August 2022.](#)

65 HRN (2022), Joint CSO report on Human Rights in Kosovo in 2021.

- A Code of Ethics for civil servants of all levels and MPs should be developed with the public commenting on guilt or innocence unacceptable and entailing disciplinary measures.

## 5.5 The freedom of expression and opinion, the right to information, and the right to privacy

**70.** The freedom of expression and opinion finds its universal recognition as a fundamental human right in Article 19 of the UDHR, which states that “everyone has the right to freedom of opinion and expression [...] and through any media.”<sup>66</sup> This universal right includes the right to impart, receive and convey information. These basic provisions are restated in Article 10 of the ECHR, which furthermore underscores that the freedom of expression and opinion may be subjected to certain formalities as stipulated by law for the protection of security, confidence, impartiality or the protection of the reputation or rights of others.<sup>67</sup> The legislative framework of Kosovo safeguards the freedom of expression, and the right to information in Articles 40 of the Constitution and a number of other laws. These include Law No. 04/L-046 on the Radio and Television of Kosovo, Law No. 04/L-044 on the Independent Media Commission, Law No. 06/L-085 on the Protection of Whistleblowers, Law No. 04/L-137 on the Protection of Journalism Sources, Law no. 03/L-118 on Public Gatherings, Law No. 02/L-37 on the use of Languages, Law No. 02/L-65 Civil Law Against Defamation and Insult, Law No. 02/L-31 on Freedom of Religion in Kosovo, etc. In general, the freedom of expression legislation and media laws are in line with standards of the CoE and the case law of the ECtHR. It should be mentioned that the Kosovo Constitutional Court has not yet given any judgment stating violation of the freedom of expression provided by Art. 40 of the Kosovo Constitution. However, the EC in its 2022 Progress Report for Kosovo states that as regards freedom of expression, “Kosovo has some level of preparation and benefits from a pluralistic and lively media environment. However, concerns remain regarding public smear campaigns, threats and physical attacks on journalists”.<sup>68</sup> Moreover, there continue to be particular concerns regarding freedom of expression in the north of Kosovo, including self-censorship, which is not in line with requirements of Art. 40 of the Constitution and Art. 10 of the ECHR.<sup>69</sup>

**71.** Related to the question of free speech is the rise in strategic lawsuit against public participation (SLAPP) lawsuits of which some aim at restricting journalistic activities and investigative writing on various topics. In January 2022, the Radio Television of Kosovo (RTK) sent a letter to the Basic Court in Pristina/Priština with the announcement to drop a lawsuit against Agron Demi for defamation which was initiated two years prior following his criticism of the broadcasting station via social media. Furthermore, on March 31, 2022, the singer Asdren Gjikolli, otherwise known by his stage name Gjiko, filed a lawsuit for defamation against Lavdim Hamidi (journalist at “Front On

66 UDHR, [Article 19](#).

67 ECHR, [Article 10](#).

68 EU Commission (2022), [Kosovo Report 2022](#).

69 EU Commission (2022), [Kosovo Report 2022](#).

line”), where he requested the removal of the status on his social network Facebook. This status described and informed the public about the charges of the Basic Prosecutor’s Office in Pristina/ Priština charging the plaintiff with the rape of a minor. Through the lawsuit, the plaintiff also requested compensation of 5,100 Euro. In the same vein, the plaintiff requested the removal of a similar post of journalist Enis Veliu (Executive Director of “Front Online”) on Facebook.

**72.** The inviolability of one’s right to privacy is similarly addressed in the UDHR by means of Article 1, which expresses the following: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence.”<sup>70</sup> The ECHR on the other hand explicitly includes the right to privacy in its framework in Article 8 in the Right to respect for private and family life.<sup>71</sup> The Kosovo Constitution is particularly exhaustive when it comes to the protection of this right. In the right to privacy, as listed in Article 36, the protection of personal data (36.4) is included alongside the maintenance of secrecy of correspondence (6.3) and the inviolability of one’s private, and family life. The protection of personal data is legally secured through the Law No. 06/L- 082. However, “efficient implementation of the Law on Access to Public Documents remains a challenge” states the European Commission in its 2022 Progress Report for Kosovo.<sup>72</sup> The Report further notes that “despite the appointment of a new Commissioner for Information and Privacy, it does not have enough supervisory powers to ensure an independent appeal mechanism if public bodies deny or ignore requests” and “Public bodies continue to not proactively disclose, on their websites, annual plans, reports, budgets and financial plans”.<sup>73</sup> Having in mind the raised concerns, it results that further steps are needed to optimize the implementation of the right to privacy and access to information in Kosovo.

**73.** The Information and Privacy Agency of Kosovo (IPA) is responsible for promoting and protecting the right to access information and privacy in Kosovo. Its main role is to oversee the implementation of the Law on Access to Public Documents and the Law on Personal Data Protection, and to ensure that public institutions comply with these laws. The IPA also provides guidance and advice to individuals and organizations on matters related to access to information and personal data protection, and has the power to investigate and impose sanctions in cases of violations of these laws.<sup>74</sup> In this respect, it is worth adding that IPA received 421 complaints regarding the access to public documents of which 207 were from citizens, 136 from NGOs and 76 from media. Concerning the protection of personal data, IPA received 145 complaints.

**74.** The European Commission stresses the importance to adopt the Law on the Public Broadcaster and amend the Independent Media Commission in alignment with European standards. The main legal instrument with which the GoK should correspond is the Audiovisual Media Services Directive.<sup>75</sup> In 2022, the government has undertaken the first steps in attaining this objective.

70 UDHR, [Article 12](#).

71 ECHR, [Article 8](#).

72 EU Commission (2022), [Kosovo Report 2022](#).

73 EU Commission (2022), [Kosovo Report 2022](#).

74 IPA (2022), [Summary of the activities of the Information and Privacy Agency of Kosovo for 2022](#).

75 Independent Media Commission (2022), [KPM mori pjesë në Konferencën ndërkombëtare e rregullatorëve të medias nga rajoni i Ballkanit](#).

**75.** The legal framework that ensures the safety of the media environment accords with international and legal standards.<sup>76</sup> However, despite the sound legal basis, and legal improvements towards advancing free legal aid for journalists, threats, hate campaigns and other hate speech aimed at journalists have been disproportionate compared to the past.<sup>77</sup> The NGO Fol emphasizes that these hate campaigns and bullying target both figures from the public domain and other individuals who express their opinions by taking a public position on various topics of interest. In 2022, five cases of public smearing of journalists have been reported.<sup>78</sup> Alternatively, concerns remain about the public defamation of journalists by politicians and other officials undermining journalistic integrity and shaping public opinion.

**76.** Kosovo advanced 17 points in the Reporters Without Borders 2022 World Press Freedom Index rankings from 78th to 61st place, whereas according to Freedom House, Kosovo is rated partly free scoring 60/100.<sup>79</sup> Nonetheless, the report emphasizes that obstructions to the freedom of expression in Kosovo continue to exist, including politicized distribution of public funding for media, insults, threats, and physical attacks against journalists. The report also highlights the harassment of K-Serb journalists in the north of Kosovo by the Serbian List ruling party as a concerning issue.<sup>80</sup>

**77.** Related to the paragraph above, many popular politicians have similarly undermined the work of NGOs and activists while minimizing their contributions in advancing societal change. Examples include the politician Haki Abazi, who referred to civil society as “organizata qyqare” in case of the protests surrounding the death of Hamide Magashi.<sup>81</sup> Depending on personal interpretation in Albanian, “qyqare” means either “cuckoo” or “lamenting” and can refer more figuratively in the context of the case of Magashi to the perceived inability of CSOs to advance real change.<sup>82</sup> Although grassroots activism served as the foundation for the career of Prime Minister Albin Kurti and his movement VV!, he appears to downplay the significance of protest actions. Specifically, in a social media post related to femicide, he commented on the brevity of the outrage expressed through such protests, suggesting that they are not sufficient to effect real change. The perceived insignificance of NGOs from the perspective of some policy makers was also highlighted in the interview of Duda Balje, the head of the Committee on Human Rights, Gender Equality, Missing Persons, Victims of Sexual Violence of War and Petitions. CSOs demanded her resignation following her stance on not supporting same-sex marriages. In an interview she exclaims to not have been affected as it concerns demands made by NGOs financed by certain organizations which she did not mention by name. By implication, however, she referred to the international bodies of the UN and EU currently present in Kosovo.<sup>83</sup>

76 EU Commission (2022), [Kosovo Report 2022](#).

77 Lëvizja Fol (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

78 EU Commission (2022), [Kosovo Report 2022](#).

79 Freedom House (2023), [Freedom in the World](#).

80 KCSF (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

81 Haki Abazi (2022) interview for Teve1, [Nuk protestoj, dua të shoh veprim dhe përgjegjësi](#).

82 Euronews Albania (2022), [Vrasja e gruas shtatzënë në Prishtinë, reagon kryeministri Albin Kurti](#)

83 Dylberizm (2022), [Duda Balje vazhdon me sulmet anti-LGBTQ+, deklaron se “Asnjë kosovar e boshnjak s’mund t’i pranojë martesat e tyre.”](#)

**78.** In general, complaints about the violation of the right to freedom of expression can occur in different circumstances and in different forms. In Kosovo, this may include media censorship, using violence or threats against journalists and activists, or banning the publication of certain content. A claim was raised concerning the deletion of comments by a complainant on the social networks of the MoH. In another case, a police officer was suspended as a result of commenting on the government's decision to remove additional payments per policy as a budget saving measure. For both appeals, there is still no final decision.<sup>84</sup>

**79.** The Kosovo Press Council (KPC) and the Independent Media Commission (IMC) are the main independent and self-regulatory bodies involved in ensuring the regulation of media in Kosovo. The activities of the IMC as a monitoring body have restricted themselves to the election periods and the observation of content produced and disseminated during these intervals.<sup>85</sup>

**80.** From an economic standpoint of the media and their operations in Kosovo, financial sustainability is mostly dependent on commercial advertisements and financial donors, often from different political parties.<sup>86</sup> Particularly among private broadcasters, this situation has rendered a paradox whereby the viability of media outlets is contingent on outside financing but the maintenance of media integrity with objectivity and impartiality as crucial dimensions requires a complete independence.

**81.** The Association of Journalists of Kosovo (AJK) has raised concerns on the freedom of the media and the right to expression of opinion following incidents of physical threats and attacks against journalists and verbal attacks on the media by politicians and other public figures.<sup>87</sup> In reference to the attacks, threats, and harassment experienced by media personnel, the Association of Journalists has reported on the language used by influential figures. Notably, the Association highlights the comments made by First Gentleman Prindon Sadriu in early 2022, wherein he referred to journalists as a "Joint Criminal Organization", as well as the derogatory language used by Luan Dalipi, Chief of Staff for Prime Minister of Kosovo Albin Kurti, who pejoratively referred to the media as "criminal businesses" in posts on the social media platform Facebook in March. The Association's findings reveal that the majority of journalists face harassment, threats, and intimidation on social media platforms. These revelations are deeply troubling, and underscore the urgent need for concerted action from relevant stakeholders to uphold press freedom and ensure the safety of media professionals. These concerns have been reiterated by the Council of Europe's Commissioner for Human Rights, Dunja Mijatovic, who stated in a report that "Kosovo is not doing enough to protect journalists from violence."<sup>88</sup>

**82.** Several attacks on journalists reporting from the barricades set up by the Serbian parallel structures in the north of Kosovo were marked at the end of 2022. Local and foreign NGOs, journalists federations, intergovernmental organizations, and foreign missions in Kosovo denounced the attacks and demanded that journalists in the north of Kosovo be adequately protected. In No-

84 US Department of State (2022), [Country Reports on Human Rights Practices 2022: Kosovo](#).

85 EU Commission (2022), [Kosovo Report 2022](#).

86 NDI (2022), [Information integrity in Kosovo. Assessment of the political economy of disinformation](#).

87 AGK (2022), [Hrw sjell në pah klimën e rënduar të të bërit gazetari në Kosovë](#).

88 Balkan Insight (2022), [Kosovo Journalists face threats and attacks: council of Europe](#).



rth Mitrovica, masked individuals violently assaulted Jetmir Muji (cameraman at Insajderi) and attacked a KALLXO journalism crew. RTV Dukagjini and Teve1 crews were also attacked with explosive devices as they were broadcasting live from the north of Mitrovica. As a result of the ongoing danger that journalists, cameramen, and photojournalists have faced while reporting from the north of Kosovo, various international agencies have denounced the attacks and urged the Kosovo authorities to protect the reporters covering the events in the north.<sup>89</sup> The Association of Journalists urged authorities to take measures to ensure the safety of journalists.<sup>90</sup>

**83.** The Law No. 02/L-37 on the Use of Languages is another legal tool by which the freedom of expression and opinion and the right to information can be imposed. Research has shown that in practice the Law is insufficiently implemented with regards to Serbian and its Cyrillic script.<sup>91</sup> Accordingly, K-Serbs cannot access information on pertinent societal issues in their own language. The discrepancy between law and practice directly impedes on K-Serbs' basic right to information.<sup>92</sup> In particular information dissemination by official authorities occurs in the dominant language of Albanian with announcements only belatedly translated to Serbian. In many cases, translations in Serbian are deficient denoting the employment of translators not sufficiently competent in the language.<sup>93</sup>

**84.** The NGO Group for Legal and Political Studies (GLPS) raises concerns about violations of the right to privacy and the protection of personal data by the MoJ. In particular, the MoJ violated Law No. 06/L-082 on the Protection of Personal Data through the publication of the results of the jurisprudence exam on its official website. The list contained significant detail on the personal data information of each candidate including their full names and their parents' names. It was then distributed and shared via social media. A complaint made by the GLPS resulted in an order addressed to the MoJ to halt the publication of personal data when announcing the result of the bar exam on its official website and act in accordance with Law No. 06/L-082. This requires adding pseudonymized codes for each candidate without making candidates' personal information public.<sup>94</sup>

**85.** The Law No. 06/L-081 on Access to Public Documents and the Law No. 06/L-085 on Protection of Whistleblowers have been adopted, but not yet implemented at a satisfactory level.<sup>95</sup>

89 KCSF (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

90 AGK (2022), [Gazetarët vazhdojnë të rrezikohen gjatë raportimeve në veri të Kosovës](#).

91 Demaj & Vandenbroucke (2022), [Persistence of Ethnic and Linguistic Division During the COVID-19 Pandemic Outbreak in Kosovo](#). In: Brunn, S.D., Gilbreath, D. (eds) COVID-19 and a World of Ad Hoc Geographies. Springer, Cham.

92 Aktiv (2022), input for the joint CSO report on human rights in Kosovo 2022.

93 Demaj & Vandenbroucke (2016), discrepancies between language policy and linguistic realities in Kosovo.

94 GLPS (2022), input for the joint CSO report on human rights in Kosovo 2022.

95 YIHR KS (2022), input for the joint CSO report on Human Rights Kosovo 2022.



## 86. Recommendations

- Public authorities in Kosovo should ensure that its laws and regulations are effectively implemented in protection of the freedom of expression, information, privacy and media freedom. This includes protecting journalists and media workers from threats, attacks, and harassment;
- The judiciary should obtain more specific trainings on European Court of Human Rights jurisprudence related to the freedom of expression, information and privacy;
- The GoK should establish a concrete legal infrastructure for the prevention of SLAPP lawsuits as per the draft Directive of the Parliament and the European Council for the Protection of Persons involved in public activities;
- The GoK should work in combating corruption and political influence in the media sector. This could be achieved through measures such as promoting transparency in media ownership, supporting independent investigative journalism, and ensuring that media regulatory bodies are free from political interference.
- Law enforcement bodies in particular should undertake and implement further measures to better protect journalists covering events in real time;
- The KP should put in place adequate measures and implement such measures necessary to guarantee journalists' safety in cases of protests';
- The GoK should develop a systematic monitoring and reporting to tackle the phenomenon of hate speech on media;
- Public institutions should act in accordance with Law No. 06/L-082 on the Protection of Personal Data protecting the rights of citizens and in accordance with Law No. 02/L-37 on the Use of Languages.

### 5.6 The freedom of peaceful assembly

**87.** The freedom of peaceful assembly as a fundamental human right corresponds on the international scale with Article 20 of the UDHR, and posits clearly that “everyone has the right to freedom of peaceful assembly and association” (see also section 5.7 of this report, for freedom of association). Article 11 of the ECHR similarly formulates the freedom of association as a core value. In the Kosovo Constitution, a synonymous formulation is adopted in Article 43 as the freedom of gathering rather than assembly. The Constitution states that “every person has the right to organize gatherings, protests and demonstrations and the right to participate in them.”<sup>96</sup> Other laws form the legislative backdrop of this right in Kosovo are Law No. 03/L-118 on Public Gatherings, Law No. 04/L-076 on Police, and Criminal Code No. 06/L-074.

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96 The Kosovo Constitution (2008), Article 43.

**88.** The Law No. 03/L-118 on Public Gatherings requires that certain conditions be met including the timely notification of the protest or public gathering to the relevant authorities at least 72 hours beforehand. The conclusion of the pandemic outbreak of COVID-19 ended the temporary restrictions placed on the freedom of assembly as throughout the reported period peaceful demonstrations have been organized throughout Kosovo. A positive development is the new draft Law on Public Gathering which is about to go for the second hearing in the AoK.

**89.** In 2022, there was a noticeable rise in the informal initiatives taken by citizens to advocate for the improvement of living circumstances in their local communities.<sup>97</sup> Residents of several neighborhoods in Pristina/Priština frequently protested against the local public enterprise Pristina/Priština Parking, disputing the enterprise's right to levy penalties and seize vehicles.<sup>98</sup> The protesters expressed concerns about the lack of prior public discussions and consultations over the management of public parking lots by Pristina/Priština Parking. In response to public pressure, the Municipality of Pristina/Priština established a commission to review the Rules of Procedures of Pristina/Priština Parking while temporarily halting the enterprises' operation in the neighborhoods where locals had demonstrated.<sup>99</sup> Hundreds of citizens in Kline/Klina protested on several occasions against the construction of a cement factory in the village of Dollc/Dolci due to the potential pollution of the air, water and land. A petition opposing the factory's construction garnered about 4,700 signatures in 2020, which marked the beginning of the citizen opposition. As a result of the public's persistent protests and complaints, the Ministry of Environment and Spatial Planning canceled the environmental permit for the factory's construction.

**90.** As in the previous reporting period, the main thematic topic around which protests and demonstrations converged was gender-based violence with violence against women as the most pressing issue. From local events, a series of public outcries followed the cases of femicide in 2021 with as the most famous case the torture to death of a woman by her former partner. In 2022, two more cases of femicide have resulted in a series of protest demonstrations throughout Kosovo. Furthermore, the rape and sexual trafficking of an 11-year-old child involving multiple perpetrators caused mass protest all around Kosovo. As a consequence of ongoing violence perpetrated against women and girls, in December 2022, the 16-Days of Activism Against Gender-based Violence awareness raising campaign was coordinated this year by the GoK and MoJ specifically. Internationally, the protests of women in Iran opposing the persecution of women by the morality police found common ground in Kosovo. Human Rights CSOs and other individuals organized public gatherings in which they cut off their hair in public sign of solidarity.<sup>100</sup>

97 KCSF (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

98 Koha (2022), [Banorët e tri lagjeve protestojnë kundër "Prishtina Parking."](#)

99 Koha (2022), [Rama: Do të ndryshohet rregullorja e "Prishtina Parking."](#)

100 YIHR (2022), [Facebook post.](#)

**91.** Another theme around which public gatherings were organized in the form of protests included the significant rise in energy prices in Kosovo. In January 2022, the Socialist-Democratic Party of Kosovo organized a protest in Pristina/Priština to oppose the rising energy bills for which they blamed the current political climate of the GoK.<sup>101</sup> Since February 2022, the proposed draft Law on Salaries in the Public Sector has also instigated public outcry and mass protestation. Consequently, the Union of Independent Trade Unions of Kosovo (BSPK) responded with a strike on August 25, demanding a 100 Euro salary increase for all employees (for more, see section 6.1). Demonstrations were organized from various segments of the public sector.

**92.** Protests by the K-Serbs in the North Mitrovica were organized following the decision of the GoK to not allow entrance to drivers with Serbian license plates. As noted in section 5.3, this decision propelled a chain action of events with demonstrations held in the north in Kosovo by K-Serb community.<sup>102</sup> Some of the demonstrations also turned violent. Residents blocked the transit roads near the crossing points in protest. The vehicle registration office in Zubin Potok was burned down and an explosive was found in the office in Zvečan/Zvečan.<sup>103</sup>

**93.** The 2022 European Commission Report has given a positive assessment of the implementation of the right to assembly in Kosovo. It states that “no major security incident related to public gatherings has been reported, but the Kosovo Inspectorate has initiated disciplinary procedures towards police officers that were allegedly involved in incidents during a few protests”.<sup>104</sup>

#### **94. Recommendations**

- The KP should eliminate unnecessary restrictions on the right to assembly, while ensuring that public safety and security are maintained;
- The AoK should approve the draft Law on Public Gatherings without further delays;
- The procedures for notification and authorization of public gatherings should be simplified.

101 ABC News (2022), [Nis protesta kundër rritjes së çmimit të energjisë në Prishtinë](#).

102 Euronews (2022), [Protestë e Serbëve në Mitrovicë](#).

103 United Nations Security Council (2022), Annual progress report.

104 EU Commission (2022), [Kosovo Report 2022](#).

## 5.7 The freedom of association

**95.** The freedom of association is an essential dimension of the human rights' framework and recognized alongside the freedom of assembly in Article 20 of the UDHR. An additional stipulation is formulated in Article 20.1, as the right of everyone to not be compelled to belong to an association.<sup>105</sup> The freedom of association is also guaranteed by Article 11 of the ECHR and the ECtHR has consolidated its jurisprudence on the scope and limitation of the freedom of association. The freedom of association is also guaranteed through the Kosovo Constitution, and includes the right to "establish an organization without permission" (Art. 44.1) and the right to establish trade unions (Art. 44.2). In addition to these international and constitutional instruments, a set of other laws and regulations complete the legislation.

**96.** The Law No. 06/L-043 on Freedom of Association in Non-Governmental Organizations further regulates the constitutional right to associate without obtaining permission. Known as the NGO Law, the legislation for NGOs provides an improved legal environment by removing limitations for foreign residents, and introducing new legal forms with shortened periods for registration.<sup>106</sup> In practice, however, the EU Commissioner's report underscores that no tangible progress has been made in this respect.<sup>107</sup> Furthermore, the Law No. 04/L-011 for the Organization of Trade Unions in Kosovo, and the Law No. 03/L-212 on Labor regulates one's right to form trade unions in the context of public and private employment sectors. Kosovo does not have a specific legal framework targeted for grassroots organizing. Instead, the Law 06/L-043 on Freedom of Association in Non-Governmental Organizations applies to all types of NGOs, including grassroots organizations.

**97.** Against this legislative context, the GoK set up a Council for Cooperation of the Government with Civil Society in 2019. This Council has as its main aim to function as an advisory mechanism and facilitate cooperation between civil society organizations and the government. The Government Strategy and Action Plan for Cooperation with Civil Society approved by the Council for the period 2019-2023 has marked a delay in implementation. Out of the 4 main objectives, two of them have not been implemented at all. This includes the development of practices and procedures for the contracting of CSOs in the provision of public services and the increase of volunteering for programs of public interest.

**98.** In 2022, the GoK adopted the new Administrative Instruction No. 12/2022 on the Registration, Operation, and Deregistration of Non-Governmental Organizations, the drafting process of which started in 2019.<sup>108</sup> The new Administrative Instruction also defines the procedures for registration, operation, and deregistration of institutes as a new form of organization of NGOs recognized by

105 UDHR, [Article 20](#).

106 European Center for Not-for-Profit Law (2019), [Kosovo Adopts new, Progressive Law on NGOs](#).

107 EU Commission (2022), [Kosovo Report 2022](#).

108 Zyra per Qeverisje te mire (2022), [Projektudhezim administrativ nr. xx/2021](#).

the NGO Law approved in 2019. CSOs had provided their essential contribution during the public consultation process on several aspects of the Administrative Instruction regarding general provisions, procedures for registration and deregistration of NGOs, and transitional and final provisions. The Ministry of Interior approved the majority of the proposals, therefore significant improvements were made to the final draft of the Administrative Instruction.<sup>109</sup>

**99.** The Confederation of Independent Trade Unions in Kosovo (BSPK) has intensified its activities concerning delays in the approval of the Law on Salaries in the Public Sector in 2022 and the non-implementation of the Law No. 04/L-249 on Health Insurance, and the Law No. 04/L-101 on Pension Schemes in Kosovo.<sup>110</sup> Concerning the Law on Salaries in the Public Sector, demands of the BSPK to increase the salaries of public sector workers with 100 Euro instigated widespread public debate concerning the government-allocated salaries. Another demand concerned the amendment of Article 8.1 of the Law No. 04/L-131 on Pension Schemes. The current controversy concerns reference to the Pension Security Law of 1983. The proposed amendments seek to modify Article 8.1 and its subsections 1.2 and 1.3, which require 15 years of contribution to pension schemes before 01.01.1999.<sup>111</sup>

**100.** The question of public sector salaries reverberated especially in the education sector with demands by public school workers to lawfully increase their wages. Spearheaded by the United Union of Education, Science and Culture (UUESC) of Kosovo, protests were held on several occasions throughout the reported period and subsequent strikes in September 2022 impeded on the regular start of the school year.<sup>112</sup>

## 101. Recommendations

- The registration process for NGOs and civil society should be streamlined with easier, faster, and more transparent procedures;
- Greater commitment to the implementation of the cooperation strategy between the government and NGOs should be demonstrated;
- Public authorities should ensure practical implementation of the new Administrative Instruction No. 12/2022 on the Registration, Operation and Deregistration of NGOs. The Department for NGOs should also ensure that its staff is trained on the new provisions included in the recently approved Administrative Instruction;
- The Financial Intelligence Unit, the Ministry of Finance and the Central Bank should draft and adopt the specific regulatory framework on banks and CSOs based on the Financial Action Task Force (FATF) recommendation 8, respectively sectoral risk assessment so to allow unhindered financial services for CSOs and encourage bank transactions within CSO financial operations;

109 KCSF (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

110 Kallxo (2022), [Përfundon protesta e BSPK-së, kërkojne nga 100 euro shtesë për të gjithë të punësuarit.](#)

111 Gazeta Express (2022), [Kërkesa për 100 euro shtesë për çdo të punësuar, BSPK'ja proteston sot.](#)

112 Radio Evropa e Lire (2022), [Greva e mesimdheneve.](#)

- The GoK should ensure that workers' right to strike is protected and that their demands are heard and addressed in a timely and fair manner;
- The Council for Cooperation of the Government with Civil Society was set up to facilitate collaboration between civil society organizations and the government. The government should continue to foster such collaboration to ensure that the civil society sector can actively participate in decision-making processes.

## 5.8 The freedom of belief, conscience and religion

**102.** The freedom of thought, conscience and religion concerns the intrinsic right of individuals to manifest, worship and practice their beliefs alone or in a community with others. Its recognition as a universal human right is stipulated in Article 18 of the UDHR, and is equivalently stated in Article 9 of the ECHR. In the latter Convention, restrictions on the manifestations of belief or religion can be stipulated by law only in circumstances where they impinge on the interests and values of a democratic society and are necessary in the interests of public safety, for the protection of public order, public health, or for the protection of the rights and freedoms of others. In the domain of the Kosovo Constitution, this right is formulated in terms of freedom of belief, conscience and religion in Article 38. Moreover, the Kosovo Constitution (Rights of Communities) provides in its Article 59 par. 1 that "members of communities shall have the right, individually or in community, to express, maintain and develop their culture and preserve the essential elements of their identity, namely their religion, language, traditions and culture". The right to believe and manifest one's religion goes hand in hand in the Constitution with the right to change one's religion (Article 3) or not be compelled to join a religious community or make one's religious affiliations known. It should be noted, however, that Kosovo is a secular state and is neutral in matters of religious beliefs as provided by Article 8 of the Constitution. This was well confirmed in the Arjeta Halimi case, in which the Constitutional Court declared, inter alia, that public authorities are bound to observe Article 8 of the Constitution to uphold state neutrality on religious matters.<sup>113</sup>

**103.** In reality, the European Commission report 2022 denotes that full acquiescence to the Law on Freedom of Religion requires putting forth the recommendations of the Venice Commission (2014) in the AoK. The Venice Commission's recommendations center on facilitating legal status, thereby eliminating constraints which include high minimum membership requirements.<sup>114</sup> In December 2022, the Prime Minister of Kosovo opened the first public discussions for the amendment of this law with implementations of the Venice Commission recommendations. It is important to note that Kosovo Constitutional Court has not yet given any judgment concerning violation of the freedom to religion.

113 Case No. KI 36/1. Constitutional Review of alleged non execution of Judgment of the District Court in Gjilan/Gnjilane CN.nr.24/09 of 17 November 2009 and alleged violation of the Applicant's human rights.

114 Ambassador Hovenier (December 2022), [US embassy speech](#).



**104.** The AoK of Kosovo has in its legislative agenda for 2023 the draft Law on Religious Freedom, which will enable religious communities to register and benefit from equal rights. The changes in the legal status of the religious community include the right to legal ownership of property, to rent property, to maintain an official bank account, to hire workers, and to establish institutions of a humanitarian and educational character. The changes also include the formation of a commission to deal with practical matters and determine the criteria for registering new religious communities in Kosovo. The draft Law on Religious Freedom was first approved in 2006 and aims to update the legal framework for religious freedoms to increase compatibility with human rights and fundamental freedoms guaranteed by the Constitution of Kosovo.<sup>115</sup>

**105.** Kosovo has 43 Special Protection Zones, which have been established by Law no. 03/I-039 on Special Protective Zones, with the purpose of safeguarding locations of religious and cultural significance. These zones are granted legal protection from any activities that could potentially cause harm or disturbance to the historical, cultural, or natural environment. A specialized police unit, composed of individuals from diverse ethnic backgrounds, provides round-the-clock surveillance to ensure the security of these zones. While no reported incidents have occurred at these sites within the past two years, instances of theft and vandalism have been reported at Serbian Orthodox Church (SOC) sites located outside of these designated protection zones. NGO Aktiv reports on 24 incidents at religious and cultural Serbian Orthodox sites in 2022.<sup>116</sup>

**106.** A remaining issue yet to be resolved concerns the implementation of the 2016 Constitutional court decision on the Visoki Dečani monastery. The decision confirmed that the SOC has ownership rights over the monastery and the surrounding land, but the GoK has yet to implement the decision.

**107.** Voices against the Administrative Instruction 06/2014 which prohibits students from wearing headscarf as a religious symbol in public schools have returned to center stage, stating that it violates basic human rights, and the right to religious freedoms. In August 2022, an initiative shared on social media brought attention to the issue with requests to abolish the Administrative Instruction and facilitate access to education for girls from Muslim backgrounds.<sup>117</sup>

## **108. Recommendations**

- The AoK should fully comply with the recommendations of the Venice Commission with the draft Law on Freedom of Religion in order to facilitate legal status and eliminate constraints on the right to manifest one's religion;
- The GoK should implement the 2016 Constitutional Court decision on the Visoki Dečani monastery to ensure ownership rights are respected;
- The Kosovo Police and the Office of State's Prosecutor should thoroughly and efficiently investigate religiously motivated offenses and crimes.

115 AA (2023), [Qeveria e Kosoves miraton projektligjin per lirine fetare](#).

116 Aktiv (2022), input for the joint CSO report on Human Rights in Kosovo in 2022.

117 Kallxo (2022), [Rikthimi i nismes per lejimin e bartjes se shamisen ne shkolla](#).

## 6. SECTION B: ECONOMIC, SOCIAL AND CULTURAL RIGHTS

### 6.1 Labor rights

**109.** Labour rights find their universal and international legal basis in Article 23 of the UDHR while the ECHR prohibits any form of forced labor in its Article 4 when stating that “no one shall be required to perform forced or compulsory labor.”<sup>118</sup> On a local level, labor rights are protected by the Kosovo Constitution. The Constitution guarantees the right to work and freely choose an occupation as stipulated in Article 49.1, “every person is free to choose his/her profession and occupation.” The freedom of association, the freedom to form trade unions, and the prohibition of forced labor is also protected through the Constitution. Other stipulations include basic social insurance related to unemployment in Article 51, as well as the equitable representation of communities and members in public employment in Article 61.<sup>119</sup> The legislative foundation is also formed by Law no. 03/L-212 on Labor, Law No. 04/L-161 on Safety and Health at Work, and Law No. 05/L-011 on Trade Union Organization, which regulates and determines the rights and freedoms of employees to establish trade unions in the public and private sector.

**110.** Despite having several labor laws in place, the enforcement of these laws remains weak in Kosovo. The lack of enforcement leads to violations of labor rights, including low wages, long working hours, and unsafe working conditions. A significant percentage of the workforce in Kosovo is employed in the informal sector, which is not regulated by labor laws. This type of employment is often associated with low wages, no job security, and limited access to social protection. A significant number of workers in Kosovo are not covered by social protection schemes, such as pensions, health insurance, and unemployment benefits. This lack of social protection makes workers more vulnerable to economic shocks and poverty.

**111.** Since September 2022, the GoK has worked towards the new Law No. 08/L-196 on Salaries in the Public Sector, which has been approved by the AoK in December 2022.<sup>120</sup> The purpose of the law is to create a uniform system of salaries with at its center transparent principles and rules. In turn, it enables understanding in a manner consistent with international standards the budgetary expenditures of the GoK, enabling a more controlled management of the government incomes and expenses. Referencing the AoK, the current salary system in the public sector is fragmented and deemed ineffective because it lacks a logical foundation.<sup>121</sup> The draft Law has propelled widespread public debate with public sector workers demanding an increase in salaries.

118 ECHR, [Article 4](#).

119 The Kosovo Constitution (2008).

120 Kallxo (2022), [Miratohet Ligji per Pagat ne sektorin publik](#).

121 AoK, [draft Law No. 08/L-196 on salaries in the public sector](#).

**112.** In addition to the Law No. 08/L-196 on Salaries, the GoK is working on amending the current Laws No. 03/L-22 on Labor, and No. 04/L-161 on Safety and Health at Work. In both processes, the main objective is to increase alignment of the local legislation with the EU Acquis and the EU Directive on Work-Life Balance.<sup>122</sup>

**113.** The European Commission report underscores that for the first time since 2011, the minimum wage in Kosovo has increased. In June 2022, the AoK approved in the first reading an increase of the minimum wage to EUR 264 (from EUR 170).<sup>123</sup> On the other hand, the social assistance scheme and protection of disadvantaged persons remains rather inefficient. As reported by the European Commission, most of the budget reserved for social security is spent on old-age and war veterans' pensions with limited financial benefits for other groups.<sup>124</sup>

**114.** The Labor Inspectorate of Kosovo is the central monitoring body that oversees the implementation of the labor laws in practice. This includes the management of overall labor relations as well as health provisions at work. The latter accords with Law No. 04/L-161 on Safety and Health at Work. The activities of the inspectorate are also contextualized against a subset of other laws and regulations. These include the Law No. 04/L-156 on Tobacco Control, which has been amended in 2022,<sup>125</sup> the Law No. 04/L-219 on Foreigners, Law No. 03/L-019 on the Professional Advancement and Employability of Individuals with Disabilities and Law No. 02/L-81 on the Promotion and Protection of Breastfeeding. In the context of the work carried out by the Labor Inspectorate, it should be emphasized that the draft Law no. 07/L-028 on the Labor Inspectorate of Kosovo still awaits approval since 2020.

**115.** The Labor Inspectorate objectives of 2022 converged on three strategic objectives including (1) the decrease of informal and unregistered work, (2) the increase of provisions promoting a healthy working environment, and (3) the digitalization of services within the Labor Inspectorate.<sup>126</sup> In its published progress report for 2022, the Labor Inspectorate states to have completed 6,316 inspections of which 860 followed complaints and 405 were the result of accidents. The Labor Inspectorate emphasizes that in 2022, 394 work accidents were recorded with 15 accidents resulting in death.<sup>127</sup> In the same report, the Labor Inspectorate elucidates that the most frequent violations of legal provisions committed by employers in 2022 concerned the non-compensation for work during holidays, non-compensation during legal annual leave, night-shift work, weekend work and leave from work. In the vast majority of administrative measures, the Labor Inspectorate issued official written warnings followed by fines.

**116.** The Kosovo Agency of Statistics (KAS) has yet to publish the labour force survey for the year 2022 at the time of publication of this report. However, in 2021, there is a decrease in the overall unemployment rate at 20.7 percent compared to 25.9 percent of unemployment rate in 2020. According to the KAS, in 2021 the share of unemployed in the total unemployment rate is with a disproportionate distribution between men (19 percent) and women (25 percent).<sup>128</sup>

122 EU Commission (2022), [Kosovo Report 2022](#).

123 EU Commission (2022), [Kosovo Report 2022](#).

124 EU Commission (2022), [Kosovo Report 2022](#).

125 Official Gazette (2022), [Law on amending and supplementing Law No. 04/L-156 on tobacco](#).

126 Labor Inspectorate (2022), [Plani i performanses së 2022](#).

127 Labor Inspectorate (2022), [Annual progress report](#).

128 Kosovo Agency of Statistics (2022), [Labor force survey 2021](#).

**117.** There are around 208 trade union associations in Kosovo today. In spite of this, the working conditions of employees, especially in the private sector, remain poor with overall low minimum wages and working conditions almost entirely reliant on the willingness of the employer to implement the labor laws. Numerous studies paint a disturbing image of the labor market rights in Kosovo.<sup>129</sup> Nepotism and partiality on the basis of personal preferences are a widespread phenomenon in private workplaces as there is a lack of sufficient control mechanisms.<sup>130</sup> Furthermore, insufficient transparency has resulted in informally employed personnel in formal enterprises.

**118.** The low rate of participation of women in the labor force is an issue of continued concern as it is a contributing factor to the maintenance of patriarchal structures in society. As many women remain financially dependent on men, the democratization of society along the lines of gender equality is challenging.

**119.** The K-Roma, K-Ashkali, and K-Egyptian communities continue to suffer from an especially high unemployment (over 90 percent), and individuals from these ethnic backgrounds are at a high risk of discrimination in the workplace on the basis of their ethnic background.<sup>131</sup> Resultantly, members of these communities usually are employed in the informal sector with insecure menial labor jobs.<sup>132</sup> Albeit delayed, in July 2022, the GoK finally adopted a Strategy for the Advancement of the Rights of the Roma and Ashkali Communities 2022-2026, and an action plan.<sup>133</sup> The strategy aims at advancing the conditions and rights of these communities in different facets of society including education and health, housing and economic empowerment among others.<sup>134</sup> The Strategy foresees specific policies in its action plan including tax relief for the companies that employ citizens from these communities.

**120.** The NGO GLPS raises concerns about violations of the basic rights of employees in the economic sector. In 2022, the GLPS received a complaint concerning the violation of a woman's right to annual leave days. The complaint concerned the denial of one's annual leave after having returned to work following a nine-month period of maternity leave. The woman was denied her annual leave days with the pretext of having previously already taken 9 months off of work. This denial and the accompanying reasoning conflict not only the legal foundations upon which Kosovo's labor rights are built. They also undermine any employer's parental rights to early child care. Although after the intervention of the GLPS, the employer recognized its legal responsibilities, granting the woman with her legally allowed annual leave days.<sup>135</sup> The case is significant because it sheds light onto the lack of will and awareness of employers to respect the legal framework in the workplace.

129 National Democratic Institute (NDI, 2021), [Kosovo public opinion survey](#).

130 National Democratic Institute (NDI, 2021), [Kosovo public opinion survey](#).

131 EU Commission (2022), [Kosovo Report 2022](#).

132 Balkan Sunflowers Kosovo (2022), input for the joint CSO report on human rights in Kosovo 2022.

133 Childhub (2022), [strategy advancing rights of Roma and Ashkali communities 2022-2026 and its action plan for the years 2022-2024 have been approved](#).

134 EU Commission (2022), [Kosovo Report 2022](#).

135 GLPS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

**121.** In 2022, 80 inspections against more than 50 businesses were undertaken and as a result more than 100 undeclared workers without employment contracts were found and a fine of € 200,000 was issued to the businesses for avoiding millions of tax payments; and 2 contests were canceled for official positions – the director of RTK and a dentist position in Podujeva.

**122.** In January 2022, as a result of citizen reports submitted to Kallxo and BIRN's agreement to film the Tax Administration of Kosovo and document the field inspections of the Labour Inspectorate, more than 50 different businesses were inspected throughout Kosovo under the watchful eye of Kallxo cameras. These targeted investigations were chosen based on citizen's complaints in Kallxo alleging various infringements upon workers' rights and non-payment of pension funds. As a result, more than 100 employees were found to be lacking employment contracts, a serious violation of Kosovo's Labour Law. They were given a chance to formalize contracts which assures the workers get the benefits and job security which are guaranteed by the law. Several employers were also fined. All of these actions have periodically been filmed by KALLXO, broadcasted in a series of TV reportages and as a result, they have encouraged more reporting by the public.<sup>136</sup>

**123.** In June 2022, a BIRN investigation revealed that the Trepça JSC public enterprise had not paid pension contributions to its employees for numerous years, resulting in a staggering total owed amount of 9 million Euro.

## **124. Recommendations**

- The AoK should ensure that the draft Law No. 07/L-028 on the Labor Inspectorate is approved in line with relevant EU Acquis (Work-life balance), especially regarding the non-discrimination in employment and parental leave, as well as allocate resources to finance these leaves and invest in expanding the availability of care services;
- The Labour Inspectorate should increase its capacities and inspections in both public and private sectors;
- The AoK needs to urgently adopt the new Law on Labour;
- The GoK should apply affirmative measures as per the Law on Gender Equality in recruitment processes, particularly in higher decision-making positions within the Public Administration;
- The Labour Inspectorate and responsible institutions should hold trainings for employers of public and private sectors concerning the legislative framework;
- The GoK should implement the policies foreseen in the Strategy for the Advancement of the Rights of the Roma and Ashkali Communities 2022-2026 in order to increase the employment of these communities;
- Freedom of association and collective bargaining: Workers should have the right to form and join trade unions, and to bargain collectively with their employers. Employers should not interfere with these rights or discriminate against workers who exercise them;

- The Labour Inspectorate should safeguard the laws in force and the rights of workers, respecting all the rights provided by law;
- GoK should undertake adequate promotion of labor rights for employers in order to respect fundamental human rights, including the right to freedom of expression, association, and peaceful assembly. They should not engage in practices that violate these rights, such as surveillance or harassment of workers.

## 6.2 The right to education

**125.** The international backdrop against which the right to education is best understood in the context of Kosovo's development as a democratic society is Article 26 of the UDHR and Article 2 of the ECHR. Specifically, paragraph 26.1 of the UDHR states that "everyone has the right to education" and underscores that education should be free and made accessible for all, at least at the primary and secondary stages.

**126.** In the legislative framework of Kosovo, the right to education is constitutionally safeguarded. Article 47 ensures the right to free basic education and equal opportunities to education for all individuals in accordance with their specific needs and abilities. In Article 59 of the Rights of the Communities and their Members, the Constitution guarantees the right of non-majority groups to receive education in their own mother tongue provided that the language is officially in use in Kosovo. This is reiterated in the Law No. 03/L-047 on the Protection and Promotion of the Rights of Communities and their Members in Kosovo. The law legally safeguards the language spoken by the non-majority groups as the language of instruction in primary and secondary education. The legislative framework of Kosovo's educational setting is completed with the Law no. 03/L-068 on Education in the Municipalities of the Republic of Kosovo. This law regulates the organization of the public institutions in primary, and secondary schools. The primary legislative context for education at the tertiary level is the Law No. 04/L-037 on Higher Education.

**127.** In December 2022, the GoK approved the draft Law for Higher Education, which has as its aim to create the legal basis for the conditions and manner of exercising educational, research-scientific and quality assurance in higher education.<sup>137</sup> The Higher Education draft law is expected to soon pass the Assembly, according to the MESTI.<sup>138</sup> This law addresses several issues in the realm of higher education, notably the funding based on universities' performance, which provides a strong foundation for enhancing the quality and accountability of higher education institutions in the country. The law also establishes the Ethics Committee as a regulatory body responsible for preserving, protecting, and promoting academic integrity, and preventing any form of academic misconduct. Furthermore, the government has also approved the draft Law for the Kosovo Agenc-

137 Kallxo (2022), [Qeveria miraton projektligjin per arsimin e larte ne Kosove](#).

138 MESTI (2022), email response to HRN concerning recommendations of the previous joint CSO report on Human Rights in Kosovo.



y for Accreditation, ensuring the Agency's independence as the primary carrier of quality assurance in higher education. It is anticipated that both laws will be enacted in 2023, marking the start of the legal infrastructure's completion through secondary legislation.

**128.** Following the recommendations of HRN in the report of 2021 that MESTI ought to intensify their efforts in implementing the existing legislation in the official languages within the education system, noteworthy strides have been made in this respect.<sup>139</sup> MESTI has recently accomplished translating all textbooks for every grade level of the Bosnian and Turkish communities in Kosovo, marking a significant step forward. Furthermore, the Ministry has endeavored to support marginalized communities, including the K-Roma, K-Ashkali, and K-Egyptian populations, through various initiatives aimed at enhancing educational outcomes and participation. This support has taken the form of funding for teaching centers as well as financial assistance for students belonging to these communities. However, there is still progress to be made in fully implementing the relevant legislation.

**129.** The Education Strategy 2022-2026 published by the MESTI in June 2022 is partially based on the Plan of the Government of Kosovo 2021-2025. The strategy is focused on 5 strategic objectives: (1) the increased inclusion and equal access to childhood education; (2) the improvement of the quality of pre-university education through the consolidation of quality assurance mechanisms and quality teaching; (3) the harmonization of vocational education with the dynamic developments in technology and the labor market; (4) the improvement of the quality, integrity and competitiveness of higher education; and (5) the use of digital technology to improve services and quality in education.<sup>140</sup>

**130.** The enrolment of children in pre-school education remains rather low compared to the OECD average, as per the European Commission report 2022. The shortage of sufficient public pre-school institutions plays a part in this economically, as the private sector daycares are expensive. On the other hand, the enrolment of the general school-aged population in primary and secondary institutions as stipulated by law is respected overall.

**131.** Children of K-Roma, K-Ashkali and K-Egyptian communities continue to face significant challenges in terms of equal access to education. The stigmatization of their culture followed by continued forms of discrimination against them impedes the active efforts of the government to arrive at a context in which all children can thrive in a genuinely equal educational setting. Numerically speaking, while some progress has been made in the inclusion of non-majority communities their level of participation remains below average compared to the total population. Only 7.6 percent of pre-school aged children receive forms of pre-school education as opposed to the overall total of 15 percent. In secondary education, numbers are especially glaring compared to the overall population: Only 31 percent of the school-aged non-majority communities receive formal education in contrast to 86.8 percent of the total population.<sup>141</sup>

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139 MESTI (2022), email response to HRN concerning recommendations of the previous joint CSO report on Human Rights in Kosovo.

140 MESTI (2022), [Draft Education Strategy 2022-2027](#).

141 MESTI (2022), [Draft Education Strategy 2022-2027](#).

**132.** Notionally, the educational system in Kosovo is inclusive for children with disabilities following the strategic development plan of the MESTI (2016-2020) that conforms to international and European standards. In 2022, a total of 4,323 individuals with disabilities are enrolled in the pre-university educational system of Kosovo. In reality, however, basic conditions for attending regular education are not met, making it difficult for pupils with special needs to follow their peers. In particular, according to the NGO Kosovo Disability Forum (KDF), many persons with disabilities cannot attend regular education because of the lack of appointed assistants in schools: While institutional support in the form of assistants is mandatory in classes to aid children with special needs, according to MESTI there are only 91 assistants in the whole of Kosovo.<sup>142</sup> The MESTI has allocated funding for an additional 300 assistants in 2023. Additionally, the government should construct ramps in schools located in various municipalities to ensure accessibility for students with disabilities. Furthermore, the initiation of Vocal Synthesis in the Albanian Language is planned to support the blind community.<sup>143</sup>

**133.** The continuous poor quality of education has far-reaching consequences for the social configuration of Kosovo. The performance of Kosovo students in the Organization for Economic Cooperation and Development (OECD) Program for International Student Assessment (PISA) showed the critical importance to reform the educational system. In the past two evaluations, Kosovo has ranked the third lowest overall.<sup>144</sup> The lack of adequate teaching methodologies, materials and discrepancies between what is taught in schools and what is required in practice contribute to the educational culture. Due to the teacher strikes in September 2022, regular classes in public institutions started with a 30-day delay. Arguably, the delay in providing any kind of educational setting added to the mismanagement of the public educational sector.

**134.** Higher education institutions are periodically assessed and accredited by the Kosovo Accreditation Agency (KAA) in both public and private higher education institutions. This periodic assessment has advanced the politics of quality control at the tertiary level. Furthermore, the GoK and the KAA have advanced the quality criteria for academic publishing, reducing the number of accepted journal platforms from 5 to 2. The restriction refers to research published in journals indexed in the databases of Scopus and Web of Science.<sup>145</sup> Although the KAA has already put into practice this precondition, the Administrative Instruction No. 01/2017 emanated by MESTI has already been abolished, and a new Administrative Instruction is underway.

**135.** Children of the K-Serb community operate in accordance with the curricula of Serbia whereas the K-Albanian majority follow the curriculum of the MESTI. While focus of much research has been with the institutional separation between the K-Albanian and K-Serb communities, a recent investigation conducted by Kosovo 2.0 brings the attention to the situation of the K-Roma, K-Ashkali and K-Egyptian children, who more than the other communities suffer from the system of segregation with as a common practice children being transported between schools in different

142 Gazeta Metro (2022), [91 asistentë të punësuar në Kosovë për fëmijët me nevoja të veçanta](#).

143 MESTI (2022), email response to HRN concerning recommendations of the previous joint CSO report on Human Rights in Kosovo.

144 MESTI (2022), [Draft Education Strategy 2022-2027](#).

145 Kosovo Accreditation Agency (2022). [Accreditation manual](#).

towns so as not to share classes with K-Serb or K-Albanian children. Other discriminatory practices include different class hours for children of these communities, and separate classes. This is the consequence of blatant discrimination and refusal of many majority community parents to have their children in ethnically mixed classes with K-Roma, K-Egyptian and K-Ashkali parents.<sup>146</sup> The situation of ethnic segregation in schools perpetuates ethnic divides and impedes on the development of a genuine multi-ethnic and multicultural society. A particularly noteworthy instance of exclusion, which was mediatized widely in Kosovo, concerned the segregation of the few children with a Roma background during children's primer festivities in the municipality of Pejë/Peć. While in the provided concert hall, all the other children were grouped together, the K-Roma children were segregated in a different section of the hall. The declaration of the teacher points to a lack of awareness regarding the importance of inclusion. She stated that the view was better from where the K-Roma children were located, and that the children themselves requested to sit there.<sup>147</sup>

**136.** A recent analytical report published by KEC denotes that inequalities are both overt and less explicitly present in Kosovo's educational system. MESTI has taken some measures to promote ethnic inclusion and diversity in schools including the declaration of 26 April as the Day of Inclusion and Diversity.<sup>148</sup> In addition to ethnic discrimination, inequalities stem from poverty. Another study of KEC shows that dropout rates are higher among financially vulnerable communities because the financial home situation significantly affects pupils' cognitive abilities in school.<sup>149</sup>

### 137. Recommendations

- The MESTI should develop training programs for teachers to improve the quality of education. These programs could include professional development opportunities, mentoring, and coaching;
- The MESTI should step up efforts in providing children with disabilities with the adequate resources;
- The MESTI should provide school guidelines and policies that increase parents' and household caregivers' involvement in schools;
- The MESTI should provide additional educational support to children from traditionally marginalized communities in light of pronounced needs for support with homework and language learning;
- The Draft Law on Higher Education should be properly processed for adoption to ensure mechanisms for quality assurance and the independent operation and autonomy of higher education institutions;
- The GoK should develop inter-ministerial strategic plans to bridge the gap between education and the labor market in Kosovo with a view to making education more targeted to labor market needs, including offering more paid hands-on experience opportunities for students in their field of studies as well as providing electronic-based lecturing;

146 Kosovo 2.0 (2022), [Ghost schools, ghetto schools and segregated shifts](#).

147 Vision Plus TV (2022), [Skandali ne Peje: Mesuesja ndan femijet e komunitetit Rom nga festa](#).

148 Kosovo Education Center (2022), [inequalities in education](#).

149 Kosovo Education Center (2022), [Policy brief on addressing inequalities](#).

- Municipalities with a considerable number of K-Roma, K-Ashkali, and K-Egyptian communities should draft regulations to facilitate the enrollment and attendance conditions of K-Roma, K-Ashkali, and K-Egyptian children in pre-school and higher secondary education level.

### 6.3 The Right to health

**138.** The international human rights basis upon which we can gauge the right to health in the context of Kosovo is the UDHR. In Article 5 of the UDHR focus is directed to the right of all individuals to “a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing [...]”<sup>150</sup> Although the ECHR does not explicitly pronounce the right to health, the European Court for Human Rights has dealt with issues relating to health and health is specified as a fundamental notion in conjunction with “morals” in various other stipulations.

**139.** The legislative framework of Kosovo on the right to health comprises numerous laws and stipulations. An exhaustive overview is listed here with first Article 51 of the Kosovo Constitution on Health and Social Protection. Specifically, Paragraph 1 formulates that healthcare and social insurance are regulated by law followed in Paragraph 2 by basic social insurance relating to unemployment, disease, disability and old age as also regulated by law. In May 2022, the Law on Amending and supplementing Law No. 04/L-249 for Health Insurance was approved.<sup>151</sup> This law forms an important step forward to regulating public health insurance for K-citizens at the level of the GoK. The legislative framework is further completed by the following laws: the Law No. 04/L-125 on Health, the Law No. 02/L-78 on Public Health, the Law No. 02/L-76 on Reproductive Health and the Law No. 06/L-042 on Blood and Blood Products and the Law No. 02/L-109 on Prevention and Fighting against Infectious Diseases.

**140.** The reality of Kosovo’s healthcare system starkly contrasts with the legislative foundations of the country. Progress towards the improvement of healthcare requires a significant restructuring of the system, which the GoK has yet to attempt by means of a functional health care scheme. Partially as a consequence of the poor infrastructural conditions for doctors and healthcare workers and the overall low salaries in the public sector, emigration to wealthier countries has become common. This is problematic as it results in a significant brain drain throughout the territory. In 2022, the Kosovo Chamber of Doctors reported that 674 doctors have left Kosovo since 2018. In 2022 alone, 191 doctors working at public institutions in Kosovo have emigrated to the western European countries.<sup>152</sup>

150 UDHR, [Article 5](#).

151 Official Gazette (2022), [Law No. 08/L-042 on amending and supplementing Law No. 04/L-084 on health insurance](#).

152 The Kosovo Chamber of Doctors cited in Bota Sot (2022), [Sa është numri i mjekëve që lëshuan vendin e punës dhesa migruan nga Kosova?](#)

**141.** The overall budget for healthcare decreased by 14.6 percent compared to 2021 as per the EU commission report whereas the targeted budget for clinical and hospital services increased by 10 percent.<sup>153</sup>

**142.** A problem that has turned into a systemic challenge is the long waits of patients either for surgical interventions or for other examinations, and the waits of up to three years for vascular surgery as a result of the lack of operation hall, when the problem of hall has been resolved, there is still a shortage of anesthesiologists. The situation in the radiology clinic seems to be similar, with waiting times up to 11 months. The thoracic surgery clinic also has an organized waiting system for surgical interventions for breast and chest diseases.<sup>154</sup> Such waiting for health services seriously infringes not only the right to adequate health care, but also the dignity of persons and potentially the right to life. There are cases where patients have died while waiting for certain appointments as they did not have the possibility of medical treatment.<sup>155</sup> This situation has even greater effects on people in vulnerable positions, especially those in difficult economic and social conditions.

**143.** In 2022, the GoK has yet to progress with an adequate social healthcare strategy which either decreases or fully reimburses the cost of diagnostic services and medicine. Thus far, healthcare is free at a notional, and theoretical scale. In other words, although basic healthcare services provided in public institutions are free of charge, the medical costs are driven up resulting in the lack of basic resources at hospitals. Patients are often required to pay for their own bandages, injection tubes and even hygienic tools unavailable at hospitals. The high cost of healthcare impedes on the access of vulnerable groups to appropriate medical treatment. The same holds true for citizens in need of mental health care. The latter remains an underexplored topic in the context of Kosovo society and is not fully integrated as a concern for public health.

**144.** In October 2022, the Minister of Health, Rifat Latifi, resigned resulting in mounting criticism from the health sector and pressures to address the problem of health workers leaving Kosovo. The decision also came after the PM established a Commission for Health in September 2022. The responsibilities of the Commission involved the implementation of “urgent measures that ensure the functioning of the health system.”<sup>156</sup> The MoH operated without a Minister of Health for a five-month period until Arben Vitia was tasked with the position in December 2022.<sup>157</sup>

**145.** The child mortality rate in Kosovo is alarming in comparison to the EU and the region: it is three times the average of the EU mortality rate and the highest in the Western Balkan region.<sup>158</sup> Particularly in the non-majority groups of the K-Roma, K-Ashkali and K-Egyptian communities the child mortality rates are higher, indicating as such that basic health needs are not met. Part of the problem due to the medical domain and the lack of specialized medical doctors. To illustrate, Kosovo has the lowest number of anesthesiologists in Europe.<sup>159</sup>

153 EU Commission (2022), [Kosovo Report 2022](#).

154 Evropa e lirë (2022), [Deri ne tre vjet pritje per sherbim ne QKUK](#).

155 Evropa e lirë (2022), [Deri ne tre vjet pritje per sherbim ne QKUK](#).

156 Prishtina Insight (2022), [Kosovo Health Minister quits after mounting criticism](#).

157 Evropa e Lire (2022), [Deri në tre vjet pritje për shërbim në QKUK](#).

158 World Bank (2022), [mortality rate infants, Kosovo](#).

159 Koha (2022), [Kosova nder kampionet evropiane per mungese te anesteziologeve](#).

**146.** Kosovo continues to face challenges in routine immunizations. UNICEF Kosovo reports that with a vaccination scale of 73 percent, Kosovo children are not fully immunized. An ethnic gap is also persistent among the communities. More than half of children from K-Roma, K-Ashkali, and K-Egyptian communities miss their critical immunizations; only 38 percent of children from these communities are fully vaccinated.<sup>160</sup>

**147.** Mental health in Kosovo is a concern resulting from the post-war environment, poverty, social exclusion, and limited access to mental health services. A significant proportion of the population suffers from depression, anxiety, and post-traumatic stress disorder (PTSD).<sup>161</sup> Unfortunately, mental health is not yet fully integrated into the healthcare system, and there is a lack of funding for mental health services. Furthermore, mental health stigma and discrimination are prevalent, resulting in a reluctance to seek help. Addressing these issues requires a multi-sector approach, including the involvement of the government, non-governmental organizations, and mental health professionals. Initiatives aimed at improving the mental health situation in Kosovo have prioritized the promotion of awareness and education, and emphasize the importance of increasing access to mental health services, and reducing stigma and discrimination.<sup>162</sup>

## 148. Recommendations

- The GoK should commence with implementing basic health insurance conform to the amended Law no. 04/L-249 on Health Insurance;
- The MoH should take urgent measures to avoid long waits for interventions or examinations in order to guarantee adequate medical treatment;
- The GoK and MoH should undertake a strategy for retaining health workers and doctors in Kosovo;
- The MoH should intensify efforts to increase the immunization rate of all children in Kosovo with specific attention to children from K-Roma, K-Ashkali and K-Egyptian communities;
- The GoK should increase the budget for the health system in Kosovo including an increase in budget for mental healthcare services.

160 UNICEF (2022), [UNICEF and WHO call for intensified efforts to make sure every Kosovar is covered with their critical vaccinations.](#)

161 KTV (2022), [Sonte me Rronin: Shendeti mendor në Kosovë](#)

162 KTV (2022), [Sonte me Rronin: Shendeti mendor në Kosovë](#)



## 6.4 Property rights

**149.** The international standards upon which we should best understand the situation of housing and property rights in Kosovo are Articles 17 and 1 of the UDHR and ECHR respectively. The UDHR is concise when it states that “everyone has the right to own property” and that “no one shall be arbitrarily deprived of his property.”<sup>163</sup> On the other hand, the ECHR describes in more depth the fundamental freedom to property, denoting it in terms of “possessions.” The duty-bearers’ rights to implore regulatory mechanisms for controlling property ownership are also specified.

**150.** Numerous laws and regulations are put in place to define and regulate property rights in Kosovo. In the domain of the Constitution, protection of one’s property is guaranteed through Articles 46 and 156. More generally in Article 46, the right to own property is safeguarded. The arbitrary deprivation of one’s legal rights to their property goes against the Constitution. More specifically addressing Internally Displaced People (IDPs) and returnees, originally following the Kosovo war and more broadly covered, the Constitution obligates the GoK to provide expedited assistance for the lawful reclaiming of property. Other laws and regulations that paint the legislative picture of property rights in Kosovo are as follows: The Law No. 03/L-154 on Property and other Real Rights, the Law No. 08/L-052 on Amending and Supplementing the Law No. 05/L-010 on the Kosovo Property Comparison and Verification Agency, Law No. 05/L-010 on the Kosovo Property Comparison and Verification Agency (KPCVA), which came into effect in 2002. In addition, the Law No. 2002/5 on the Establishment of the Immovable Property Rights Register, the Law No. 03/L-007 on Out Contentious Procedure, the Law No. 2004/26 on Inheritance, the Law No. 05/L-020 on Gender Equality, the Law No. 2004/32 on Family, and the Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions complete the legislative framework.

**151.** The new Law on Trademarks in Kosovo came into force on July 28, 2022, with the objective of aligning local legislation with EU Directive 2015/2436, which aims to standardize laws related to trademarks across EU Member States. The law also serves as a foundation for implementing Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights, which addresses the enforcement of intellectual property rights. Notably, the new law includes several changes.<sup>164</sup>

**152.** The supervisory mechanism concerning the implementation of property rights, laws and regulations is the Kosovo Property and Verification Agency (KPCVA). This Agency is tasked with settling property claims and for the right to use non-mobile property of both a residential and commercial nature. This includes property claims and disputes linked with the Kosovo war in the late 90s, with IDPs and returnees.<sup>165</sup>

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163 UDHR, [Article 17](#).

164 SPD (2022), [New trademark law enters into force in Kosovo](#).

165 [Kosovo Property and Verification Agency \(2022\)](#).

**153.** One of the main challenges related to property rights in Kosovo continue to be the issues of disputes related to property rights and those related to usurpation of properties. Competent for resolving and deciding them are the courts which, due to the overload of cases, cannot guarantee effective solutions within a reasonable time limit. Without improving the effectiveness of the judicial system, positive developments regarding the right to property cannot be expected because this right is fully dependent on the ability of the judicial system to function properly and effectively.

**154.** Due to structural gender inequality in Kosovo, women's access to property and inheritance rights is hindered, although the constitutional, legal, and policy frameworks promote and guarantee women's access to these. Further, public authorities' incapacity to verify the validity of cadastral data, as well as personal biases based on patriarchal norms and values that only men should own or inherit properties, impact women's practical access to property. Moreover, additional research and evidence show that men tend to not register joint property with their spouses, and women do not claim property and inheritance due to their low awareness regarding their rights and pressure from their families.<sup>166</sup>

**155.** Positive developments following the work of the KPCVA can be observed concerning the property rights of IDPs, women and other individuals in vulnerable situations. During 2022, 29 evictions were carried out and registered properties by women have increased annually. This trend has continuously increased since positive measures were instituted promoting property rights for women. To illustrate, in 2016 only 104 women were registered as property owners compared to 2021 when 8,922 properties were legally owned by women. In 2022, the number of properties registered under the name of women has increased with 4,741 new properties.<sup>167</sup> In the entire country, a total of 12,158 cadastral units are registered as co-owned, mostly in the context of marriage.<sup>168</sup>

**156.** The housing conditions of persons in vulnerable situations are not aligned with minimum safety requirements. There is a lack of will and commitment by the official duty-bearers to help solve their living conditions.<sup>169</sup> The improvement of the living conditions of vulnerable groups remains weak from the institutional side of the fence and vastly charity- and donor-driven.

**157.** Concerns regarding illegal property dealings and illicit transfer of property ownership, particularly those belonging to displaced individuals, persist. The matter of 350,052 structures constructed without proper authorization has seen little advancement, with only 925 legalization applications received. Local establishments have rendered 3,649 judgments on the legalization of unauthorized constructions. The process of legitimizing extensive informal communities, whose inhabitants largely consist of marginalized and vulnerable populations, is still being impeded by a lack of political determination to tackle the problem.<sup>170</sup>

166 KGSC (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

167 Kallxo (2022), [Barazia gjinore: rreth 126 mijë prona në emër të grave në Kosovë](#).

168 Kallxo (2022), [Barazia gjinore: rreth 126 mijë prona në emër të grave në Kosovë](#).

169 Kallxo (2022), [Barazia gjinore: rreth 126 mijë prona në emër të grave në Kosovë](#).

170 EU Commission (2022), [Kosovo Report 2022](#).

**158.** Civil society organizations have expressed their concerns about the decisions of the GoK regarding the expropriation of land in the municipalities of Zubin Potok and Leposavić/Leposaviq in the north of Kosovo.<sup>171</sup> In the north of Kosovo, the confiscation of private property without the consent of the owners and their participation in the expropriation process discords with the laws of Kosovo. The CSOs highlight that the Law No. 03/L-139 on the Expropriation of Immovable Property foresees a clear set of procedures in cases of expropriation, including notifying the owners of parcels subject to expropriation, public consultations, and fair compensation to owners, none of which have been completed.<sup>172</sup> The decisions of the GoK on expropriation for the sake of special public interest do not contain a reference to the relevant legal basis, and do not specify whether the matter is urgent or explain why the regular process was not followed.<sup>173</sup> The CSOs emphasize that the GoK has a constitutional and legal duty to balance the public interest with individual property rights as guaranteed by the Constitution.

### **159. Recommendations**

- The judicial system must build capacity and prioritize property disputes and usurpation disputes to bring its actions in accordance with the requirements of international standards for fair trial within a reasonable time;
- The GoK should organize awareness campaigns and affirmative measures for the registration of real estate properties;
- The GoK should adopt affirmative measures in order to enable easier access for investment for women seeking to acquire, develop or invest in property.;
- Law enforcement agencies should monitor and protect property owners and IDPs from unlawful seizure, destruction or invasion of their properties;
- The GoK should engage with local communities to understand their property needs, and to work collaboratively to identify and implement solutions to property-related issues;
- The GoK should undertake awareness raising campaigns to educate citizens about their property rights, and the legal and economic benefits of formal real estate ownership, to encourage greater participation in property markets and to promote economic growth.

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171 Aktiv (2022), [Concern regarding the decisions on the expropriation of land in the North of Kosovo.](#)

172 Aktiv (2022), [Concern regarding the decisions on the expropriation of land in the North of Kosovo.](#)

173 Aktiv (2022), [Concern regarding the decisions on the expropriation of land in the North of Kosovo.](#)

## 6.5 Cultural Rights

**160.** The international standards that recognize cultural rights as integral for individuals' dignity and self-actualization are Articles 22 and 27 of the UDHR. In the legislative framework of Kosovo, the Constitution is much more explicit in the protection of the cultural rights of communities and their members. Article 59 states that members of communities have the right to "express, maintain and develop their culture and preserve the essential elements of their identity, namely their religion, language, traditions and culture."<sup>174</sup> Furthermore, communities have the right to "establish associations for culture, art, science and education as well as scholarly and other associations for the expression, fostering and development of their identity."<sup>175</sup> The violation of cultural rights is understood in Resolution 30/20 of the Human Rights Council in terms of a threat to "stability, social cohesion and cultural identity."<sup>176</sup> In its government program, the GoK commits to improving the legal framework for the promotion of Kosovo's cultural heritage.<sup>177</sup> Having said this, it is important to underscore that Kosovo has yet to integrate the International Covenant on Economic, Social and Cultural Rights as a core instrument of its constitutional framework.

**161.** The infrastructure for the protection of Kosovo's cultural and religious heritage is stated in Article 9 of the Kosovo Constitution. In Article 9, the cultural heritage of communities is described as "an integral part of the heritage of Kosovo," and accordingly, it is stated that "[...] Kosovo shall have a special duty to ensure an effective protection of the entirety of sites and monuments of cultural and religious significance to the communities."<sup>178</sup> In the Law No. 02/L-88 on Cultural Heritage, the scope of cultural heritage is defined as "the architectural, archaeological, movable and spiritual heritage regardless of the time of creation and construction, type of construction, beneficiary, creator or implementer of a work."<sup>179</sup>

**162.** The failure of the GoK to amend the Law No. 02/L-88 on Cultural Heritage as committed to by the government, and stipulated as a precondition for Kosovo's political transformation in Annex V of the Ahtisaari Plan (2007) remains a notable issue of concern. As highlighted in the previous two CSO reports and in the current European Commission Report (2022), the Implementation and Monitoring Council (IMC) continues to remain the only formal mechanism for dialogue between the government and the Serbian Orthodox Church.<sup>180</sup>

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174 The Kosovo Constitution (2008).  
 175 The Kosovo Constitution (2008).  
 176 The Kosovo Constitution (2008).  
 177 GoK (2021), [Government Program 2021-2025](#).  
 178 The Kosovo Constitution (2008).  
 179 [The Law no 022/L-88 on Cultural Heritage](#)  
 180 EU Commission (2022), [Kosovo Report 2022](#).

**163.** The intergroup dispute between the K-Albanians and the K-Serbs about Kosovo's ethnic character continues to politicize the cultural heritage of one another in the country. The failure of the GoK to implement the Constitutional Court Decision of 2016 about the propriety rights of the Serbian Orthodox Church over the Visoki Dečani monastery as well as adjacent land undermines the ethno-religious freedom of the K-Serb community. Against this understanding, Serbian Orthodox representatives have submitted a parliamentary question to the European Parliament inquiring about the religious rights in Kosovo. The parliamentary response made available via the website in July, the EU Parliament stressed the pressures made to the GoK to implement the decision.<sup>181</sup> In May 2022, the GoK restated its pledge to protect the cultural heritage of Kosovo and requested that the Visoki Dečani/Deçan monastery, the Patriarchate of Peć/Peja, the Gračanica/Gračanica Monastery, and the Church of the Holy Virgin of Ljeviš/Kisha e Shën Premtës be removed from the List of World Heritage in Danger.<sup>182</sup>

**164.** Kosovo is not currently a member of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) because it has not been recognized as an independent state by all UN member states. In order to become a member of UNESCO, a country must first be a member of the United Nations. However, this has not dissuaded Kosovo's bid for membership in UNESCO, although its application has been blocked consistently by Serbia and its allies, who view Kosovo as a province of Serbia.

**165.** The vandalization of Serbian Orthodox churches and desecration of graveyards with anti-Serb spray-paintings and graffiti continues to be an issue of concern in Kosovo among K-Serb community members. NGO Aktiv refers to 24 incidents of vandalization of the Serbian Orthodox heritage and its religious sites.<sup>183</sup> The vandalism concerned the desecration of Orthodox graveyards in the municipalities of Prizren, Fushë Kosovë/Kosovo Polje, Graçanicë/Gračanica and Istog/Istok. Likewise, cash theft from mosques were reported and damage to a Catholic Church in Pejë/Peć.<sup>184</sup>

## **166. Recommendations**

- The GoK should improve the legal framework for the promotion of Kosovo's cultural heritage;
- The AoK should include the International Covenant on Economic, Social and Cultural Rights as a core instrument of human rights in its Constitution;
- The Ministry of Culture, Youth and Sport should protect the entirety of sites and monuments of cultural and religious significance to the communities;
- The GoK must amend the Law on Cultural Heritage in accordance with the pre-conditions stipulated in the Ahtisaari Plan (2007);

181 European Parliament (2022), [parliamentary question about Serbian Orthodox rights in Kosovo](#).

182 UN Security Council (2021), [Kosovo Report of the Secretary-General 2021](#).

183 Aktiv (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

184 EU Commission (2022), [Kosovo Report 2022](#).

- The GoK must implement the Court decision of 2016 about the property rights of the Serbian Orthodox Church over the Visoki Dečani monastery to avoid undermining the ethno-religious freedom of the K-Serb community;
- The GoK must take appropriate measures to ensure the safety of the religious sites of the Serbian Orthodox Church and other religious sites;
- GoK should allocate more funds for culture in Kosovo and the promotion of the people to participate in cultural life.

## 7. SECTION C: RIGHTS OF SPECIFIC PERSONS AND GROUPS

### 7.1 Women's rights and gender equality

**167.** Women's rights are protected through various laws and regulations. On the constitutional domain, gender equality is recognized "as a fundamental value for the democratic development of the society, providing equal opportunities for both female and male participation in the political, social, cultural and other areas of societal life."<sup>185</sup> In addition to this stipulation, the Constitution aligns with a set of international agreements and conventions on the protection of discrimination on the basis of gender. In particular, Article 22 states that priority over local laws and provisions is rendered to directly applicable conventions.<sup>186</sup> Convention on the Elimination of All Forms of Discrimination Against Women and the Istanbul Convention are directly applicable human rights instruments on women's rights.<sup>187</sup> While not explicitly cited in the Constitution, Kosovo's legislation recognizes the United Nations Security Council Resolution 1325 on Women, Peace and Security (UN Resolution 1325).<sup>188</sup>

**168.** Other local laws and regulations on gender equality reflect international principles and legislation on gender equality and the promotion of women's rights. This includes Law No. 05/L-020 on Gender Equality, Law No. 05/L-021 on the Protection from Discrimination, and Law No. 03/L-182 on the Protection against Domestic Violence. Sexual harassment and domestic violence have been included in the revised Criminal Code, which provides for a special criminal offense and recognizes different forms of violence in the family. These include psychological violence, economic violence, sexual violence and other types of violence within relations of the domestic kind.<sup>189</sup>

185 The Kosovo Constitution (2008).

186 Notably, it is only in the case of conflict or misunderstanding that the international agreements take precedence over provisions of laws and other acts of public institutions.

187 The Istanbul Convention is formally known as the Council of Europe convention on preventing and combating violence against women and domestic violence.

188 [Resolution 1325](#) affirms the impact of war on women and girls and the importance of women's full participation in conflict resolution.

189 MoJ (2021), [Strategjia kombëtare për mbrojtje nga dhuna në familje dhe dhuna ndaj grave 2022-2026](#).



**169.** The institutional mechanisms that safeguard the implementation of gender equality as a constitutional right in public institutions and protect policies securing women's equal access to society and services are regulated by law. The Agency of Gender Equality (AGE) is the governing body charged with monitoring the local implementation of international public policy and the systemization of gender mainstreaming in GoK policies. According to the EU Commission report 2022, the AGE takes a proactive role in the advancement of gender equality by (a) promoting gender mainstreaming in institutions and (b) providing training for civil servants.<sup>190</sup> Other institutions and mechanisms such as the Ombudsperson, the Office of Good Governance (OGG) and the AoK Committee on Human Rights, Gender Equality, Missing Persons, Victims of Sexual Violence of War and Petitions have played a role in promoting the principle of gender equality and the protection of women rights in Kosovo.

**170.** An important advancement towards gender mainstreaming Kosovo's local policy-making and implementation of the legal framework is the Kosovo Program for Gender Equality 2020-2024 (KPGE).<sup>191</sup> The obligation to develop KPGE as a reference platform for developing institutional actions and strategies towards implementing the legal framework is specified in Article 11 of Law No. 05/L-020 on Gender Equality. The main objective of KPGE is to "advance gender equality principles and to achieve a peaceful, prosperous and harmonious society for women and men in Kosovo."<sup>192</sup> To do so, KPGE anchors its strategic actions in three pillars: (1) the economic empowerment and social welfare of women, (2) the human development roles and gender relations, and (3) women's rights and access to justice and security. The strategic plan with the means and indicators of KPGE is made accessible in the Action Plan for the period of 2020-2022.

**171.** Gender equality is prioritized in the EU integration processes of Kosovo, and is therefore a central notion in Kosovo's ongoing transition to a democratic society. In practice, however, KWN underscores that prospective strategic reforms in the domain of public administration do not entail gender mainstreaming in a manner consistent with the legislative framework.<sup>193</sup> Furthermore, while gender-responsive budgeting is stipulated by law, it remains to be institutionalized. Concerning is the superficial formulation of a concept note on Gender Responsive Budgeting adopted by the GoK, which has yet to be made public.<sup>194</sup>

**172.** As posited earlier, despite the strong legislative foundation upon which gender equality is cemented and recognized in the context of universal human rights, discrepancies between policy and practice persist in a manner disconcerting for the development of a genuinely equal society in which women and men are provided with equal access to opportunities regardless of gender. According to the EU Commission report 2022 some progress in the area of public administration can be noted in the recruitment of staff.<sup>195</sup> However, the persistence of overt and covert forms of discrimination continues to undermine the democratic development of society, revealing long standing societal cleavages and man-oriented power hierarchies.

190 EU Commission (2022), [Kosovo Report 2022](#).

191 The term Gender mainstreaming is defined in Law no. 05/L-020 on Gender Equality in Article 1.16 as follows: "[...] the inclusion of a gender perspective into every stage of the process, planning, approval implementation, monitoring and evaluation of legislation, policies or programs [...] considering the promotion and advancement of equal opportunities between men and women" (p. 3).

192 [Kosovo Program for Gender Equality](#) (2020).

193 KWN (2022), input for the joint CSO report on Human Rights in Kosovo.

194 KWN (2022), input for the joint CSO report on Human Rights in Kosovo.

195 EU Commission (2022), [Kosovo Report 2022](#).

**173.** Partially resulting from the disparities stated above, the equal representation of women in meaningful decision-making positions across legislative, executive, and judiciary domains remains a challenge. Reverberating the report of 2021, the electoral framework of Kosovo has yet to be amended to reflect the gender equality quota of 50 percent representation of women. Some improvement in responding to the Law on Gender Equality concerns the number of women in municipal assembly seats, which corresponds with 1,937 women or 37 percent women.<sup>196</sup> The same does not hold for political parties in which differentiation according to gender remains, laying bare patriarchal gender expectations in structures not immediately pressured by top-down regulative mechanisms. The situation is not better in the judiciary. According to the most recent European Commission Progress Report, Kosovo has 432 judges (148 women and 284 men), and 183 prosecutors (78 women and 105 men), which is a low percentage of female judges and prosecutors in comparison with most other European countries.<sup>197</sup>

**174.** The discontinuities between policy and practice have also translated into the underrepresentation of women in the peace and security agendas. Under Resolution 1325, the security and peace-building processes of Kosovo require the involvement of women in the negotiation teams during the dialogues between Pristina/Priština and Belgrade. However, according to Kosovo Women's Network (KWN), women remain underrepresented in senior political positions thereby falling short on women's inclusion at the negotiation table.<sup>198</sup> The implementation of the Law No. 05/L-020 on Gender Equality is a prerequisite for straightening the imbalance. Thereby, failure to implement the affirmative measures of the above-mentioned Law is often veiled behind the concept of meritocracy.<sup>199</sup>

**175.** Women political figures and other women in public positions experience sexist discourse via social media. The body shaming, belittling stereotypes, verbal attacks and reactions relating the competence of politicians to their gender continue unabashedly and are even perpetuated in different political circles.<sup>200</sup>

**176.** In addition to the restrictions placed on women in top-down governmental structures, gender-based discrimination also persists in the socio-economic spheres of society. Numerically speaking, however, Table 1 shows the reconfiguration of the unemployment rates per gender. Although the Statistical Agency of Kosovo (KAS) has yet to carry out the labor force survey for 2022, as per the latest available data from the KAS<sup>201</sup> the underrepresentation of women in the labor market remains with just 16.5 percent in active labor markets compared to 45.9 percent of men in 2021. Compared to the overall labor participation rates in the Western Balkans, Kosovo has the lowest participation rate in the region.<sup>202</sup>

196 EU Commission (2022), [Kosovo Report 2022](#).

197 EU Commission (2022), [Kosovo Report 2022](#).

198 KWN (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

199 KWN (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

200 As an example, see the rhetoric directed towards the President of Kosovo: [Ganimete Musliu merret me peshën e presidentes: Vjosa do mbahet mend që ka hyre në Presidencë me 100 kg e do të dalësh me 50](#)

201 Kosovo Agency Statistics (2022). [Labour Force Survey 2021](#).

202 KWN (2022), input for the joint CSO report on human rights in Kosovo.

**Table 2 Trend analysis of Kosovo unemployment rate by gender between 2020-2021 (ages 15 to 65)**

<b>2020</b>	<b>Male</b>	<b>Female</b>	<b>Total</b>
numbers	80.173	42.206	121.379
%	23.5	32.3	25.9
<b>2021</b>	<b>Male</b>	<b>Female</b>	<b>Total</b>
numbers	66.154	34.007	100.161
%	19.0	25.0	20.7
<b>2022</b> <sup>203</sup>	<b>Male</b>	<b>Female</b>	<b>Total</b>

**177.** The GoK has delayed the amendment and adoption of the Labor Law which would harmonize it with the EU Work-life Balance Directive. The continued delay in adopting this law contributes to persisting gender-based discrimination in labor. Only a few cases are reported due to insufficient knowledge of institutional referral mechanisms, and inadequate inspections on the matter (with the few existing cases supported by the EU through women’s CSOs outreach and free legal aid). The Law falls short in protecting women on maternity leave from expiry of short contracts. Partially as the result of scarce human resources, the Labor Inspectorate is limitedly addressing gender discrimination.<sup>204</sup>

**178.** The EU Country Implementation Plan for Gender Action Plan III for Kosovo provides clear guidelines for all local EU actions on gender equality and women’s empowerment and provides a comprehensive overview of measurable and ambitious goals such as freedom from all forms of gender-based violence, promotion of sexual and reproductive health, promotion of socio-economic empowerment of women and girls and their equal participation in politics and leadership, and lastly, increasing the participation of women and girls in the green transition and digitalization.<sup>205</sup>

203 The Statistical Agency of Kosovo has yet to carry out the labor force survey for 2022.

204 KWN (2022), input for the joint CSO report on human rights in Kosovo.

205 EU Special Representative (2022), [Context for EU action on gender equality and women's empowerment](#).

**179.** Gender-based violence and domestic violence remained prevalent in 2022. The MoJ published the Strategy for the Protection against Violence in the Family and Violence against Women 2022-2026. In February 2022, the Strategy and concomitant action plan were approved by the GoK.<sup>206</sup> This strategy recognizes the urgency of addressing domestic violence and gender-based violence. The strategy puts forth four priorities, which are the identification and prevention of violence, the advance of public policy and its harmonization with international human rights standards, the institutional empowerment for the protection and treatment of victims of domestic violence, and the rehabilitation and sustainable reintegration of victims.<sup>207</sup> As the first year covered by the strategy has concluded, a progress report with tangible results has yet to be published.

**180.** More tangible institutional efforts and campaigns organized by CSOs centered on the protection of women against all forms of discrimination have focused on questioning and investigating the societal core of the problem. Between 22-23 October 2022, the Forum Women, Peace and Security was organized with the initiative of the President of Kosovo. The Forum had as its main goal bringing together key insights about peace and security and the role of women in these processes.<sup>208</sup> Violence and domestic abuse against women as key societal issues followed numerous cases of domestic violence and femicide (see below). In 2022, the GoK coordinated the 16 Days of Activism against Gender-based Violence from 25 November to 10 December. This campaign included a total of 132 events across Kosovo municipalities.<sup>209</sup>

**181.** During the year 2022, the parliamentary commission for human rights took the initiative to draft the law on protection from domestic violence, gender-based violence and violence against women, the draft was consulted with international and local organizations which provided valuable contributions to the advancement of the draft law which has been forwarded to the Assembly for approval. This draft law is expected to be approved in 2023.<sup>210</sup>

**182.** Responding to the alarming number of sexual violence cases, the GoK has proposed a new Law on Amendments and Supplements to the Criminal Code. This involves several significant changes including a timeline for treating gender-based violence cases within one year, the non-application of mitigating measures for crimes of rape, sexual abuse and domestic violence; and denying individuals the right to run for public office for a period of 3 to 10 years if they have committed any of the aforementioned crimes.<sup>211</sup> The draft Law on Amendments and Supplements to the Criminal Code has passed the first reading of the Assembly of Kosovo in December 2022.

206 EU Commission (2022), [Kosovo Report 2022](#).

207 MoJ (2021), [Strategjia kombëtare për mbrojtje nga dhuna në familje dhe dhuna ndaj grave 2022-2026](#).

208 Women, Peace and Security (2022), [objectives](#).

209 UN Security Council (2022), [Kosovo Report of the Secretary-General 2022](#).

210 KGSC (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

211 KWN (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

**183.** Violence against women and gender-based violence remains prevalent in Kosovo. Studies show that domestic abuse is also ineffectively addressed by law enforcement, prosecutors and courts.<sup>212</sup> According to the KWN, over 90 percent of cases of domestic violence reports are violence committed by males (spouses, fathers, brothers, and male in-laws) against women. An underreported issue is also the psychological abuse and emotional violence committed by in-laws in traditionally joint households in Kosovo.<sup>213</sup> In 2022, 258 women and 340 children were sheltered by domestic violence shelters. However, a persisting issue is the lack of permanent resources that can effectively reduce the risk of women returning to their abusive partners due to a lack of alternative options.<sup>214</sup> In 2022, Kosovo Women's Network (KWN) allocated €276,548 for shelters and CSOs with the aim of supporting, protecting, and promoting the rights and interests of women and girls.<sup>215</sup>

**184.** The judicial repercussions for the perpetrators are often in conflict with the crimes committed: an empirical study carried out by the KWN brings this misalignment to the fore. In 2022, four sentences for (sexual) violence against women were issued by the Basic Court in Pristina/Priština between January and August with only punishments of fines and conditional sentences. In none of the criminal offenses have the male offenders been detained. An instance worth illustrating in this respect is the case of Medina Dauti, a human rights activist, who suffered sexual harassment from her secondary school teacher. In the case in point, the court convicted the school teacher for harassment with a fine of 1,200 Euro, thereby omitting the sexual dimension from the verdict.<sup>216</sup> In 2022, NGO YIHR KS brought to attention the small fines for domestic violence after the Basic Court of Gjilan/Gnjilane fined a male perpetrator with just 300 Euro for causing bodily injury to his wife.<sup>217</sup> Moreover, 11 cases of sexual violence are under investigation.<sup>218</sup> Another monitoring report conducted by the NGO Kosovo Gender Studies Center (KGCS) and NGO KLI examined 50 randomly chosen verdicts of the basic courts. It found that in 74 percent of the cases sentences of conditional imprisonment were imposed, whereas only 10 percent of the imposed sentences were with effective imprisonment for the perpetrators of the criminal offenses of domestic violence. Consequently, conditional sentences cannot be accounted for as efficient and proportional in preventing and combating domestic violence.<sup>219</sup> Delays in the judicial system to provide adequate protection for victims of domestic abuse are often the result of perpetrators not showing up for court, causing as such postponements and escape from sentencing. A particularly illustrative instance as a consequence of postponing the hearing was the case of the sexual abuse of persons under the age of 16 in the Basic Court of Pristina/Priština, which was filed in 2014. After having escaped justice by missing his hearings throughout an eight-year period, in 2022 the Basic Court finally acquitted the accused.<sup>220</sup> According to the KWN, delays in the justice system remain to be concerning when it comes to gender-based violence.<sup>221</sup> An examination of the total of 134 court hearings monitored by KWN revealed a delay in 35 of the cases.

212 KWN (2022), [Deferment of gender-based violence cases by the judicial system](#).

213 Balkan Insight (2022), [For Kosovo women, in-laws are often abusers too](#).

214 Radio Evropa e Lire (2022), [viktimat e dhunes pa strehe te sigurt](#).

215 KWN (2022), [Kosovo Women's Fund Allocates more than €276,000 for 28 Organizations and Shelters in Kosovo](#)

216 Kallxo (2022), [Rrëfimi i Medinë Dautit nga Gjilan/Gnjilane – viktimë e ngacmimit seksual](#).

217 YIHR KS (2022), [reaction](#).

218 KWN (2022), [Deferment of gender-based violence cases by the judicial system](#).

219 KGSC (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

220 KWN (2022), [Deferment of gender-based violence cases by the judicial system](#).

221 KWN (2021), [From laws to actions](#).

**185.** Similar observations have been reported in a recently published report by NGO GLPS which examined domestic violence cases in 2022. In the report, comprehensive data is provided on the institutional treatment of domestic violence cases for the period January-August 2022. The report includes the number of cases reported to the Kosovo Police and the handling of these cases by the Prosecutor's Office and the Basic Court in Pristina/Priština, in terms of rules and procedures. The analysis shows that 1,852 cases of domestic violence were reported to the Kosovo Police at the country level, with 581 cases or about a third of the total cases being reported in Pristina/Priština region. Most of the suspects and arrested persons who are suspected of having committed domestic violence are males and adults, while most of the victims of domestic violence are women. In terms of the treatment of domestic violence cases by the Basic Prosecutor's Office in Pristina/Priština, the report concludes that this institution has shown efficiency in handling cases with minor perpetrators. However, there is a need to increase efficiency in handling cases where the perpetrators are adults. The report also analyzed 43 judgments published by the Basic Court in Pristina/Priština (together with the branches) for the same period. It was found that only in 5 cases did the court impose an effective imprisonment sentence, while the majority of the judgments consisted of conditional sentences. Additionally, it was found that in 70 percent of the cases, the legal deadline for scheduling and holding the initial examination from the moment when the indictment was filed was not respected.<sup>222</sup>

**186.** Judicial judgements concerning rape cases continue to impose sentences below the legal minimum. In this regard, judges continue to use exceptionally mitigating circumstances to substantiate the reasoning behind the low sentences, as per the KWN monitoring.

**187.** In December 2022, the State Protocol for the Treatment of Sexual Violence Cases in Kosovo was launched. This was an initiative of the MoJ and the Institute of Forensic Medicine in close cooperation with KWN, the EU and UN Women Kosovo, who provided support in the drafting of the document. The Protocol responds to Kosovo's commitment to the Istanbul Convention and "[...] recognizes the need to have a standardized, continuous, comprehensive and accountable response for the identification, protection, treatment, empowerment and reintegration of victims/survivors of sexual assault and violence through immediate intervention by responsible institutions."<sup>223</sup>

**188.** An important institutional concern is the continued stigmatization and victim blaming. Inappropriate interference by judges and prosecutors consists of pressure put on victims to reconcile with perpetrators of domestic violence. This points to the concomitant need for training of judges in the implementation of the current legislation.<sup>224</sup>

222 GLPS (2022), [GLPS published a report on the handling of domestic violence cases in Kosovo for the period of January to August 2022](#).

223 UN Women (2022), [New protocol for responding to sexual violence in Kosovo](#).

224 EU Commission (2022), [Kosovo Report 2022](#).



**189.** The Kosovo Police have reported a total of 2,273 new cases of domestic violence in Kosovo in the year 2022.<sup>225</sup> As shown in Table 2, the data mark an additional increase in reported cases compared to the three previous years. It is yet to be assessed whether the increase is a factual result or if it rather reflects an increase in the reporting of domestic violence. Yet, according to the EU Commission Report, while a database has been funded by the GoK to record cases of domestic and gender-based violence, there is limited progress in the prevention and combating of domestic violence and the reintegration of victims.

**Table 2 Cases of domestic violence between 2019 and 2022**

Year	2019	2020	2021	2022
Cases of domestic violence in numbers	1,915	2,069	2,200	2,273

**190.** According to the NGO GLPS in the period January-August 2022, from 1,752 suspects of domestic violence only 682 persons have been effectively arrested. As such, a discrepancy persists between the number of suspected persons and those arrested. This may indicate a lack of efficiency by the KP to arrest persons suspected of having committed domestic violence.<sup>226</sup>

**191.** Following the reported cases of intimate femicide in 2021, the year 2022 also ended with two more incidents of femicide. In both instances, the perpetrators concerned the ex-partners of the women. The time and place of both murders contributed to the heinousness of the events. In the first case, the male perpetrator killed his spouse with an axe in her sleep. In the second case, the perpetrator was under a restraining order against his former spouse, who was heavily pregnant at the time of the murder and was awaiting to give birth. She was shot three times at the park of the University Clinical Center in Pristina/Priština; at the moment of her murder, she was also under police protection.<sup>227</sup> Following the suicide of the male perpetrator, the in-laws took to social media with stories about problems between the couple, thereby discrediting the woman and laying blame upon the victim and her sisters.<sup>228</sup> In the male dominant culture, the narrative of the victim's former father-in-law should be understood as an attempt at shedding the perpetrator of blame and laying blame on the women involved in interfering with the couple's relationship. The fact that a platform was provided for redirecting the factual events leading to the murder is disconcerting, and reveals the continuation of rhetoric centered on female victim-blaming and male justification.

225 Koha Ditore (2022), [Mbi 2.200 raste të dhunës në familje deri në tetor.](#)

226 GLPS (2022), [the reporting and treatment of cases of domestic violence in the period January – August 2022.](#)

227 Kallxo (2022), [vrasja e gruas shtatzene ne oborrin e QKUK, prokurori: Në vendin e ngjarjes janë gjetur tri gëzhoja plumbash.](#)

228 Dosja (2022), [Vrasja e gruas shtatzanë nga burri, flet babai | Sokol Halilit: Fajin e kanë motrat e Hamides, ato janë përgjegjëse.](#)

**192.** In April 2022, Florije Zatriqi, a judge, was demoted after a series of Kallxo articles. These reports exposed the lenient sentence of just eight (8) months that Zatriqi gave to a rapist who had kidnapped a minor for an entire night, raped her with three friends and confessed to it.<sup>229</sup> While BIRN called for the judge's suspension, the Kosovo Judicial Council chose to demote her, reassigning Zatriqi to a lower court.<sup>230</sup>

**193.** Protests about violence against women and domestic violence have been ongoing for several years, but gained particular momentum in 2021 and 2022. The protests were sparked by several cases of violence against women, and child trafficking with sexual abuse as a consequence. The cases that alarmed the public in particular following the murder of 18-year old Marigona Osmani in 2021, who was tortured and killed by her ex-partner was the rape committed against an eleven year old girl in 2022, and the recent murder of pregnant woman Hamide Magashi in December 2022. These cases in particular brought to light the failure of the police and the responsible institutions to protect the victims. The protests were led by women's rights organizations, activists, and survivors of violence, who demanded that the government take action to address the issue of gender-based violence. They called for more resources for victim support services, stricter laws to protect women from violence, and better enforcement of existing laws.

**194.** The protests continued throughout 2022, with activists organizing marches, rallies, and sit-ins to raise awareness about the issue of violence against women. They also called for greater accountability for perpetrators of violence, and for an end to the culture of impunity that often surrounds cases of violence against women. Overall, the protests about violence against women and domestic violence in Kosovo in 2021 and 2022 highlighted the urgent need for action to address this issue.<sup>231</sup>

## 195. Recommendations

- Kosovo courts and judges should enforce laws against gender-based violence: Kosovo already has laws criminalizing violence against women, but they need to be enforced effectively;
- The GoK should address the gender imbalance in senior political positions with greater inclusion of women in important peace-building processes;
- The KJC, KPC and the Academy of Justice should provide training for judges and prosecutors respectively, specifically regarding the provisions in the revised Criminal Code on sexual harassment, domestic violence and the new obligations of public institutions under the implementation of the Istanbul Convention;

229 Kallxo (2022), Refuzohet marrëveshja e panelit hetimor për kthimin në punë të gjyqtarës Florije Zatriqi.

230 BIRN (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

231 Balkan Insight (2022), [Kosovo moves to toughen penalties against rape, domestic violence](#).

- The GoK should finalize the draft Law on Protection from Domestic Violence and Violence against Women, and harmonize it with the Istanbul Convention, by especially renaming it and ensuring it addresses all forms of gender-based violence; clarifies responsibilities for all actors, including coordinating mechanisms; and includes responsibilities for Rape Crisis and Sexual Violence Referral Centres;
- The GoK should allocate funds for the implementation of the State Protocol for Treatment of Sexual Violence Cases;
- The GoK needs to work closely with women's CSOs while improving the legal framework on gender-based violence, in line with the requirements of the Istanbul Convention;
- The GoK must increase the number of shelters, rape crisis centres and helplines with adequate financing from the applicable budgets as per the Istanbul Convention;
- The GoK should initiate the amendment of the Law No. 003/L-073 on General Elections to comply with the Law No. 05/L-020 on Gender Equality regarding the equal representation of both women and men;
- The Kosovo Police should train law enforcement officials to recognize, investigate, and prosecute cases of gender-based violence;
- The GoK should take steps to increase women's political participation, including through the implementation of gender quotas;
- The GoK should increase economic opportunities for women in Kosovo with policies and programs that promote women's economic participation, such as offering loans and training to women entrepreneurs, and encourage employers to offer more flexible work arrangements that enable women to balance work and family responsibilities;
- The GoK should address discrimination against marginalized groups including K-Roma, K-Ashkali, and K-Egyptian women, and women with disabilities;
- The GoK should educate the public on gender equality: The government should promote public awareness campaigns on gender equality and the negative effects of gender-based violence. It should also work with media outlets to promote positive portrayals of women in the media.

## 7.2 Children's rights

**196.** The UN Convention on the Rights of the Child (CRC), which defines children as under the age of 18, is directly applicable in Kosovo as per Article 22 of the Constitution and supersedes the local laws and acts of the government. This Convention, however, which remains insufficiently applied by the judges and prosecutors as provided by Article 22 of the Kosovo Constitution, establishes children's rights within the six fundamental human rights treaties.<sup>232</sup> The protection of children's rights as a foundational pillar of Kosovo's democratic development is constitutionally defined in Article 50 (from paragraphs 50.1-50.5). The Constitution puts emphasis on children's well-being, equality, and protection against maltreatment, violence, and any form of exploitation. In line with international standards, the primary legislation has been recently complemented by the Law No. 06/L-084 for Child Protection. Relating to a recent 2021 UNICEF Kosovo report, the Law, which entered into force in 2020, marked a "milestone achievement" in the legal framework of the protection of children's rights.<sup>233</sup> It safeguards children from different forms of physical, mental, and emotional abuse; neglect; and exploitation in all societal spheres ranging from care institutions to public facilities to the home. However, because the Administrative Instructions have not been adopted, the law is not implemented. Moreover, in Article 42.2 (Health), regular home visits for pregnant women and children up to the age of three are made mandatory as part of basic health care services.

**197.** The Coalition of CSOs for the Protection of Children in Kosovo (KOMF) reports that despite the fact that the Law on Child Protection entered into force on July 19, 2020, this Law is not being implemented. The vast majority of child protection professionals did not have knowledge on the responsibilities arising from the Law on Child Protection, nor the innovations brought by this Law. From a total of 17 Administrative Instructions foreseen under the Law on Child Protection, only 6 of them have been approved until now. The main institutional mechanism foreseen by the Law on Child Protection at the municipal level, the Team for the Rights of the Child has not yet been established in all municipalities, namely this Team has been established in only 11 municipalities of Kosovo so far. Moreover, KOMF reports that the new services and programs foreseen in the Law on Child Protection have not yet been established. These include services and programs for the treatment of children victims of drug abuse, the protection of children in conflict with the law without criminal responsibility, the protection of children involved in hazardous forms of labor, children in street situation, programs for the empowerment of parents for the well-being of children, establishment of the national free phone line for children and child protection homes.<sup>234</sup>

232 UNHCR (1989), [Convention on the Rights of the Child](#).

233 UNICEF (2021), [State of Children's rights in Kosovo](#).

234 KOMF (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

**198.** The institutional mechanisms warranting the implementation of legislation are defined by the Law No. 06/L-084 on the Protection of the Child. They include the Inter-Ministerial Committee for the Rights of the Child, which operates within the GoK and the Office of the Prime Minister through the Office of Good Governance. Instrumental to ensuring effective implementation of the child protection mechanisms in Kosovo is the Strategy for the Rights of the Child (2019-2023).<sup>235</sup> The Office of Good Governance plays a leading role in the processes related to the creation and implementation of the Strategy. In close cooperation with UNICEF, the document lays out four strategic objectives that have as their main goal “[...] the undertaking of initiatives that improve the situation of children in economic, social and political contexts in Kosovo.”<sup>236</sup> The main focus is on the instrumentalization of the legal framework. Accordingly, the four-year strategy centers on the improvement of the judicial structures for the well-being of children. It also focuses on the empowerment of children in decision-making processes, and the inclusion of children in early development programs. Likewise, the provision of services that contribute to the overall health and well-being of children are detailed in the Strategy.

**199.** An evaluation of the institutional mechanisms concerning the protection of children’s rights in Kosovo is inseparable from an understanding of the factual situation on the ground. Notionally, the legislation itself provides a strong framework. In practice, the realities on the ground put on view institutional weaknesses linked with mismanagement, and failure to protect children from vulnerable socio-economic backgrounds.<sup>237</sup> Similarly, the amended Law on Local Government Finance No. 03/L-049 remains to be adopted for a better implementation of the Law on Child Protection, as it offers specific grants for social services, benefiting children in vulnerable situations and without parental care.<sup>238</sup>

**200.** Kosovo has a legal framework in place to address juvenile delinquency which ensures protection of the rights of children in conflict with the law and promotes their rehabilitation and reintegration into society. Under the Code 06/L-006 on Juvenile Justice, children who commit criminal offenses are subject to different procedures and sanctions than adults. The law aims to protect the rights of children in conflict with the law, promote their rehabilitation and reintegration into society, and prevent recidivism.

**201.** Save the Children Kosovo reports that there is slow progress in addressing children’s needs through a holistic approach and a weak coordination of mechanisms at local and central levels to provide integrated services and enable access to inclusive education. Investment on early childhood care and good governance practices including child-friendly budgeting and public investment on essential services remain low whereas child involvement in monitoring the delivery of the governmental and municipal agendas for children’s rights and youth engagement in social enterprises is increasing due to support of civil society.<sup>239</sup>

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235 [National Strategy for the Rights of the Child 2019-2023.](#)

236 [National Strategy for the Rights of the Child 2019-2023.](#)

237 EU Commission (2022), [Kosovo Report 2022.](#)

238 EU Commission (2022), [Kosovo Report 2022.](#)

239 Save the Children (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

**202.** Identification and data collection on public investment on designated services to children and their access to services continues to be a challenge both due to a lack of overall coordinated multi-sectoral efforts and platforms, lack of clear indicators for assessment of children with disabilities, identification of children in street situations and children in migration.

**203.** Save the Children Kosovo furthermore reports on overall low levels of enrolment of children in preschool education since only 6.2 percent of children aged 0-5 attend Early Childhood Care and Development. This is considerably lower than the OECD average (over 87 percent or the Education and Training 2020 targets (90 percent)). The majority of children are attending compulsory education: 96 percent of children of primary school age are attending primary school and 94 percent of children of lower secondary school age attend lower secondary school. Net attendance drops to 84 percent in upper secondary school.<sup>240</sup>

**204.** Child trafficking as an issue of significant concern has gained widespread attention among the general population. According to a US State Department report, more victims were identified in 2022 than in previous years as a result of more significant efforts to eliminate trafficking. In 2022, NGO Terres des Hommes reported a total of 15 victims, 11 of whom were victims of sex trafficking, 3 of labor exploitation and 1 of forced begging.<sup>241</sup>

**205.** Linked with the child trafficking alarm, the identification of cases of exploitation and sexual violence against children in 2022 has propelled collective action among the general population in the form of protests. Following the sexual exploitation and rape of an 11 eleven-year-old girl by numerous perpetrators in several different occurrences and over a period of a couple of months, CSOs and other individuals took to the streets to protest against the failure of the competent institutions to protect the child.<sup>242</sup> This resulted in widespread protests all throughout Kosovo demonstrating against the failure of institutions to act expeditiously in this case and others. As a result of this incident, the general director of the Kosovo Police resigned.<sup>243</sup> In 2022, a fifteen-year-old fell pregnant as the result of rape.<sup>244</sup>

**206.** The Centers for Social Work (CSW) around Kosovo face a range of challenges. This holds especially true with reference to the necessary human and financial resources that may address the social needs of children in vulnerable situations. This is because Kosovo continues to have a decentralized system of social services. In this regard, it is necessary to consider the centralization of the provision of social services as it has proven to be a more successful model for implementation and adequate financing in European countries. In this respect, social services have not been a priority of local governments.<sup>245</sup> In addition, the CSWs lack professional staff specialized in the field of

240 Save the Children (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

241 Terres des Hommes (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

242 Kallxo (2022), Dosja e prokurorisë: [11-vjeçarja u dhunua në park përderisa ishte cuke ecur.](#)

243 Kallxo (2022), [Jep dorëheqje drjetori i Policisë Samedin Mehmeti.](#)

244 YIHR KS (2022), input for the joint CSO report on Human Rights Kosovo 2022.

245 Save the children (2022), input for the joint CSO report on Human rights kosovo 2022.



child protection. The Law on Child Protection (Article 15) asserts that each CSW shall designate at least one relevant responsible and specialized officer to coordinate child protection measures and interventions, although in practice only four CSWs have appointed a specialized child protection worker with the support of NGOs. Additional services are provided by the non-profit sector: about 20 licensed NGOs provide services funded mainly by private donors.<sup>246</sup> Given these challenges, the Government of Kosovo has decided that in 2023 Centres for Social Work will fall under the jurisdiction of the Ministry of Justice (MoJ).

**207.** The number of children living in poverty in Kosovo remains alarming with social assistance schemes unable to meet the increased demand in providing access to basic provisions.<sup>247</sup> In 2022 alone, 26,000 families benefited from the social assistance programs of Kosovo.<sup>248</sup> As reported by KOMF, 22.8 percent of children in Kosovo live in poverty, 7.2 percent of them in conditions of extreme poverty.<sup>249</sup> The Law No. 2003/15 on Social Assistance contains a set of discriminatory criteria that excludes a considerable number of children and families from the social assistance scheme. A positive development has been the approval of child benefits as an effective instrument to alleviate poverty and inequality among children. Yet, the low amount is limited to children up to 16 years old, thereby excluding children from the ages of 16 to 18.

**208.** In addition to this, the exploitation of children through child labor and begging occurred unimpeded in the year 2022. Save the Children Kosovo reports that 7 percent of children in Kosovo are engaged in child labor due in part to the poor economic and social conditions of segments of the population, with 6.5 percent working in hazardous conditions.<sup>250</sup> Compared to 2021, there is a slight decrease of the number of child beggars with 175 children identified vis-à-vis 191 in the previous year (2021). The situation of child beggars is alarming, and it is imperative that the government takes action to address it. One effective way to do so would be to intervene within the family structure and prevent children, especially those from non-majority communities, from going out to beg. Notably, serious government efforts are required to counter child exploitation in the form of begging. Thus far, institutional efforts have concentrated on ad-hoc solutions without concrete long-term plans on how to address the problem from a larger societal perspective. Instead, facile attempts to resolve the problem translate in the form of authorities simply urging citizens “not to give money to children.”<sup>251</sup>

**209.** Children from non-majority communities constitute the children in the most vulnerable position in social, economic, and cultural aspects. Child begging remains a significant problem in Kosovo society particularly among the K-Roma and K-Ashkali communities. Public institutions have insufficiently moved beyond legislative stipulations towards social actions and programs.<sup>252</sup>

246 Save the children (2019), [Monitoring and evaluation of social services in Kosovo](#).

247 Kosovo 2.0, [Poor help to the poor](#).

248 Kosovo 2.0, [Poor help to the poor](#).

249 The definition of Extreme poverty in this report corresponds with the United Nations' definition of the term, as “a condition characterized by severe deprivation of basic human needs including food, safe drinking water, sanitation facilities, health, shelter and information. It depends not only on income, but also on access to services” (UN 1995, Report of the world summit for social development).

250 Save the Children (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

251 Kosova Press (2022), [175 child beggars have been identified in Kosovo](#).

252 Kosovo 2.0, [Poor help to the poor](#).

**210.** Discrimination against K-Roma children is widespread in the public sphere with a reported 26.53 percent facing different forms of exclusion when accessing public services, according to a recent report of Romani Early Years Network.<sup>253</sup> Partially as the result of discrimination, more than half of K-Roma children are deprived from access to quality social services.<sup>254</sup> Combined with economically deprived situations (57 percent of K-Roma adults are unemployed) and low education levels (38.7 percent of K-Roma adults have not gone to school), K-Roma children have an early disadvantage to their start in life compared to children from other ethnic backgrounds.<sup>255</sup> This is especially true when examining the family setting, as reported by Save the Children. According to the data they provide, 72 percent of children up to the ages of 14 have undergone psychological and physical violence within the family. In particular, children with disabilities face higher risk for physical and emotional abuse and other forms of neglect, violence and exploitation due to discrimination and exclusion.<sup>256</sup>

**211.** The Court of Appeal judged in May 2022 on desegregation of classes with majority K-Roma, K-Ashkali and K-Egyptian children, which set an important precedent. In short, the Court of Appeal maintained the lower court's judgment by finding discriminatory the existence of "separate classes", determining this practice to constitute a violation of the right to equal education. The Court ordered non-material damages for pain and suffering, the dissolution of said separate classes and merging the impacted students into multi-ethnic classes to "enable [...] quality and comprehensive education."<sup>257</sup>

**212.** Despite preventive measures and awareness-raising campaigns against early marriage, child marriage and early forced marriage also remain prominent in the K-Roma and K-Ashkali communities. According to Balkan Sunflowers Kosova, one of the factors that increases early marriage is poor economic conditions. Because these marriages often remain unreported to Centers for Social Work, the practice continues unimpeded. Moreover, the child protection mechanisms do not function effectively in preventing the phenomenon. On the one hand, the reluctance of Kosovo Police and prosecutors to enforce the law is attributed to the traditional cultural norms of these communities. On the other hand, parents, schools, and the Center for Social Work lack sufficient coordination in preventing the phenomenon. Between 2019 and 2021, the NGO RROGRAEK organized a campaign entitled "door to door" through which discussions on early marriages with families were organized.<sup>258</sup> Despite the steps taken to include children in education, 1 out of 4 girls from K-Roma, K-Ashkali and K-Egyptian communities in Kosovo are illiterate. This situation significantly increases the risk of child poverty, and consequently forces them into child labor.

253 REYN (2022), [Breaking the silence. The right of young Roma children in Europe to thrive.](#)

254 REYN (2022), [Breaking the silence. The right of young Roma children in Europe to thrive.](#)

255 REYN (2022), [Breaking the silence. The right of young Roma children in Europe to thrive.](#)

256 Save the children (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

257 The Appeal Court of Kosovo (2022), [case no. 2019:089725](#)

258 RROGRAEK (2022), input for the joint CSO Report on Human Rights in Kosovo 2021.

**213.** According to the most recent data made available by the Kosovo Agency of Statistics (KAS),<sup>259</sup> a total of 8 percent of children aged between 5 and 11 years old from K-Roma, K-Ashkali and K-Egyptian communities are engaged in child labor. About 12 percent of girls are married before the age of 15 and 43 percent before the age of 18. Given this data as well as the challenges faced by children of these communities, special attention should be paid to improving the situation of these children and increasing opportunities for their inclusion. The situation that children from K-Roma, K-Ashkali, and K-Egyptian communities find themselves in is closely linked to the poverty of these communities.<sup>260</sup>

**214.** Kosovo does not host children in large residential institutions. Instead, alternative care solutions are developed for children deprived of parental care. However, foster care for children without parental care is not provided in all municipalities of Kosovo as they do not meet the requirements. According to UNICEF, in June 2022, 52 children were living with 27 foster care families in Kosovo and 75 children without parental care were placed in residential care services.<sup>261</sup>

**215.** Children with disabilities and in need of special care are often deprived of adequate access to health and educational facilities as well as to assistance required for attending inclusive education.<sup>262</sup> The Strategy for Persons with Disabilities and the Action plan 2020-2023 presents a positive development towards a disability-sensitive environment, but in practice, children with disabilities still lack adequate institutional support. The government has hired an additional 100 assistants for children with special needs in public schools, and allocated financing for 300 more in 2023.<sup>263</sup> It remains to be assessed whether or not this number will be sufficient to create an educational environment appropriate for children with disabilities.<sup>264</sup>

## 216. Recommendations

- The GoK should adopt the draft Law on Local Government Finance to provide specific grants for social services benefiting children in vulnerable situations and without parental care;
- The GoK should adopt the remaining administrative instructions specified in the Law on Child Protection;
- The GoK and municipalities should start establishing the new services, as foreseen in the Law on Child Protection;
- The coordination mechanisms at local and central levels should be strengthened to provide integrated services and enable access to inclusive education;

259 KAS (2020), [Child labour](#).

260 Balkan Sunflowers (2022), input for the joint CSO Report on Human Rights in Kosovo 2021.

261 UNICEF (2022), [One big heart and 16 children](#).

262 EU Commission (2022), [Kosovo Report 2022](#).

263 MESTI (2022), email response to HRN concerning the recommendations of the joint CSO report on Human Rights in Kosovo 2021.

264 Kosova Press (2022), [The employment of assistants is necessary for children with disabilities, the employment of 500 of them is promised](#).

- The GoK should increase investment in early childhood care awareness and practices by means of child-friendly budgeting and public investment in essential services;
- The GoK in cooperation with KAS and other data collection platforms should improve the identification of services for children and their access to services;
- The Gok should adopt clear indicators for assessment of children with disabilities, identification of children in street situations, and children in migration;
- The GoK should provide programs and training for parents to increase enrolment in pre-school education and ensure that all children have access to quality education;
- The GoK should address child, early and forced marriages particularly among K-Roma, K-Ashkali and K-Egyptian communities through awareness raising programs and activities;
- Kosovo judges and prosecutors should intensify their efforts to ensure direct application of the CRC in the resolution of the cases.

### 7.3 Youth rights

**217.** The Kosovo Constitution does not mention youth and their rights in the text. It only establishes the eligibility for voting in both local and national elections at 18 years of age. The legislative framework of Kosovo defines “youth” in the Law no. 03/L-145 on Empowerment and Participation of Youth (Article 3 1.1) as “the age group of young people between fifteen (15) and twenty-four (24) years.”<sup>265</sup> Notably, this age category represents a large segment of the demographic composition as 35 percent of the total population of Kosovo is between 15 and 24 years old.<sup>266</sup> With this in mind, the Law No. 03/L-145 on Empowerment and Participation of Youth plays a key role in ensuring the “[...] continued participation of youth [...] in the development of a democratic society.”<sup>267</sup>

**218.** The existing Youth Strategy 2019-2023 in congruence with the Law No. 03/L-145 on Empowerment and Participation of Youth lays the foundational basis for enhancing youth participation in decision-making processes, public life, participation in informal education, employability, education, health promotion, culture, sports, and recreation.<sup>268</sup> Accordingly, the strategy also “aims to promote cooperation between youth organizations whose activities are related to youth, as well as between central and municipal bodies to strengthen youth policies and programs.”<sup>269</sup> Despite this strategy, the inclusion of young people in the government’s decision-making processes remained limited to the possibility to vote in the latest general and local elections of 2021.

265 [Law No. 03/L-145](#).

266 YIHR KS (2022), input for the joint CSO report on human rights in Kosovo 2022.

267 YIHR KS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

268 MCYS, ‘Strategy for Youth 2019 – 2023’ (May 2019), p.10.

269 The [Department of Youth, Ministry of Youth, Culture and Sports \(2022\)](#).

**219.** The institutional mechanisms tasked with developing youth policies and programs lie within the Youth Department of the Ministry of Youth, Culture, and Education. While the Law also oversees the voluntary organization of a Central Youth Action Council (CYAC), no such Council has functioned since 2018. Basic responsibilities are also assigned to central and municipal institutions to strengthen the youth sector in Kosovo by overseeing Youth Programs and Youth Centers. The portal of Kosovo reports a total of 150 youth organizations divided into 100 networks and 50 centers. However, NDI Kosovo points out that there is a substantial lack of Local Action Plans for Youth and strategies for the empowerment and positioning of Local Youth Action Councils (LYAC).<sup>270</sup>

**220.** A State Commission for Youth (SCY) was appointed in August 2021. Composed of 8 ministries, its main aim is to foster inter-institutional cooperation, develop horizontal policies for youth empowerment, and revise current legislation. The SCY is also responsible for drafting the new Youth Strategy.

**221.** In spite of government strategies, unemployment among young people remains a problem with significant large-scale consequences for the socio-economic development of the region as it spurs the overwhelming emigration of this age category. The Kosovo Agency of Statistics (KAS) reported a youth unemployment rate of 38 percent for the year 2021. Likewise, the European Commission report found a youth inactivity rate of around 62 percent.<sup>271</sup> Despite a diachronic decrease since 2018 (see Table 4), the socio-economic conditions deprive Kosovo youth of experiencing a genuine sense of connection between Kosovo and Western European standards of prosperity and economic development. According to the Labor Force Survey of 2021, the unemployment rate among youth is higher among female youth (46.5 percent) than among male youth (33.7 percent).<sup>272</sup> The KAS has yet to develop a labor force survey for the year 2022.

**Table 4 Kosovo Unemployment rates in the age category 15 to 24**

Year	2018	2019	2020	2021	2022 <sup>273</sup>
Youth Unemployment Rate (YUR) in percentage	55.41	49.76	49.66	38.0	-

270 NDI Kosovo (2021), [Youth Conference: Speak Youth to Power](#).

271 EU Commission (2022), [Kosovo Report 2022](#).

272 Statistical Agency of Kosovo (2022), [Labor force survey 2021](#).

273 The Statistical Agency of Kosovo has yet to carry out the labor force survey for 2022.

**222.** In order to reduce the high unemployment rate a revision of the Youth Employment Action Plan of 2018-2022 and the Sectoral Strategy of the Ministry of Labor and Social Welfare (MLSW) is required.<sup>274</sup> The government has pledged to implement the Youth Guarantee Scheme in July 2021. The purpose of this scheme is to support unemployed people under the age of 30 through training programs and education within a certain period of unemployment after leaving school or becoming unemployed. The government has yet to initiate tangible preparations such as the appointment of a coordinator, coordinating body and the development of a Youth Guarantee implementation plan.<sup>275</sup> In March 2022, the Ministerial Commission for the Guaranteed Scheme for Young People responsible for the supervision and monitoring of the implementation of the Scheme in accordance with EU directives came together for the first time to discuss and prepare the means for increasing employment for young people in Kosovo.<sup>276</sup> Concrete measures with more tangible results have yet to proceed from these efforts. By now, the Ministry of Finance, Labor and Transfers has only presented the concept of the Youth Guarantee Scheme and its Implementation Plan to donors and partner organizations, giving the attendees the opportunity to learn more about the implementation of the Scheme in Kosovo and the opportunities to support its implementation.

**223.** The Economic Revival Package was published for approval in June 2021 in order to curtail the economic consequences of the pandemic among young people. Measure 1.4 on the guaranteed employment scheme for young people includes a budget of 10 million Euro to address the problem of unemployment for young people aged 18 to 24. In the foreseen strategy, the government guarantees young people “the first job, subsidized by the state at the level of minimum wage.”<sup>277</sup> The implementation of this measure started in November 2022 with two six-month internship programs.<sup>278</sup> The first program offers internships to 100 students at Kosovo Institutions including the ministries. The second program offers six-month internships at social centers including the Social Work Centers, the Residential Homes for the Elderly and Special Needs Persons as well as registered NGOs. With these internship opportunities, the GoK provides a compensation of 170 Euro per intern. The other measures stipulated in the Economic Revival Package have yet to be implemented.

**224.** An understanding of the mental health situation among youth provides a depiction of the wellbeing of young people in Kosovo in 2022. During the year 2022, the MoH published the report “The manual on the promotional intervention and preventative intervention in the the field of mental health among adolescents,” where suicide is described as the fourth main cause of death among adolescents between 15 and 19 years old.<sup>279</sup> Among other factors, the report outlines the main risks for suicide among adolescents including alcohol abuse, childhood trauma and abuse,

274 MLSW (2021), [‘Raporti Vjetor i Monitorimit 2020, të Planit të Veprimit për Punësimin e të Rinjve 2018.](#)

275 EU Commission (2022), [Kosovo Report 2022.](#)

276 MoF (2022), [Fillon punën Komisioni Ministror për Skemën e Garantuar për të Rinj.](#)

277 Ministry of Finance, Labor and Transfers (2021), [Economic Recovery Package.](#)

278 EU Commission (2022), [Kosovo Report 2022.](#)

279 MoH (2022), [Manual on promotional and preventative intervention in the field of mental health of adolescents.](#)



and restricted access to an understanding of the phenomenon within the family structures. Digital media and education are highlighted as major channels through which prevention and awareness raising can be provided. In factual numbers, 2022 saw an increase of suicide instances with three cases of attempted suicide and two fatalities. Two of the victims were 19 years old.<sup>280</sup>

**225.** A gendered perspective on youth rights in Kosovo shows that stereotypical patriarchal dynamics remain prevalent in Kosovo's society. According to a recent UNICEF report on youth, traditional gender expectations continue to be present in education and the workplace environment.<sup>281</sup> Despite being one of Kosovo's most valuable assets, youth potential remains vastly underutilized, with only 13 percent of youth employed in 2019. As a result, young people are choosing to leave, and there is a rise in demand for language classes, particularly German.<sup>282</sup>

## **226. Recommendations**

- The MESTI should invest in education and financial training for young people to ensure that they have the skills and knowledge they need to succeed in the workforce and contribute to society;
- The GoK should encourage youth participation in decision-making and actively seek how to involve young people in the decision-making processes of the GoK;
- The GoK should foster youth entrepreneurship with funding, training and mentorship programs to help them succeed in Kosovo society;
- The GoK should improve its strategies on incentivizing young people to remain in Kosovo and halt migration;
- Access to mental healthcare facilities and support for youth facing mental challenges should be made available;
- The MoF should speed up the process of implementation of the Youth Guarantee Scheme given that this Program is an important investment in the future of Kosovo's youth and the overall economic development of Kosovo;
- For the proper functioning of the mechanisms of the CYAC and LYAC, more institutional and financial support is required. For this purpose, the amendment of the Law on Empowerment and Participation of Youth can help clarify the status of CYAC and LYACs;
- Local governments should develop Local Youth Action Plans and approve budgets for the implementation of those plans.

280 MoH (2022), [Manual on promotional and preventative intervention in the field of mental health of adolescents](#).

281 UNICEF (2021), [Youth Voices from Kosovo](#).

282 ETF (2021), [How migration, human capital and the labor market interact in Kosovo](#).

## 7.4 The rights of persons with disabilities

**228.** The legislative framework that informs the situational assessment of the implementation of the human rights of persons with disabilities in Kosovo consists of the Constitution along with numerous laws and regulations in which specific reference is made to this segment of the population. Part of the legislative framework through which the rights of persons with disabilities are safeguarded is Law No. 2003/23 on Disability Pensions and Law No. 03/L-022 on the Material Support for Families of Children with a Permanent Disability. Two other laws that support specific persons with disabilities are the Law No. 05/L -067 on the Status and Rights of Paraplegic and Tetraplegic Persons and the Law No. 04/L – 092 on the Blind. A part of Kosovo’s legal framework reflects the United Nations Convention on People with Disabilities (CRPD), but it has yet to be incorporated into the Constitution as a directly applicable international human rights instrument under Article 22. Kosovo has also adopted an inclusive vision centered on promoting the rights and conditions of this community and its facilities in its Strategy on the Rights of Persons with Disabilities (2013-2023).

**229.** Kosovo’s legislation is implicitly based on European human rights instruments but lacks properly formulated and explicit harmonization. In Article 22 of the Constitution, a number of key human rights instruments serve as the basis for local laws and regulations, but the CRPD is not included. The CRPD protects and ensures the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and promotes respect for their dignity.<sup>283</sup> The principles of the Convention include individual autonomy, non-discrimination, participation and inclusion, respect for difference and acceptance of diversity; accessibility; equality of opportunities and respect for the evolving capacities of children with disabilities to name but a few.<sup>284</sup> According to HANDIKOS (2023), the inclusion of the CRPD is pivotal if the aim is to attain the fundamental preconditions for persons with disabilities to lead a normal and dignified life. After continuous efforts and requests from HANDIKOS for the incorporation of the CRPD, the GoK held a meeting on 13 December 2022 thereafter issuing decision No. 02/112 with a proposal for the amendment of the Constitution addressed to the AoK.<sup>285</sup> Upon this request, the AoK sent the CRPD to the Constitutional Court to obtain an opinion on how the convention complies with the Constitution of Kosovo. Thus far, the Constitutional Court has yet to respond to the request. On the other hand, the draft Law on the Treatment and Categorization of Persons with Disabilities has not progressed and was not part of the legislative agenda of 2022.<sup>286</sup>

283 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

284 United Nations (2023), [CRPD 2006](#).

285 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

286 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

**230.** The institutional mechanisms put in place to safeguard the cohesion between policy and practice fall within the responsibilities of the National Council for People with Disabilities (NCPD). While founded to operate in tandem with the relevant CSOs, the NCPD has not been functioning between 2018 and 2022. Because the main role of NCPD is to determine the kinds of institutional policies that promote the socio-economic circumstances of this community, its status has been resolved once again in 2021. Since its reestablishment in 2021, and despite the Year of Persons with Disabilities (see below), the NCPD has thus far held just two meetings.<sup>287</sup>

**231.** The weak link between policy and practice partially translates into realities of continued discrimination and a lack of institutional care and societal awareness among the general population.<sup>288</sup> HANDIKOS (2023) specifies at least three main dimensions of discrimination in Kosovo's societal organization. Prejudice from the general population is arguably an important factor that results in the societal exclusion of the community from the public sphere. Continued Infrastructural challenges hindering the access of persons with disabilities to public buildings, schools, medical facilities and transport exacerbate the already difficult circumstances for persons with disabilities in Kosovo. Indeed, in contradiction with administrative instructions guaranteeing access to public spaces, the built environment is not sufficiently accommodating to persons with disabilities, thereby depriving them from equal participation in society.<sup>289</sup>

**232.** Accessibility is a constituent component of any inclusive environment that takes into account the participation of persons with disabilities. A situational assessment of Kosovo's infrastructure shows that the material environment is not just inadequately equipped for persons with disabilities but in fact even hazardous. The Administrative Instruction on the Technical Conditions of Buildings for the access of people with disabilities No. 33/2007 is continuously and openly disregarded, leading to a sense of discrimination among the community.<sup>290</sup> Moreover, in 2022, the Ministry of Environment, Spatial Planning and Infrastructure sent the official notice No. 4159/22 to all municipalities to advance the implementation of the instruction to no avail.

**233.** It is in the context of infrastructure that five lawsuits have been filed against various institutions since 2018 with 4 cases still awaiting review.<sup>291</sup> The case of wheel-chair user Faruk Kukaj is particularly prominent because it raised the awareness for wheelchair users in Pristina/Priština. Mr. Kukaj filed a lawsuit against the municipality of Pristina/Priština on the account of discrimination, stating that the municipality inadequately provides the basic infrastructure needed for wheelchair users. In 2022, he partially won the case in the Basic Court of Pristina/Priština with the municipality paying him 5,500 Euro in immaterial damages.<sup>292</sup> His public appearances have not only given voice to wheel-chair users and persons with disabilities, but have also encouraged other people to demand the implementation of their basic human rights.

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287 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

288 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

289 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

290 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

291 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

292 Pristina Insight (2022), [Person of the year for Prishtina Insight, Faruk Kukaj](#).

**234.** Justice as an instrument for establishing legal equality remains inaccessible to persons with disabilities. In part, this has to do with the institutional buildings themselves which are not at all accommodated for persons with disabilities. The same holds true for the notary office. Paradoxically, the Administrative Instruction No. 05/2022 on the Notary Public exempts persons with disabilities from paying certain notary services. However, as most offices of notary cannot be accessed by wheel-chair users, the material environment impinges on their opportunities to factually exercise this right.

**235.** The GoK designated the year 2022 as the Year of Persons with Disabilities. In doing so, the GoK shed light on the societal challenges faced by persons with disabilities and raised awareness among the general population about the difficulties they encounter. In this regard, the institutions together with the organizations of persons with disabilities drafted an institutional “Calendar of Activities” with planned actions to be accomplished in the societal areas of health, employment, welfare, accessibility, culture, sports, justice and security. The Calendar of Activities was approved by the GoK and was to be completed in different periods in time in 2022. However, according to the data provided by HANDIKOS, only 30 percent of the planned activities have been implemented.

**236.** While vital in terms of importance, the health care system and social services at the institutional domain do not respond to the basic needs of persons with disabilities. The paradox lies not only in the fact that they are treated unequally and in a discriminatory manner by health care personnel. There are also no mechanisms in place that provide people with disabilities immediate health care services. As a result, HANDIKOS notes that people with disabilities are forced to turn to private medical centers or abroad with great financial consequences.

**237.** The lack of a spinal unit in the state hospital can have devastating consequences for persons injured ending up in wheelchairs. Although the GoK planned to establish the unit as part of the activities for the Year of Persons with Disabilities, this has yet to be concretized.

**238.** A positive development concerning the health needs of persons with disabilities is that in 2022, the GoK issued an Administrative Instruction for Assistive Devices foreseen in Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons. The Administrative Instruction is expected to be implemented in 2024.<sup>294</sup>

293 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

294 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

**239.** The social disadvantages of persons with disabilities in the area of education are expressed in a manner that manifests the discrepancies between policy and practice. Although notionally Kosovo promotes an inclusive educational system, in reality, only 12 percent of students with disabilities are factually included. The educational sector depicts an alarming situation with the vast majority of children with disabilities, i.e., 88 percent of children, excluded from the system. Compared to the previous report, the numbers estimated remain the same. In the higher education system only 7 students with disabilities attend the public university.<sup>295</sup> Private institutions are yet to make public data on the student population with disabilities.

**240.** Another issue of particular concern in the inclusive educational system concerns the insufficient number of assistants available for children with disabilities. In this regard, two positive developments can be noted. The first is that MESTI allocated a budget for an additional 100 assistants in 2022 in primary education.<sup>296</sup> This follows the recruitment of 100 assistants in 2021, and translates into more support for the inclusive educational system. According to MESTI, in 2023 the GoK has allocated financing for an additional 300 assistants.<sup>297</sup> A second positive development towards a more inclusive educational system for children with disabilities concerns the training organized by MESTI on inclusion and the treatment of children with disabilities.<sup>298</sup>

**241.** Persons with disabilities remain among the poorest socio-economic communities in Kosovo.<sup>299</sup> The issues arising are numerous and manifested at different socio-political and economic spheres of Kosovo society. First, there is a clear discontinuity between the legislation on employment opportunities and the realities of implementation. The Law No. 03/L-019 on Vocational Ability, Rehabilitation and Employment, which guarantees the right of employment to persons with disabilities is not sufficiently translated into practice.<sup>300</sup> This Law includes an employment quota of one person with disabilities hired per fifty individuals employed. In August 2022, the PM of Kosovo announced the implementation of the Economic Revival Package, Measure 1.6 which aims to promote the employment of persons with disabilities. In spite of this, there is no concrete information made available by the GoK about the number of persons with disabilities employed as the result of this measure.<sup>301</sup>

**242.** Within Kosovo's legislation the Administrative Instruction on the Access of Persons with Disabilities is not factually implemented, resulting in realities of consistent exclusion and discrimination.<sup>302</sup> Furthermore, the GoK has yet to approve the draft Law on the Evaluation, Status, Benefits and Services for Persons with Disabilities. Likewise, in February 2022, the GoK issued its Decision No. 221/2022 which obligates state institutions to attain the official quota for the employment of persons with disabilities. In practice, HANDIKOS observes that only a small number of vacancies have expressly addressed this category of employees to apply. In reality, individuals with disabilities often find themselves at a disadvantage when compared to their peers, as their disability tends to negatively impact their employment opportunities.

295 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

296 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

297 MESTI (2022), email response to HRN concerning recommendations of the previous joint CSO report on Human Rights in Kosovo.

298 EU Commission (2022), [Kosovo Report 2022](#).

299 EU Commission (2022), [Kosovo Report 2022](#).

300 HANDIKOS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

301 Albanian Daily News (2022), [Kosovo government promotes employment of people with disabilities](#).

302 EU Commission (2022), [Kosovo Report 2022](#).

**243.** In 2022, the Health Commission reassessed the number of beneficiaries who receive financial compensation and social services within the Law No. 05/L-067 on the Status and Rights of Paraplegic and Tetraplegic Persons, thereby excluding a significant number of individuals previously recognized within this right. In total in 2022, 30,000 individuals underwent a re-evaluation of their condition(s). The reassessment procedures are based on the regulations of the Health Commission. Accordingly, HANDIKOS received over 50 complaints from people with disabilities claiming that their rights were violated by the Health Commission. The conditions of persons with disabilities should not be subject to re-evaluations as they do not improve. Upon observing these violations, HANDIKOS sent a number of cases to the Administrative Department of the Basic Court in Pristina/Priština where they are currently under evaluation. It should not go unnoticed that during this phase the individuals affected are deprived of the financial compensation they are entitled to. The consequence is increased socio-economic marginalization as they are now left without the basic means for their basic living expenses and medicine.

**244.** Social services for individuals with disabilities are provided by Disabled Persons Organizations on project-based resources. Authorities have yet to scale up community-based social services for persons with disabilities and increase financial support. Particularly deprived from equal opportunities are children with disabilities from non-majority communities and K-Roma, K-Egyptian and K-Ashkali backgrounds. In addition to discrimination on the basis of their disability, they are excluded from equal participation in society as the result of ethnic discrimination.

### **245. Recommendations**

- The AoK should incorporate the United Nations Convention on Rights of People with Disabilities (CRPD) in the Constitution in order to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity;
- The GoK should concretely prioritize the inclusion of persons with disabilities and make the statistical data about the number of persons hired as the result of the Economic Revival Package accessible to the general population;
- The municipalities of Kosovo should implement the Administrative Instruction 33/2007 on Technical Conditions of Buildings for access of people with disabilities when construction permits;
- The MoH shall establish a Spinal Unit within the Hospital and University Clinical Center of Kosovo;



- The Ministry of Finance, Labor and Transfers should amend the Regulation on the Composition, Functioning, and Responsibilities of the Evaluation Commission and on the Defining of Evaluation Procedures for the Recognition of the Status and Rights of Paraplegic and Tetraplegic Persons;
- The Condition of persons with disabilities should not be subject to re-evaluations by the Health Commission, only in cases when their condition becomes worse and they can apply for the schemes in which they fulfill the criteria according to the current legislation for financial support;
- The MESTI should provide more measures that ensure the full inclusion of children with disabilities in Kosovo in the education system in order to create a system of factual equality;
- The MoJ should allocate more budgetary resources to DPOs for financing social services through long-term and not short-term projects;
- The Office for Good Governance (OGG) should reinvigorate the activities of the CPD as it is an important point of liaison between the GoK, disability-related NGOs and the affected population;
- The Office for Good Governance (OGG) should initiate the 5-year strategy for the rights of persons with disabilities as well as the concomitant action plan.

## 7.5 Non-majority communities' rights

**246.** Kosovo has well-established institutions at the central and municipal levels, as well as an adequate legislative framework, to guarantee the rights of non-majority communities. The legislative framework foresees the democratic principles of multi-ethnicity, diversity, and equality of all ethnic, religious, and linguistic groups in Kosovo.<sup>303</sup> The Constitution of Kosovo declares in Article 3.1 (Equality before the Law) that Kosovo “is a multi-ethnic society consisting of Albanian and other Communities”<sup>304</sup> The non-majority communities of Kosovo include the K-Serb, K-Turkish, K-Roma, K-Ashkali, K-Egyptian, K-Bosniak, and K-Goran communities<sup>305</sup> and other communities. In Table 5 below, the demographic proportion of the respective communities is illustrated according to the last population census.<sup>306</sup> In addition to the Constitution, the rights of non-majority communities are guaranteed in Law No. 03/L-047 on the Protection and Promotion of the Rights of the Communities and their Members in Kosovo. In this Law, the “national, ethnic and religious diversity” of Kosovo is defined as “a source of strength and wealth for the further development of a democratic society.”<sup>307</sup> In light of this understanding, the law stipulates special measures that can ensure the implementation of the equal status and integration of the communities and their members in Kosovo society. Furthermore, in Law No. 02/L-37 on the Use of Languages (the Language Law) Albanian and Serbian both have the status of official languages. At the municipality level, the

303 Demaj, U. & M. Vandenbroucke (2016), [Post-war Kosovo landscapes in Pristina: Discrepancies between policy and urban reality](#).

304 The Kosovo Constitution (2008).

305 The Kosovo Constitution (2008), Chapter III.

306 [Statistical Agency of Kosovo](#) (2021).

307 [Law no. 03/L-047](#).

language of any non-majority communities shall have the status of a language in official use if a municipality is inhabited by a community whose mother tongue is not an official language, and which constitutes at least 3 percent of the total population of the respective municipality.<sup>308</sup> The official use of Turkish and Roma language in the Municipality of Prizren is an illustrative case of this Law in practice. The same is the case with the Roma language in Graçanicë/Gračanica.

**Table 5 Population by ethnic background excluding ‘other’ and ‘prefer not to answer’<sup>309</sup>**

	K-Albanian	K-Serb	K-Turkish	K-Bosniak	K-Roma	K-Ashkali	K-Egyptian	K-Goran	Total
Total	1,616,869	25,532	18,738	27,533	8,824	15,436	11,524	10,265	1,739,825

**247.** The institutional mechanisms that safeguard the rights and responsibilities of the non-majority communities in Kosovo partially fall within the Community Consultative Council of the Office of the President of Kosovo but also with the Ombudsperson and the Ministry for Communities and Returns. The Community Consultative Council bridges the gap between the public institutions of Kosovo and the communities. Its central role is to articulate the views of the communities on the legislation, policies, and programs relevant to non-majority communities, to guarantee the efficient functioning of community representative organizations, and to provide communities with the opportunity to participate in legal and policy initiatives. In addition to the Council, the GoK has also adopted the Strategy for the Inclusion of the K-Roma and K-Ashkali Communities in Kosovo Society 2022-2026. The government has approved the Strategy and Action plan for 2022-2024.<sup>310</sup> The delay of the approval of the strategy posits a negative impact on the life of K-Roma and K-Ashkali communities in education, health, housing, social issues and anti-discrimination. The recent GoK Strategy and Action Plan (2022-2024) assumes more action regarding the societal inclusion of the K-Roma and K-Ashkali communities.<sup>311</sup> Following the Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process (Poznan Declaration), the GoK has established a Technical Group for the Protection from Discrimination of K-Roma, K-Ashkali, and K-Egyptian communities.<sup>312</sup> The Technical Group is responsible for addressing issues related to discrimination against these communities in Kosovo. The group is tasked with identifying instances of discrimination and working with relevant authorities to address these issues. Additionally, the group is responsible for raising awareness about discrimination against these communities and promoting equal rights and opportunities. In 2021, an electronic platform was launched where persons who have experienced discrimination are encouraged to report their cases, which are subsequently investigated by the Group and the responsible institutions. In 2022, the platform w-

308 [Law no.02/L-037](#).

309 The majority of the K-Serbs boycotted the Kosovo census of 2011. As a result, there are still no official records as to how many ethnic Serbs inhabit Kosovo.

310 Childhub (2022), [The strategy for advancing the rights of the Roma and Ashkali communities in the Republic of Kosovo \(2022-2026\) and its action plan for the years 2022-2024 has been approved](#).

311 [The government program of the Republic of Kosovo \(2021\)](#).

312 EU Commission (2022), [Kosovo Report 2022](#).

as accessed by almost 6,000 visitors, and 8 cases of discrimination were reported.<sup>313</sup> The Ombudsman Institution, the Ministry for Communities and Returns and the Office for Minorities within the PM office also form part of the institutional mechanisms responsible for safeguarding the rights of the communities in Kosovo.

**248.** The multi-ethnic context of Kosovo is characterized by discontinuities between its official multi-ethnic on paper and the realities of ethno-spatial segregation.<sup>314</sup> Kosovo is represented as an ethnically inclusive society in its various laws and regulations, the notion of 'multi-ethnicity' does not align with the realities of ethno-spatial separation that crystallized after the 1998-1999 armed conflict.

**249.** In addition to the multi-ethnic configuration of Kosovo, discrepancies exist between the inclusive policy and practices of ethnic and linguistic exclusion. The Law on the Use of Languages is representative of the consolidation of equality in Kosovo legislation. Through the adoption of the Law on the Use of Languages, the AoK declared the equal use of the official languages, Albanian and Serbian, and their respective alphabets, Latin and Cyrillic. As the Law itself does not identify means to support the development of municipal capacities to ensure its execution, the GoK adopted administrative instructions in 2008 and established a Language Commissioner in order to oversee its implementation. As the European Commission observed in its 2022 Progress Report since 2019, the GoK has taken additional steps to establish the translation unit tasked with enhancing legislative translation but more efforts are needed to design and implement programs for curricular and extracurricular learning of official and other languages.<sup>315</sup> However, a stronger government commitment to consolidating language policies is still required.<sup>316</sup> Along with the poor quality of translations in Serbian, studies report on the systematic exclusion and replacement of Serbian with English in signage of official authorities in the capital city.<sup>317</sup>

**250.** A crucial dimension of any situational assessment concerning the human rights situation in Kosovo is security as it shapes the perceptions on tensions between the communities. The manner in which the K-Albanians and K-Serbs perceive one another as either communities of the same country or competing groups is defined to a large extent in the wider political realities of the region. Tensions in the north of Kosovo resurfaced at the end of July 2022 following a decision of the GoK over the issuing of car license plates. In particular, Kosovo authorities refuse the Serbian-issued plates from before the 1999 war with the current Kosovo MP stating that "license plates predating the territory's 1999 war for independence from Serbia can no longer be valid and the 50,000 Serbs in northern Kosovo, who only accept Serb institutions must now use Kosovo plates."<sup>318</sup>

312 EU Commission (2022), [Kosovo Report 2022](#).

313 [Platforma kombëtare për mbrojtje nga diskriminimi për komunitetet Rom, Ashkali dhe Egjiptian \(2022\)](#).

314 Demaj, U. & M. Vandenbroucke (2016), [Post-war Kosovo landscapes in Pristina: Discrepancies between policy and urban reality](#).

315 EU Commission (2022), [Kosovo Report 2022](#).

316 EU Commission (2022), [Kosovo Report 2022](#).

317 Demaj, U. & M. Vandenbroucke (2016), [Post-war Kosovo landscapes in Pristina: Discrepancies between policy and urban reality](#).

318 MP Kurti cited in the BBC (2022), [Kosovo-Serbia flare-up fears over car number plate row](#).

In protest, the K-Serb police officers resigned en masse in November 2022. Eventually, an agreement about the license plate dispute was reached between the parties with Serbia's President agreeing to stop issuing license plates with Kosovo city names on them and Kosovo's Prime Minister ceasing further actions relating to the re-registration of car plates.<sup>319</sup>

**251.** Concerning the use of entry-exit documents, an agreement facilitated by the international community was reached on 27 August 2022, whereby Serbia agreed to abolish the documents for Kosovo ID holders and Kosovo not to introduce them for Serbian ID holders.<sup>320</sup> In this respect, the UN Security Council states in its annual report for Kosovo that the facilitation of the registration of vehicles with Kosovo plates for owners of vehicles with former Yugoslav or similar plates are of paramount importance for ensuring real freedom of movement, primarily, but not exclusively, for the K-Serb population.<sup>321</sup>

**252.** Latent tensions in the north of Kosovo have forcefully resurfaced following the arrest of former K-Serb policeman Dejan Pantić on December 10, 2022. The arrest came on suspicions for "organizing a terrorist attack on the premises of the Municipal Election Commission" in northern Kosovo, as pronounced by the current Minister of Interior.<sup>322</sup> As a sign of protest, K-Serbs in the north have barricaded major crossing points at the border with Serbia including the crossing points in Merdare, Jarinje/Jarinjë and Brnjak/Bërnjak borders. The issuing of the 30-day detention order by the Basic Court of Pristina/Priština sparked protest among the K-Serbs, who demanded his immediate release on claims that the accusations are unfounded.<sup>323</sup> In mid-December, the Ombudsperson requested information about the conditions in which Pantić was being held.<sup>324</sup> Furthermore, several NGOs have expressed in a joint statement concern about the violations against Pantić' basic human rights as information spread that he was not allowed to see his lawyers nor members of his family.<sup>325</sup>

**253.** The concomitant nationalist rhetoric further fueled the tensions between Pristina/Priština and Belgrade thereby echoing the discourses of violence dominating the late 1990s. In response to the MP of Kosovo, who stated that "if NATO's Kosovo force KFOR does not remove the barricades Kosovo police will," the Serbian authorities fueled international alarm by deploying Serbian Army troops near the border. According to the Serbian president, "the ultimate goal of Pristina/Priština and an international power he did not name is the final expulsion of Serbs from Kosovo."<sup>326</sup> The n-

319 Politico (2022), [Kosovo and Serbia reach agreement over car plate dispute, EU says](#).

320 EU Commission (2022), [Kosovo Report 2022](#).

321 UN Security Council (2022), [Kosovo Report of the Secretary-General 2022](#).

322 Svecla, Xh. cited in Balkan Insight (2022), [Arrested Kosovo Serb Police Officer's Lawyer still unaware of his location](#).

323 Balkan Insight (2022), [Arrested Kosovo Serb Police Officer's Lawyer still unaware of his location](#).

324 Aktiv (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

325 NSI (2022), [Press release regarding the detention of Dejan Pantić](#).

326 Balkan Insight (2022), [Kosovo-Serbia Crisis simmers as new barricade blocks border](#).

ationalist rhetoric has alerted the international community who urged for the normalization of relations and the de-escalation of the situation. On December 29, 2022, the detention of the former K-Serb police officer Pantić was reduced to a house arrest.

**254.** The Patriarch of the Serbian Orthodox Church Porfirije was banned from entering Kosovo ahead of Orthodox Christmas and visiting the head of the Patriarchate in Peć/Pejë. While the Serbian Patriarch stated that the decision is an act of discrimination against the K-Serbs,<sup>327</sup> in the context of the tensions in the north, the GoK motivated its decision on the suspicion that the Patriarch supported the criminal groups barricading the crossing borders in the north of Kosovo.<sup>328</sup> The ban caused mass outrage in Serbia and among the K-Serb community. The NGO Aktiv and other CSOs did not accept the rationale of the GoK behind the decision. Instead, they view it as a “drastic example of a discriminatory attitude towards the Serbian Orthodox Church and its believers and followers.”<sup>329</sup> This is especially true when considering that the visit was pre-planned and followed official protocol via the liaison office in Pristina/Priština.<sup>330</sup> Moreover, the Constitutional Court alerted Kosovo’s Chief Prosecutor in September 2021 of a failure to implement its 2016 ruling, which upheld the ownership rights of the Monastery of the Serbian Orthodox Church over a part of land around the Monastery. The ruling has yet to be implemented.<sup>331</sup>

**255.** Human rights concerns have been raised by Reporters Without Borders concerning the protection of journalists in the current context of tensions in the north of Kosovo. Throughout the intensification of the interethnic dispute in November and December 2022, at least four attacks on journalists have been recorded.<sup>332</sup> In particular, a crew from Pristina/Priština-based TV Klan Kosova was attacked near a barricade in the village of Çabër/Čabra in Zubin Potok. This followed an attack on BIRN journalists in early December and TV Dukagjini.<sup>333</sup> Video reports evidencing the attacks have circulated since via social media, intensifying hostile rhetoric between the ethnic communities.

**256.** It is worth mentioning that in the Summit of the Western Balkans, which was held in July 2019 in Poznan (Poland), Kosovo pledged to support Roma integration by signing the “Declaration of the Western Balkans for Roma Integration within the EU Enlargement Process. In this regard, the Strategy for the Advancement of the Rights of the Roma and Ashkali Communities 2022-2026 was approved in 2022.<sup>334</sup> In June 2022, the Office for Good Governance launched a national platform for the protection against discrimination for the K-Roma, K-Ashkali and K-Egyptian communities with the help of civil society organizations. The purpose of the platform is to contribute to the fight against discrimination against the K-Roma, K-Ashkali and K-Egyptian communities by providing easier access for citizens to report cases of discrimination against the communities, referring them

327 AA (2022), [Kosovo bans entry of Serbian Patriarch ahead of Orthodox Christmas](#).

328 Letter of the Mol (2022) cited in Klan Kosova, [Patriarku serb Porfirije nuk lejohet të hyjë as sot në Kosovë](#).

329 NSI (2022), [press release regarding the prevention of the patriarch of the Serbian Orthodox Church from entering Kosovo](#).

330 NSI (2022), [press release regarding the prevention of the patriarch of the Serbian Orthodox Church from entering Kosovo](#).

331 EU Commission (2022), [Kosovo Report 2022](#).

332 Balkan Insight (2022), [RSF urges Kosovo to protect journalists from attacks in the north](#).

333 Balkan Insight (2022), [RSF urges Kosovo to protect journalists from attacks in the north](#).

334 Regional Cooperation Council (2020), [Strategy for Roma integration](#).

to the relevant institutions and informing about the relevant legislation that guarantees their rights.<sup>335</sup> The technical group for protection from discrimination treated 8 cases of discrimination of Roma, Ashkali and Egyptian communities (July – December 2022) which were reported in the national platform for protection from discrimination for Roma, Ashkali and Egyptian.<sup>336</sup>

**257.** Different from the past, the current GoK did not agree with the facilitation of voting by the OSCE to enable the K-Serbs with casting their votes in the constitutional referendum and general elections of Serbia in 2022.<sup>337</sup> The EU Commission report states that “a constructive approach by Kosovo is needed for the K-Serbs to exercise their democratic rights.”<sup>338</sup>

**258.** Hate speech and acts of discrimination were widespread in the context of the volatile situation in the north in 2022.<sup>339</sup> The Law No. 05/L-021 on the Protection from Discrimination establishes a general framework to prevent and combat discrimination in order to implement the principle of equal treatment. In spite of this, public institutions fail to act in accordance with the law and provide equal social access and conditions for non-majority communities.

**259.** Related to the previous paragraph, K-Serb-led NGOs express great concern for the unequal application of law to members of different communities in Kosovo.<sup>340</sup> In September 2022, a student Nikola Nedeljković, from Belgrade was sentenced for “inciting hatred and discord” after the annual memorial service dedicated to the 1389 Battle of Kosovo, which is a major event in Serbian national history.<sup>341</sup> According to the K-police on duty, Nedeljković was holding a Serbian flag during the event and shouting a hateful discourse against Albanians. Resultantly, he was charged and sentenced to 8 months in prison for the crime of inciting ethnic hatred. In total, he served 6 months as the result of a verdict from the Court of Appeals in December 2022.<sup>342</sup>

**260.** In similar vein, in October 2022 Albanian supporters of the basketball team “Vëllaznimi” during a match with “Trepça” burned the Serbian flag upon which the Serbian language media reported it as an act of ethnic hatred. Subsequently, the KP opened the case of criminal investigation, stating that the event incited ethnic hatred.<sup>343</sup>

**261.** A campaign initiated by the group “Besa Besë” containing hate speech toward Serbs was published in different media outlets. The campaign calls consumers to boycott Serbian products by evoking in its visual promotion different historical pictures, and footage of Serbian atrocities c-

335 Childhub (2022), [Lansohet platforma kombëtare për komunitetet Rom, Ashkali dhe Egjiptian.](#)

336 Terres des Hommes (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

337 EU Commission (2022), [Kosovo Report 2022.](#)

338 EU Commission (2022), [Kosovo Report 2022.](#)

339 EU Commission (2022), [Kosovo Report 2022.](#)

340 Aktiv (2022), input for the joint CSO report on Human rights in Kosovo 2022.

341 Balkan Insight (2022), [Kosovo Police arrest a Serb for inciting hatred after Battle commemoration.](#)

342 YIHR KS (2022), input for the joint CSO report on human rights.

343 Koha (2022), [Policia nis hetimet për djegien e flamurit të Serbisë në palestërën në Gjakovë.](#)



ommitted against the ethnic Albanians in the most recent war in 1998-1999. The video shared contained language that could reasonably be interpreted as hate speech or language that is disrespectful to a specific ethnic group. K-Serb actors and NGOs that primarily work with the K-Serb community, have spoken against the campaign in a joint statement considering the video an attempt by informal groups to spread “hate speech and intolerance towards one ethnic minority.”<sup>344</sup> In response to the campaign, they have accessed a series of legal mechanisms and expect an institutional response by official authorities. The YIHR KS has initiated legal proceedings for a civil rights dispute against the Council for Written Media. In April 2022, YIHR KS demanded the removal of a video widespread via media in Kosovo because they could be interpreted as hate speech. The Kosovo Council for Written Media declined both requests. Subsequently, In May 2022, the YIHR KS filed a lawsuit with the Basic Court in Pristina/Priština with the department for Administrative Disputes. As the Department could not claim jurisdiction on the matter, YIHR KS was redirected to the Civil Disputes department and is pending initial proceedings.

**262.** In contrast to inclusive policy making, the K-Roma, K-Ashkali, and K-Egyptian communities face discrimination on the basis of their ethnicity, despite the Law No. 05/L-021 on the Protection from Discrimination which prevents discrimination based on ethnicity. The stigma assigned to their culture has driven them further into marginalization resulting in unequal access to health-care, employment, and education.<sup>345</sup> In addition, the K-Montenegrins and K-Croats face similar struggles as other non-majorities when it comes to equal access to health care, employment, and inclusion in other societal spheres that ensures their equal rights and opportunities in Kosovo.<sup>346</sup>

**263.** In spite of the Local Action Plan for the integration of K-Roma, K-Ashkali, and K-Egyptian communities, the institutions responsible for their implementation and monitoring lack sufficient human resources and financial capacities to realize the targeted objectives. Thus far, a 2022 Balkan Sunflowers Kosova report found that most activities for the integration of these communities in society have been carried out by CSOs and development partners.<sup>347</sup>

**264.** According to the Kosovo Police, K-Roma, K-Ashkali, and K-Egyptian communities were specifically targeted in a recent campaign to join the KP and an information campaign initiated explaining police work and the entire recruitment. The campaign also included the distribution of guide brochures to young people on how to apply to the Kosovo Police and the testing phases. However, the lack of secondary education was identified as a major obstacle for the youth of these communities. To increase the involvement of the non-majority community in the Kosovo Police, the Ministry of Internal Affairs, in collaboration with the Ministry of Administration and Local Government and supported by the OSCE-Mission in Kosovo, organized a preparatory workshop for 100 young people. The workshop aimed to offer knowledge about application procedures, testing, and other necessary procedures for applying as police officers, targeting specifically the non-majority communities in Kosovo. In spite of this, from the 446 persons recruited in generation 57 of the KP, only a single person has a K-Roma background.<sup>348</sup>

344 NSI (2022) and Aktiv (2022), input for the joint CSO report on Human Rights in Kosovo 2022. To access the official statement, the [website](#) of NSI can be consulted.

345 Sections 7.1 and 7.2 of the current report discuss the situation of the Roma, Ashkali, and Egyptian communities from the perspective of Women's rights and Children's rights.

346 NSI (2022) and Aktiv (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

347 Balkan Sunflowers (2022), input for the joint CSO report on Human Rights in Kosovo 2021.

348 KP (2022), email response to the HRN concerning recommendation of the joint CSO report on Human Rights in 2021.

## 265. Recommendations

- The Office of Good Governance (OGG) should enhance public awareness campaigns that promote respect, and understanding among the different ethnic communities;
- The Office of Good Governance (OGG) should encourage community engagement and participation by the communities in decision-making processes that affect their lives, including through local government structures;
- The Office of Good Governance (OGG) should develop a strategy for increasing interethnic dialogue and cooperation between different ethnic communities including language programs;
- Central and local institutions should improve their institutional coordination and communication to ensure the effective protection of non-majority communities and their rights;
- The Technical Working Group for the implementation of the recommendations of the Council of Europe's Framework Convention on National Minorities should meet regularly to ensure progress towards the implementation of recommendations;
- All institutions, including the Office of the Language Commissioner, have a collaborative responsibility to consistently implement the Law on the Use of Languages. They should work together to ensure that the law is enforced and that all individuals and communities can exercise their language rights.

## 7.6 LGBTQI+ rights

**266.** The rights of lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI+) persons are protected internationally through Article 7 of the UDHR and Article 14 of the European Convention on Human Rights, which protects against discrimination on any grounds. On the other hand, explicit recognition of the LGBTQI+ community or sexual orientation and gender inclusivity in the respective declaration and convention is not available. However, the jurisprudence of the ECtHR is enriched with cases dealing with discrimination on the ground of sexual orientation and gender identity, thereby providing a widened scope of understanding at the international terrain. In the context of the ECHR, applicants dealing with equal marriage rights have challenged different provisions of the ECHR before the ECtHR, mainly Articles 8 (the right to respect for private and family life), 12 (the right to marry and to found a family) and 14 ECHR (the prohibition of discrimination) have been invoked. The most relevant provision is Article 12, which provides that "Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right". Article 24 of the Kosovo Constitution also makes specific mention of sexual orientation and gender expression.

**267.** The Constitution of Kosovo does not envision gendered restrictions on the freedom to marry; article 37 of the Constitution of Kosovo recognizes that everyone has the right to marry and the right to have a family as provided by law. Despite the constitutional rights of the LGBTQI+ community, the requisite legislation necessary to recognize the community in terms equal to all members of society has not been adopted in the new draft Civil Code. Failure to vote in favor of same-sex unions has not only laid a fundamentally homophobic ideology in underlying Kosovo's societal structures, it has also impeded the efforts of the LGBTQI+ community, civil society and the international community to provide the country with genuine forms of democracy. Instead, the discussions surrounding same-sex unions instigated a homophobic campaign against individuals of the LGBTQI+ community with public persona, political figures and media outlets overtly going against the basic rights of individuals with LGBTQI+ backgrounds. Furthermore, the prominent hate speech delivered during the session of the draft Civil Code discussion in the AoK suggested how deeply rooted discrimination against LGBTQI+ members in Kosovo is. Furthermore, the discussion has exacerbated the already tenuous position of the LGBTQI+ individuals, undermining active efforts to arrive at a more open and equal society shared by all members of the community.<sup>349</sup> It is worth noting that public actors did not publicly condemn the hate speech omnipresent during the session of the draft Civil Code discussion.

**268.** Of particular public concern is the Declaration of the Chair of the AoK Human Rights Committee Duda Balje, who publicly stated her vote against same-sex marriages. Human Rights Network jointly underscored the paradox of this statement with her public position in society and demanded her resignation.<sup>350</sup> As a member of the drafting committee of the Civil Code of Kosovo, Duda Balje made controversial comments about same-sex marriage during a public hearing on the draft Civil Code. She stated that same-sex marriage should not be legalized in Kosovo because it is not in line with the country's cultural and traditional values and that legalizing same-sex marriage would undermine the institution of marriage.<sup>351</sup> Balje's comments are problematic from a human rights perspective because they imply that the rights of the LGBTQI+ community should be subordinate to the cultural and traditional values of the majority. This approach ignores the fact that human rights are universal and apply to all individuals, regardless of their cultural or religious background. The right to marry and create a family is enshrined in international human rights law, and this includes the right of same-sex couples to marry and create a family. By opposing the legalization of same-sex marriage, Balje is denying the LGBTQI+ persons in Kosovo their right to marry and create a family on equal terms with heterosexual couples. Furthermore, because Balje's comments contribute to a culture of discrimination and prejudice against the LGBTQI+ community in Kosovo, a number of CSOs have demanded her resignation. From a human rights perspective, her comments on same-sex marriage are concerning and indicate that she is not committed to upholding the human rights of all individuals including those who identify as LGBTQI+. Her comments invalidate her ability to fulfill her role in a way consistent with international human rights standards. In this respect, the OIK released an opinion stating that same-sex marriage is a constitutionally guaranteed right and depriving same-sex individuals from this right is a violation of their right not to be discriminated against based on their sexual orientation.<sup>352</sup>

349 CEL Kosovo (2022), input for the joint CSO report on Human Rights in Kosovo.

350 Human Rights Network (2022), [Declaration concerning statements made by Duda Balje on same-sex marriage](#).

351 Kosovo 2.0 (2022), [Let's talk: A lot of homophobia over a single sentence](#).

352 Ekonomika online, [Avokati i popullit mbështet martesat mes gjinisë së njëjtë, ka një vërejtje për Kodin Civil](#).

**269.** The Kosovo Prosecutorial Council continues to maintain a tracking mechanism on hate crime, however the overall data collection on hate crimes against LGBTQI+ individuals remains under examination.<sup>353</sup> While the Criminal Code stipulates that in any criminal offense motivated by gender identity and sexual orientation the underlying motives are viewed in terms of aggravating circumstances, the extent to which homophobia underlies hate crimes is underexplored. The NGO CEL Kosovo corroborates the fact that our understanding of society in terms of individuals' collective attitudes towards the LGBTQI+ community is outdated 2022 as the last research on attitudes dates back to 2015. In a response letter to the HRN, the KP notes that a coordinator of hate crime cases has been appointed at the central level who oversees all reports, information, accepts and updates all received reports as well as forwards all case statistics for each month or even in different periods according to request of the management of KP.<sup>354</sup>

**270.** The European Commission report on the state of human rights during 2022 brings attention to an increase in domestic violence cases against persons of the LGBTQI+ community, but it does not provide data on the number of incidents. Thus far, a single shelter is underway in the municipality of Pristina/Priština for protecting individuals outcast by their families and victimized by others as the result of their gender identities and sexual orientations.<sup>355</sup> CEL Kosovo reports that no institutional accommodations are provided at the official level for victimized persons of the LGBTQI+ community. The NGO underscores that thus far, only NGOs offer networks of assistance with CEL Kosovo offering emergency accommodation for adults without a safety net.

**271.** Kosovo institutions have yet to adopt concrete strategies to promote the acceptance of Kosovo's society towards people with LGBTQI+ backgrounds. Thus far, while the Office of Good Governance is drafting action plans and strategies to elevate the stigmas attached to LGBTQI+ community members, the GoK has yet to concretize action in the status promotion of this community. Thus far, the GoK has failed to initiate campaigns increasing the level of acceptance of LGBTQI+ individuals in the public domain or in the home.

**272.** In the domain of health, institutions in Kosovo are not equipped for gender transitions, hormonal treatment or any other kind of measures benefitting LGBTQI+ communities specifically. According to NGO CEL Kosovo, voluntary blood donations from members of the community are not accepted by health institutions because of the stigma attached to the interlink between LGBTQI+ members and sexually transmitted diseases including HIV.<sup>356</sup>

**273.** Related to the previous, there is a significant lack of funded research updating the societal understanding concerning the welfare of individuals from the LGBTQI+ community. A case in point concerns the rate of bullying LGBTQI+ individuals undergo on the basis of factual or perceived sexual orientation, gender identity and gender expression characteristics. At the same time

353 EU Commission (2022), [Kosovo Report 2022](#).

354 KP (2022), email response to HRN concerning recommendations of the 2021 joint CSO report on Human Rights in Kosovo.

355 EU Commission (2022), [Kosovo Report 2022](#).

356 CEL Kosovo (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

e, however, the number of suicides, self-harms resulting anxiety and depression among the LGBTQI+ community continues to grow as per the NGO CEL Kosovo.

**274.** The lack of updated empirical examinations, studies, campaigns and other officially funded initiatives concerning the socio-economic and psychological welfare of this segment of the population is concomitant with inaction of the official institutions to promote the rights of the LGBTQI+ community. This in turn reflects an overall ambiguous stance of the GoK towards this societal group, thereby laying bare fundamental discontinuities between its official principles of democracy and all-inclusivity and the factual realities of exclusion based on sexual orientation and gender expression.

**275.** Resulting the stigma attached to LGBTQI+ community, the fear of coming out is palpable among this group. The cases of people openly declaring their sexual orientation as non-hetero or non-binary gender identities are few and in between. In this respect, the first queer bar in Pristina/Priština Bubble Pub serves as the only LGBTQI+ owned café in Kosovo, which openly profiles itself as a queer bar.<sup>357</sup> For this initiative, the owner and activist Lend Mustafa won the Activist of the Year Prize 2022, which was granted by YIHR KS during Human Rights Week 2022.<sup>358</sup>

**276.** Pristina/Priština Pride in Kosovo is organized annually for the sixth time in a row by the local LGBTQI+ community, with support from various civil society organizations and activists. The event includes a series of activities, such as film screenings, panel discussions, art exhibitions, and concerts. The aim of Pristina/Priština Pride is to raise awareness about the challenges faced by the LGBTQI+ community in Kosovo and to promote their rights and inclusion in society. The organization of Pristina/Priština Pride in Kosovo has faced opposition from conservative and religious groups, leading to security concerns and the need for police protection during the events. Despite these challenges, the LGBTQI+ community in Kosovo continues to work towards achieving greater acceptance and equality, including the recognition of same-sex partnerships and protection from discrimination. The promotion of gay rights in Kosovo is an ongoing process, and Pristina/Priština Pride Week plays a crucial role in creating visibility and building momentum towards a more inclusive and just society.

**277.** Throughout the period of January-October, the NGO D4D carried out a study of online hate speech towards the LGBTQI+ community, which they found increased during Pride Parades and discussions of the draft Civil Code. In this respect, they found that the media uses provocative headlines and encourages public reactions with headlines including, "How the woman with a headscarf led the Rainbow: Interesting moments from the Pride Parade". Another example shaping public opinion is that of public debates. LGBTQI+ issues on TV or in the media in Kosovo involve invited guests with strong religious beliefs, which leads to a rise in hate speech towards the community on social media platforms. To combat hate speech, it is important to be aware of these issues and avoid sensationalist language in the media.<sup>359</sup>

357 Libertas (2022), [‘Fluska’ e personave LGBTI+ në zemër të Prishtinës](#).

358 YIHR KS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

359 D4D (2022), [Combating hate speech, sexist and racist language](#).

## 278. Recommendations

- The Public Prosecutors should ensure that hate crimes targeting the LGBTQI+ community are effectively ex-officio prosecuted and punished;
- The KP should effectively act in cases of hate speech and hate crimes against LGBTQI+ persons;
- The MESTI should include information about LGBTQI+ persons in the national education system to promote awareness and acceptance of diversity;
- The GoK should provide funding and support for LGBTQ+ organizations to carry out their work and engage in advocacy;
- Programs should be offered for the general public to educate oneself on LGBTQI+ issues including the challenges faced by the community and the importance of equality and inclusion;
- More support should be provided to meet the need for psychological support for LGBTQI+ people;
- Competent institutions (GoK, AoK) should ensure adequate completion of the legal framework with regard to gender recognition in order to permanently guarantee realization of this right;
- The AoK should correct unconstitutional provisions regarding marriage and cohabitation within the draft Civil Code;
- The municipality of Pristina/Priština should proceed with the construction of the LGBTQI+ shelter;
- The AoK should adopt the draft Civil Code to ensure that same-sex couples have the same rights as other couples, and to eradicate discrimination based on sexual orientation and gender identity in family law.

## 7.7 People on the move

**279.** The legislative framework of Kosovo promotes and facilitates the safe return of “internally displaced persons” in Article 156 of the Constitution, while simultaneously guaranteeing assistance in recovery of property and possessions.<sup>360</sup> Furthermore, in January 2018 the GoK issued Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions. The Regulation, among others, defines the responsibilities of competent, decision making, and implementing bodies as well as assistance procedures and criteria.

360 The Kosovo Constitution (2008).



**280.** The institutional mechanisms responsible for assisting returnees and IDPs are defined by the Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions. As in the previous years, the Municipal Commission on Returns does not prioritize cases based on the vulnerability criteria on provision of the assistance, as per Article 10. The Central Review Commission continues to function in contradiction to the article 25.3 of the Regulation as it does not reflect ethnic diversity composition, as all of its members are from the K-Serb community. At the end of the year, the GoK established the Central Appeal Commission, which is mandated to review claims against the Central Review Commission. The Ministry of Communities and Returns is still in process of drafting the Strategy for Protection and Promotion of Community Rights 2022- 2026.<sup>361</sup>

**281.** There are significant incongruities in the implementation of policy involving returnees and IDPs. Based on the legal framework of Kosovo, displaced persons are guaranteed the right to return to their place of origin. Some returnee families residing in private accommodations are subject to continued pressure from their landlords to be evicted, due to their poor socio-economic conditions, which leaves them unable to cover rental costs and utility bills.<sup>362</sup> Likewise, there are cases that were approved by the Central Review Commission in 2011 and still do not benefit from housing. The facilitated projects continue to target only a group of selected municipalities, thus return assistance in other municipalities has been neglected.

**282.** According to Article 15.2 of the Regulation No. 2018/01 on Return of Displaced Persons and Durable Solutions, the returnees and internally displaced persons may benefit also from rent as a temporary accommodation measure. It is worth mentioning that this mechanism is not fully functional, as most of the municipalities did not foresee budget lines or allocated funds to implement the article 15.2 of the Regulation. Moreover, 37 Roma, Ashkali and Egyptian families that have returned in 2017 from North Macedonia continue to face challenges in realizing sustainable integration efforts and remain without durable housing solutions. All these returnee families are residing in private accommodations in Ferizaj/Uroševač, Gjilan/Gnjilane, Pristina/Priština, Obiliq/Obilić and Pejë/Peć. The mayor of Obiliq/Obilić has established a working group to address the issue of 11 returnee families that have expressed interest in settling in the municipality but with no concrete results.<sup>363</sup> According to the NGO Advancing Together, there are a total of 89 landless families, mainly from K-Roma, K-Ashkali and K-Egyptian returnee/IDP communities.<sup>364</sup>

**283.** The process of registration of the rights on the property use of the beneficiaries of donor housing programs on municipal allocated land in the municipal cadastral books in South Mitrovica continues to be unresolved due to persistent legal obstacles. A total of 288 houses were built in the "Fidanishte" neighborhood for K-Roma, K-Ashkali and K-Egyptian communities through different international donors. The registration of 74 cases, for which the Municipal Urbanism Department has collected relevant documentation, stalled as according to the Article 13.3 of the Administrative Instruction No. 06/2020 on fees for services of registration of the immovable property rights provide that fifty (50) Euro fee should be paid for each cadastral unit, when the owner is the

361 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

362 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

363 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

364 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

Government or the Municipality, with a duration of forty (40) to ninety-nine (99) years. In addition, the Municipality is conditioning registration with payment of property tax and garbage bills debts. The concerned families feel insecure as are not in possession of relevant property documentation that will provide them safe and unhindered use of properties.<sup>365</sup>

**284.** A K-Serb urban returnee in Gjakovë/Djakovica is still residing in an unrenovated apartment, due to property dispute with the municipality of Gjakovë/Djakovica. On the 25th of August 2022, the Ombudsperson issued a report recommending to the Mayor of Gjakova/Djakovica to allow renovation of the apartment in accordance with the Regulation on Return of Displaced Persons and Durable Solutions, as well as, to respect language compliance. It should be underscored that the Basic Court of Gjakovë/Djakovica did not call a court hearing session to settle the property dispute, thus hindering her full access to property rights and the proper conditions for her reintegration.<sup>366</sup>

**285.** A limited number (8) of returnees continue to face challenges/obstacles during the process of obtaining civil status documents. Children that are born outside of the institutions and lack a parent's documentation have difficulties to acquire legal identity and enjoy their rights in accessing rights and services. There are other issues affecting birth registration of the children such as lack of documents from the country of origin (mother) and technical errors in the documents compared to the data in civil status books.<sup>367</sup>

**286.** A number of returnees in displacement married foreign partners who after the return did not follow the procedures of obtaining temporary residence permits in Kosovo through family reunion. These persons often lack valid passports from their country of origin and have no funds to travel outside of Kosovo in order to process their respective application for obtaining temporary residence permits. According to Article 5.5. of the Regulation No. 09/2019 for the Integration of Foreigners, the foreigners with a temporary residence permit shall have right to employment, self-employment and vocational training, but not for social welfare. The cases for social assistance are processed through the self-supported parent category.<sup>368</sup>

**287.** Access to legal aid for returnees and internally displaced persons in Kosovo continues to remain a challenge, due to their lack of information on the Kosovo Free Legal Aid Agency (FLAA), non-fulfillment of eligibility criteria, lack of relevant Kosovo documentation, lack of knowledge on procedural/application matters, financial burdens and remote locations. Such needed legal aid will enable returnees and internally displaced persons to access rights and services, restore property rights, as well as, benefit from social and other financial entitlements.<sup>369</sup>

365 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

366 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

367 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

368 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

369 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

**288.** The political climate of Kosovo complicated by the Kosovo-Serbia dialogue and the deterioration of the socio-economic situation of all communities are some of the factors that caused an increase in the number of security incidents. The period under review was characterized with a high number of intimidations, attacks against places of worship, physical assaults, thefts and property damages. Based on the monitoring process of the NGO Advancing Together, from 01 January until 29 December 2022, 72 incidents involving non-majority communities were recorded. The returnee communities were affected in 28 incidents and displaced communities on 2 occasions.<sup>370</sup>

**289.** Law No. 04/L-032 on Pre-University Education is the basic law that regulates the pre-university educational system in Kosovo. The Law stipulates that “no persons shall be denied the right to education” and requires the MESTI to take into account when planning, managing, and delivering pre-university education internationally accepted norms, the rights of the child, the protection of groups in vulnerable situations, and the promotion of gender equality. Reportedly, the primary school “Mustafa Bakija” in Gjakovë/Djakovica refused to enroll four Egyptian returnee children from Ali Ibra/Kolonia, Gjakovë/Djakovica in first grade of primary education with justification of filled number of registered students. Following the advocacy done by Advancing Together, four children were later enrolled, as primary school representatives claimed that parents did not follow deadlines for enrolment.<sup>371</sup>

**290.** Due to reintegration challenges, the families that are faced with poverty and unemployment, simply have no interest in getting acquainted with children’s rights. The children are used for street begging, collection of raw materials in order to generate revenues for the families, thus are forced to stop education or to regularly not attend education. There are 77 returnee children that have been involved in child labor in different forms, mainly from K-Roma, K-Ashkali and K-Egyptian communities.<sup>372</sup> Kosovo has made progress in addressing child protection and their rights through the adoption of Law No. 06/L-084 on Child Protection<sup>373</sup>, but more remains to be done to prevent and effectively respond to violence abuse, exploitation, and negligence against children. There is lack of competent officers within the respective institutions for child protection and lack of sub-normative acts on institutional mechanisms and coordination on preventive activities and this hampers progress towards elimination of this phenomenon.

**291.** According to data provided by UNHCR Kosovo, the number of returns in Kosovo for the reported period was 118 voluntary returns among members of non-majority communities who were displaced both within and outside Kosovo. Among these returnees, 57 women were recorded and 61 men, consisting of 59 K-Serbs, 19 K-Roma, 10 K-Ashkali, 13 K-Egyptians, and 17 K-Albanians. This brings the cumulative number of displaced individuals from non-majority communities who have achieved sustainable solutions in Kosovo to 29,075 since 2000. The number for 2022 is a significant decrease compared to 2021, which recorded a total number of 473 returnees.<sup>374</sup>

370 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

371 AT (2022), input for the joint CSO report on Human Rights 2022.

372 AT (2022), input for the joint CSO report on Human Rights Kosovo 2022.

373 [Gazeta Zyrtare e Republikës së Kosovës \(2022\)](#).

374 UN Security Council (2022), [Kosovo Report of the Secretary-General 2022](#).

**292.** There are 24 K-Roma, K-Ashkali and K-Egyptian returnee families in Nakull/Naklo, Pejë/Peć that are facing sanitation issues and are at health contagious risks. All families are connected to two septic tanks that often are blocked and overflow their houses. The local authorities did not find modalities to clean the septic tanks on the regular basis, despite the calls of the residents.<sup>375</sup>

**293.** Kosovo remains a transit route for mixed movements. The number of refugees/migrants transiting through Kosovo, as part of the Balkan route in 2022 has decreased by approximately 40 percent compared to the previous year. There were 1,410 applications for international protection status in 2020 than a significant decrease in the number of applications in 2021 with only 590. In 2022 (until mid-November), a total of 511 submissions for international protection status were recorded. Since 2008, 126 persons obtained refugee status in Kosovo while 35 were in subsidiary protection status with a one-year reviewing term.<sup>376</sup>

**294.** The Stabilization and Association Agreement between the EU and Kosovo lays the foundations for cooperation between the EU and Kosovo concerning asylum and a view towards reflecting the standards obtained within the 1951 Geneva Convention concerning the Status of Refugees. This includes the 1967 Protocol ensuring the non-refoulement principle and the human rights of asylum seekers and refugees.<sup>377</sup>

**295.** In 2022, the General Secretary of the Ministry of Internal Affairs established the Working Group for the reassessment of the Law No. 06/L-026 on Asylum. Following the evaluation of this Law, the Working Group issued a report concluding that the asylum law does not require any revisions and that the institutions have not encountered difficulties in its implementation. The legal framework foresees reception and initial treatment procedures of the applicants for international protection; procedures and standards of reviewing and ruling on the applications for international protection; the internal rules on the functioning of the Asylum Center, the rules on the work of the National Commission for Refugees as the second administrative instance; as well as the Regulation on the integration of foreigners. In 2022, the Manual for Economic Integration of Foreigners was drafted and entered into force.<sup>378</sup>

**296.** In light of recent changes in the EU legislation and the need to address legal gaps encountered in its implementation, the GoK initiated a new draft Law No. 04/L-219 on Foreigners. In 2022, the new reception center for migrants was inaugurated; the institution of the center responds to the new Law as it foresees the establishment of new institutes such as the Tolerated Status for Foreigners. Sub-legal acts are yet to be issued for the operation of this Center.<sup>379</sup>

375 Advancing Together (2022), [Report on Sustainability and Reintegration Challenges of returnees/IDPs – 2022](#).

376 CRP/K (2022), statistics and input for the joint CSO report on Human Rights Kosovo 2022.

377 CRP/K (2022), input for the joint CSO report on Human Rights Kosovo 2022.

378 CRP/K (2022), input for the joint CSO report on Human Rights Kosovo 2022.

379 CRP/K (2022), input for the joint CSO report on Human Rights Kosovo 2022.

**297.** As authorities have increasingly become confident in implementing refugee protection resulting in part the assistance provided by CRP/K, persons with recognized international protection status have been granted more access to different assistance schemes such as accommodation, social assistance, language courses and education, provision of food and non-food items as well as assistance provided for job opportunities.<sup>380</sup> Kosovo has also taken some positive steps last year regarding people on the move when it provided shelter to Ukrainian journalists forced to leave their country following the invasion by Russia. The GoK will give priority to female journalists who will be chosen by the European Federation of Journalists (EFJ) and the European Center for Press and Media Freedom (ECPMF).<sup>381</sup>

## **298. Recommendations**

- The GoK should ensure access to rights and basic services for all asylum seekers and refugees in a timely and coordinated manner;
- The GoK should enhance inter-institutional cooperation and coordination to effectively respond to the needs and requests of recognized refugees and persons with subsidiary protection status in Kosovo for their legal and socio-economic integration;
- The GoK should proceed with durable housing solutions for the returnees from North Macedonia;
- The Ministry of Communities and Returns should conduct an analysis concerning the alignment of the current Regulation on Return of Displaced Persons and Durable Solutions with the Strategy for Protection and Promotion of Community Rights 2022-2026;
- The Municipal authorities should initiate trust-building activities in the areas of K-Serb returns;
- The GoK should exempt from tax payment and provide guidelines to the municipalities on legalization of the returnees and IDPs' properties that have been financed by donors/ Kosovo institutions.

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380 CRP/K (2022), input for the joint CSO report on Human Rights Kosovo 2022.

381 Balkan Insight (2022), [Kosovo welcomes first Ukrainian journalist fleeing war](#).

## 8. Section D: CROSS-CUTTING ISSUES/ SPECIFIC HUMAN RIGHTS ISSUES

### 8.1 Transitional justice and human rights

**299.** The definition of transitional justice in this document derives from the OHCHR, which defines it in relation to human rights as a goal to “provide recognition to victims, enhance the trust of individuals in state institutions, reinforce respect for human rights and promote the rule of law as a step towards reconciliation and the prevention of new violations.”<sup>382</sup> A comprehensive approach to transitional justice can facilitate the processes of reconciliation and contribute to the transformation of Kosovo’s society into a more inclusive entity shared by all ethnic communities. Indeed, overcoming grievances and providing the victims of war the acknowledgement needed through different forms of justice can help pave the path to reconciliation.

**300.** In 2021, the GoK appointed a Working Group of experts to develop the overarching transitional justice strategy that was to “unite all previous initiatives.”<sup>383</sup> However, as noted in the previous report, most initiatives thus far have been flawed due to the lack of political will and lack of serious engagement of relevant actors to bring forth a concrete action plan. Notably, as with other governments, the current GoK has repealed previous initiatives and commenced anew. The continuous negation of previous projects in favor of newly established initiatives impacts the dealing with the past (DwP) field in a negative manner, and impedes on positive progress.<sup>384</sup> As per the MoJ, the draft strategy is “victim-centered” and “gender-sensitive” thereby giving voice to the women who have thus far been underrepresented in the narrative. According to the NGO MPRC, vital in this regard has been to provide survivors and their kin redress for violations suffered, and establish in this process trust in the legitimacy of the government, and the rule of law.<sup>385</sup> Although the draft strategy was to be made public for debate in September 2022, the drafting process is still ongoing. As per the NSI, the question of inclusiveness remains to be investigated with specific reference to how crimes that occurred in Kosovo in 1998-2000 will be treated equally for victims of all ethnic backgrounds.<sup>386</sup>

**301.** The top-down legislation concerning transitional justice includes three main legal stipulations. The first is the Law No. 03/L-023 on Missing Persons, which addresses the protection of the rights and interests of missing persons and their family members. More specifically, it focuses on the right of family members to know the truth about the fate of their missing loved ones. The ame-

382 OCHR (2022), [transitional justice and human rights](#).

383 Prime Minister Albin Kurti (2021) cited in Osorio (2022) for the Humanitarian Law Center Kosovo (HLC), [Towards a national transitional justice strategy for Kosovo](#).

384 Nora Ahmetaj (2022), input for the joint CSO report on Human Rights in Kosovo.

385 MPRC (2022), input for the joint CSO report on human rights in Kosovo.

386 NSI (2022), input for the joint CSO report on human rights in Kosovo.



ndment process of the law was initiated in 2021, but its approval has been delayed. The delay in drafting the new Law on Missing Persons is causing increasing frustration among family members, who have been promised that the law will grant them the right to receive two pensions - one for old age and one as compensation for being family members of missing persons. Currently, they are forced to choose between the two.<sup>387</sup> The Law No. 03/L-023 stipulates the establishment of the Governmental Commission on Missing Persons. The Law No. 03/L-023 covers the period of the conflict between 1 January 1998 and 31 December 2000, and as such overlooks missing persons cases outside of the official time frame of the war in Kosovo. The second is the Law No. 04/L-054 on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Sexual Violence Victims of the War and Civilian Victims and their Families. The purpose of the Law No. 04/L-054 has been to define support in terms of financial pensions and other benefits for categories of survivors of the conflict including families of missing persons. Defined in terms of the Kosovo Pension Scheme, the criteria set forth stipulate financial support by this Law. Finally, the Law No. 05/L-060 on Forensic Medicine, which entered into force in April 2016, stipulates the establishment of the Institute of Forensic Medicine under the auspices of the Ministry of Justice. Article 15 of this law foresees, inter alia, that the Institute is responsible for “searching, locating and exhuming, as well as determining the fate, identifying and handing over the remains of missing persons” associated with the war in Kosovo. In addition, the Institute is responsible for “maintaining contacts with the families of the missing and cooperating with local and foreign organizations and institutions, which are involved in the process of clarifying the fate of missing persons.”<sup>388</sup>

**302.** The legal stipulations defined in Law No. 03/L-023 and Law No. 04/L-054 pose a number of limitations on the beneficiaries. The MPRC and NSI independently emphasize the discriminatory nature of the law as it forces family members to decide whether they will receive the supposed retirement pension or the pension of Law No. 04/L-054 as they are not entitled to both. The respective incomes are of a different nature and should not interfere with one another. Specifically, they underscore that the financial resources for the damage suffered during the war should be adequately termed reparations, and not pensions. Although in 2019 a petition for the amendment of this practice filed to the Committee for Human Rights, Gender, Equality, and Missing Persons found resonance in the Concept Document for the status of Missing Persons, in reality, the requests of family members are yet to be fulfilled during the reporting period of 2022.<sup>389</sup>

**303.** An additional form of discrimination in terms of missing persons and members of their families, who went missing after 20 June 1999 affects primarily persons from non-majority communities. Specifically, once such a person's remains are found, s/he is no longer considered a missing person but rather a civilian victim of war. However, the cut-off date for a person who perished in Kosovo war to be considered a civilian victim is the end of 20 June 1999; this means that families of missing persons are unable to exercise their right to social benefits as of the moment their missing family member is found, if s/he went missing after this date, since the Kosovo legal framework does not recognize that right. This provision particularly affects the members of non-majority communities in Kosovo, since they make the majority of those missing after the end of June 1999.<sup>390</sup>

387 Bota Sot (2022), [Vazhdon zvarritja e Projektligjit për personat e zhdukur, heshtje nga institucionet](#).

388 NSI (2022), input for the joint CSO report on Human Rights in Kosovo.

389 NSI (2022), [The Game of Numbers: Resolving the issue of the missing 20 years on](#)

390 NSI (2022), input for the joint CSO report on Human Rights in Kosovo.

**304.** Similar concerns about the timeframe of war crimes committed emerge in the draft Law on the Institute of Crimes Committed During the War in Kosovo.<sup>391</sup> This draft Law approved by the AoK in the first reading in May 2022 will aim at “establishing, organizing, functioning and determining the competencies of the Institute for Crimes Committed during the War in Kosovo.”<sup>392</sup> The NGO NSI remarks that the Law does not warrant the equal treatment, documentation and research of all war crimes committed in Kosovo. Based on article 1 of this Law, the timeframe for war crimes constitutes the period between 1 January 1998 and June 20, 1999. However, paragraph 2 of article 2 of this Law states that “research and documentation from par. 1 of this Article, can be applicable over the crimes occurred after the period of war, related to the war, not later than December 31, 2000”. Additionally, the role of representatives of non-majority communities is not stipulated. Another issue raised by YIHR KS concerned the term “crimes during the war” as it does not specify the type of crimes. This may raise questions in the future about the inclusiveness of the investigations carried out by the institute. Further, YIHR KS recommended that the Institute be an independent institution to avoid political influence and report to the AoK.<sup>393</sup>

**305.** Alongside the relevant legislation, the institutional mechanisms and governing bodies dealing with conflict-related missing persons cases consist of a number of institutions. First, the Kosovo Government Commission for Missing Persons (GCMP) is the government agency which is tasked with heading, supervising, harmonizing and coordinating all missing persons cases and activities. This includes the harmonization of local institutions, as well as regional cooperation and international communication. In accordance with Law No. 03/L-023 on Missing Persons, the members of this commission should include representatives from most ministries as well as three representatives of the family members of missing persons among whom at least one with a non-majority ethnic background. As noted by the MPRC, the GCMP remains incomplete during the reporting period as it does not have a non-majority member since 2020. NSI further substantiates that the Union of Associations of Families of Abducted and Missing Persons based in Gračanica/Graçanica called on the Prime Minister to appoint a Deputy Chair without further delay, but this has not yet happened in 2022.

**306.** The mechanisms of the Working Group on Missing Persons (WGMP) were first established as a humanitarian initiative by the International Committee of the Red Cross (ICRC) in 2004. Its central aim is to provide a liaison for facilitating the exchange of information between authorities in Belgrade and Pristina/Priština about missing persons and (mass) gravesite locations.<sup>394</sup> In its arrangements the WGMP decided on regular meetings for conveying mutual information on the whereabouts of missing persons in the presence of family members and relevant stakeholders. S-

391 NSI (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

392 Kosova Press (2022), [The government paves the way for the establishment of the Institute for Crimes Committed During the War in Kosovo.](#)

393 YIHR KS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

394 UNHRSP (2022), [Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence.](#)

ince 2019, however, the working group meetings have been on hold due to the politicization of the group. In particular, the Pristina/Priština delegation refuses to cooperate with the chairperson in Belgrade because of his alleged involvement in criminal activities during the conflict in Kosovo in 1998-1999, thereby requesting his immediate replacement.<sup>395</sup> The Belgrade delegation repudiates the request of Pristina/Priština to replace the Chairman as they deem that the accusations against the Chair are unfounded. The politicization of the issue has emerged as a substantial barrier in the process of unearthing missing persons cases.<sup>396</sup> On the other hand, the AoK Committee for Human Rights, Gender Equality, Missing Persons and Petitions is a functional mechanism that deals with all matters relating to human rights including the rights of missing persons and their families.

**307.** The year 2022 saw no progress in resolving the fate of over 1,600 individuals who went missing during the Kosovo war. The situation highlights the urgent need for continued efforts to uncover the truth and bring closure to the families and loved ones of the missing individuals.<sup>397</sup>

**308.** Related to the previous paragraph, the NSI underscores that the work of the GCMP is inaccessible for non-majority communities.<sup>398</sup> In particular, the official website is only in Albanian but in dissonance with the Law on the Use of Languages (2006), which requires official texts to be provided in both official languages, i.e. Albanian and Serbian. Accordingly, this obscures vital information to a segment of the population.<sup>399</sup>

**309.** In addition to the local bodies, a number of international organizations similarly concern themselves with addressing the missing persons cases. Of particular importance are the ICRC, The International Commission on Missing Persons (ICMP), EULEX forensic experts embedded in the Kosovo Institute of Forensic Medicine, and UNMIK.”

**310.** The UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabian Salvioli, conducted an official visit to Kosovo during 2022. As the website of the OHCHR explains, the expert examined the progress made in redressing the legacy of serious violations of human rights and humanitarian law committed during the armed conflict in Kosovo.<sup>400</sup> According to Salvioli (2022), the percentage of solved missing persons cases in Kosovo is higher than in the region and worldwide with an average of 72 percent of circumstances resolved.<sup>401</sup>

**311.** During the period January-June 2022, Kosovo courts conducted proceedings in 14 cases of war crimes in Kosovo with most of these cases being in proceedings for several years now.<sup>402</sup> In court proceedings where the defendants are Serbs, the NSI and the HLC Kosovo note delays in the translation of court files from Albanian into Serbian.<sup>403</sup> On the other hand, Kosovo is criticized for its slow progress in prosecuting war crime cases; a continuous concern in this respect is the insuf-

395 UNHRSP (2022), [Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence](#).

396 UNHRSP (2022), [Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence](#).

397 Portalb (2022), [2022-ta pa risi për të zhdukurit gjatë luftës në Kosovë](#).

398 GCMP (2022), [webpage](#).

399 NSI (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

400 OHCHR (2022), [UN expert on truth and justice to visit Serbia and Kosovo](#).

401 MPRC (2022), input for the joint CSO report on human rights in Kosovo

402 HLC (2022), [War crime cases in Kosovo courts \(January 2022 – June 2022\)](#).

403 Ibid.

ficient number of prosecutors for war crimes, which has yet to be resolved.<sup>404</sup>

**312.** Currently there are 4 cases handled by the Kosovo Specialist Chambers (KSC) in the Hague with the defendants Hashim Thaçi and others, Pjetër Shala, Salih Mustafa, Hysni Gucati and Nasim Haradinaj. On December 2022, Salih Mustafa was found guilty for the criminal offenses of arbitrary detention, torture and murder as a war crime and convicted him to a unified sentence of 26 years imprisonment. He was acquitted for the criminal offense of cruel treatment.<sup>405</sup> It was concerning that major political figures including the PM of Kosovo stood in Mustafa's defense calling the verdict unjust and Mustafa a liberator "who has fought not to conquer any other country but to liberate his own country."<sup>406</sup> Furthermore, the Specialist Chambers found Hysni Gucati and Nasim Haradinaj guilty of obstructing the administration of justice, sentencing them to four and a half years in prison and a fine of 100 Euro.<sup>407</sup>

**313.** Conflict-related sexual violence (CRSV) is defined in the Law No. 04/L-172 in relation to persons who have survived sexual abuse and rape within the period of the armed conflict between 27.02.1998 and 20.06.1999. The restriction in time raises the issue for inclusion of victims after June 1999. Namely, many survivors of CRSV from non-majority backgrounds have been victimized after June 1999 with the removal of Serbian forces from Kosovo. Therefore, although the sexual violence committed occurred in the context of the armed conflict, their status is not recognized in accordance with the Law nor are their experiences and concomitant rights acknowledged as such.<sup>408</sup> The deadline for submitting applications to the Government's Commission to Recognize and Verify Survivors of Sexual Violence during the Kosovo War will be on February 5, 2023, which marks the end of a five-year registration process. However, civil society organizations (CSOs) have advocated for extending the deadline to make the process permanent, ensuring that all survivors have ample time to apply for recognition and verification.<sup>409</sup>

**314.** The NGO Kosovo Rehabilitation Center for Torture Victims (KRCT) has documented 715 cases of CRSV which brings the total number to 1,060 identified cases.<sup>410</sup> The documentation incorporates all communities as well as all locations where the rapes were committed in the context of war. Notably, the documentation is not limited at the period defined by the Law on civilian victims of war, which includes survivors of sexual violence during the war in Kosovo between 27 February 1998 to 20 June 1999. Rather, the documentation includes cases of sexual war violence that have been rejected by the Government Commission for the Recognition and Verification of the Status of Persons Raped during the War in Kosovo. Based on the data, the KRCT has issued some recommendations for legal amendments which were addressed to the members of the AoK. In this resp-

404 Balkan Insight (2022), [Kosovo criticized for slow progress in prosecuting war crimes](#).

405 HLC (2022), [Trials before the Kosovo Specialist Chamber \(July 2022 – December 2022\)](#).

406 Albin Kurti (2022), [public statement on Facebook](#).

407 Evropa e Lire (2022), Gucati dhe Haradinaj dënohen me nga katër vjet e gjysmë burgim.

408 UNMIK (2022), [Breaking their silence: Survivors of Conflict Related Sexual Violence in Kosovo are rebuilding their lives with Medica Gjakova](#).

409 Balkan Insight (2023), [Kosovo's war rape survivors' scheme hindered by enduring stigmas](#).

410 KRCT (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

ect, KRCT organized an international conference on the documentation of conflict related sexual violence wherein they introduced the first Manual on the documentation of CRSV.

**315.** The victims of sexual violence during the Kosovo war were only officially recognized in 2015, allowing them to apply for 'survivor status' and a pension. As of June 2022, the Kosovo government has received 1,728 applications, with 1,274 survivors (1217 women and 57 men) granted survivor status and 80 still awaiting a decision.<sup>411</sup> During 2022, 85 war rape survivors gained status recognition through the support of KRCT, while the 43 other were supported directly at the application stage. Victims also have to wait for a long time for courts to deal with their cases if they appeal, and the final deadline for applications is in 2023. KRCT asked the Basic Courts to treat these cases with priority. The average time to review applications from the Government Commission for Status Recognition is one-year or more. This can also be one of the causes of demotivation and discouragement of those who still have issues applying in the status recognition process.<sup>412</sup>

**316.** Yet, despite the widespread and systematic nature of CRSV in Kosovo, only few of those responsible have been prosecuted. Lack of political commitment to prosecute these crimes and complex nature of the cases makes it unlikely for more of those suspected for criminal responsibility of rape and other sexual violence in Kosovo to be brought to justice, which creates a ground for impunity of perpetrators. On 11 November 2022, in the retrial of the Basic Court of Pristina/Priština, Zoran Vukotic was found guilty of wartime rape and a ten-year sentence was confirmed.

**317.** Kosovo lacks an official historical account about Kosovo and concomitant war narrative that brings the K-Serb and K-Albanian communities together in a joint understanding of events. Rather, the communities remain divided on opposite sides and with mutually opposing versions about Kosovo's history and recent armed conflict. Relevant CSOs engaged in transitional justice are continuously attempting at promoting interethnic dialogue to come to a shared account of the interethnic conflict and Kosovo's strenuous interethnic history at large.<sup>413</sup>

### **318. Recommendations**

- The GoK should recognize the rights of victims of sexual violence to provide free health services and the treatment of children born of rape;
- The GoK should address the lack of second instance review of appeals for the survivors of CRSV against decisions of the Commission for the Verification and Recognition of the Status of Survivors of Sexual Violence during the Kosovo War as well as the right to exercise the rights and benefits from the time of application as the waiting period for consideration is excessively long;
- Law No. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of the KLA, Civilian Victims of War and their Families should adopt a clearer terminology that distinguishes between pensions and reparations;

411 UNMIK (2022), [Breaking their silence: Survivors of Conflict Related Sexual Violence in Kosovo are rebuilding their lives with Medica Gjakova.](#)

412 KRCT (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

413 YIHR KS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.



- The draft Transitional Justice Strategy should be approved swiftly;
- The draft Law on Institute of Crimes Committed During the War in Kosovo should be adopted in the AoK as per the CSOs recommendations;
- The GCMP in Kosovo should take immediate action to rectify the inaccessibility of their official website, which is only available in Albanian and not Serbian, thereby obscuring vital information to a segment of the population;
- The time limitation for survivors of conflict-related sexual violence to apply to receive the status as such and recognition as provided by the Law No. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Civilian Victims of War and their Families should be removed;
- The Kosovo authorities should take immediate steps to address the issue of translation delays in court proceedings involving Serbian defendants, to ensure their rights are fully respected;
- The KPC should increase the number of prosecutors for war crimes to expedite the processing of war crime cases and deliver justice to victims and their families.

## 8.2 Corruption and human rights

**319.** An examination of corruption in the context of human rights offers a lens into the nested levels of society in which corruption takes place and impedes on the attainment of collective rights. Particularly in developing countries, addressing the link between corruption and human rights violations is of particular significance for the development of society along the democratic principles of civic equality, inclusivity and transparency.

**320.** In line with the EU Commission report 2022, Kosovo has progressed with important anti-corruption legislation. In particular, it fulfilled the legislative aspect of the EU Commission report recommendations of 2021 to adopt the new Criminal Procedure Code, the Law No. 08/L-017 on the Agency for Prevention of Corruption, and the Law No. 08/L-108 on the Declaration, Origin and Control of Assets and Gifts, as well as legislation on political party financing.<sup>414</sup>

**321.** The GoK prepared the draft Law on the State Bureau for Verification and Confiscation of Unjustified Assets. The purpose of the draft Law is to establish the Bureau for Verification and Confiscation of Unjustified Assets and to determine the procedure for verification and confiscation of unjustifiably acquired assets of official persons, their family members, politically exposed persons,

414 EU Commission (2022), [Kosovo Report 2022](#).



and third parties. The Venice Commission has been asked by the President of the AoK to provide an Opinion on the draft Law No. 08/L-121 on the State Bureau for Verification and Confiscation of Unjustified Assets, which the Commission did by arguing that “the draft law, in its current wording, presents a certain number of shortcomings and its implementation may result in infringements of fundamental rights guaranteed by the Constitution of Kosovo and the ECHR.”<sup>415</sup>

**322.** The PM and the Minister of Justice submitted a vetting proposal to the AoK in September 2022. The vetting process aims to re-evaluate judges and prosecutors with the goal of ensuring professional growth, fighting against corruption, and preventing the influence of organized crime, politics, or other illegal elements in the delivery of justice. The process will include the heads of the courts, members of the Judicial Council and the Prosecution Council and will take place over three phases within five years. The first phase will include members of the Judicial Council and the Prosecution Council, the five members of the Supreme Court, and the chief state prosecutor. The proposal is in line with the recommendations of the Venice Commission.<sup>416</sup>

**323.** Despite the legislative measures undertaken by the GoK, the level of implementation calls for more improvement through proactive strategies into the investigation of high-level corruption, but also through the increase of capacities and the final confiscation of assets.<sup>417</sup> More concretely, capacities and resources are required in the Anti-Corruption Agency and the confiscation of goods remains “the most underused means of fighting corruption in Kosovo.”<sup>418</sup> Furthermore according to the EU Commission report, law enforcement prosecution cooperation is considered of vital importance in the fight against corruption.

**324.** In its assessment of the measures taken in the fight against corruption, the EU Commission report stresses the underuse of confiscation as a measure of action. In the report, it is stated that between the period of July 2021 and March 2022 the prosecutor’s office only confiscated 92,000 Euro in value.

**325.** Regarding the specific ways in which corruption cases are handled in the context of the judiciary, BIRN Kosovo undertook an in-depth investigation through the monitoring of the performance of the justice system throughout the year 2022. An analysis of court hearings and decisions was carried out in all of Kosovo’s Basic Courts and the Court of Appeals (a total of 10 cases) through which they arrived at a report titled “The weary fight against endemic corruption in 2022.”<sup>419</sup> The examination focused on the quality of investigations, court decisions and case delays.<sup>420</sup> In this respect, the main recommendations of BIRN involve awareness raising strategies that offer training for judges and prosecutors who handle corruption cases. The report calls for more attention from judges in the timely publication of judgements.

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415 Kosovo - Opinion on the Draft Law N°08/L-121 on The State Bureau for verification and confiscation of unjustified assets, adopted by the Venice Commission at its 131st Plenary Session (Venice, 17-18 June 2022)

416 Prishtina Insight (2022), [Kosovo PM and Justice Minister submit vetting proposals to Assembly](#).

417 EU Commission (2022), [Kosovo Report 2022](#).

418 EU Commission (2022), [Kosovo Report 2022](#).

419 BIRN (2022), [BIRN Kosovo publishes report on justice system’s handling of corruption cases in 2022](#).

420 BIRN (2022), [Report: The weary fight against endemic corruption](#).

**326.** An important question in the large-scale fight against corruption concerns the domains in which unimpeded forms of corruption occur in the first place. According to KALLXO, a precondition in combating high-level corruption in Kosovo is a basic understanding of the area of inception of corruption.<sup>421</sup> In the fight against corruption, Kosovo has significantly progressed according to Transparency International, which places the corruption index of the territory at 41 out of 100 points. Kosovo ranks 84 on a global scale of 180 countries with Denmark at number 1 as least corrupt country in the world.<sup>422</sup>

**327.** Related to the previous paragraph, law enforcement has emerged as an area where most arrests were made on the suspicion of corruption. Following a one-year investigation in March 2022, the Kosovo police arrested 50 police officers, accused of corruption and abuse of official duty. The arrests consisted mainly of border police officials and some customs officials.<sup>423</sup> Another concern is the expiration of the statute of limitations in corruption cases. It is estimated that in 2022, the cases against 28 defendants accused of corruption were prescribed, which is a serious concern for the justice system.<sup>424</sup>

**328.** The indictments against 20 people, including former Mayor of the Municipality of Shtërpçë/Štrpce, Bratislav Nikolić, demonstrate the pervasive corruption and environmental degradation in Kosovo. The Basic Prosecutor's Office of Ferizaj/Uroševac filed the indictments in response to hundreds of constructions without permission and the giving and receiving of bribes. These criminal offenses led to the degradation of the Sharri National Park in Brezovica/Brezovice and the obstruction of justice by individuals like Miljan Radoičić, the vice-president of Lista Serbe, who is currently on the run and wanted for witness intimidation. Such corruption violates the guarantees for basic human rights in Kosovo posing a threat to the well-being of the people of Kosovo.<sup>425</sup>

**329.** Another case concerns the indictment filed against a former minister accused of corruption by the Special Prosecution; indictments for criminal offense of abuse of official position or authority were filed also against two (2) former municipal directors, as per BIRN's contribution.<sup>426</sup>

**330.** In February, following an investigation by BIRN, the Basic Prosecution in Prizren initiated an indictment against Levent Kasami, a former director of public services in Prizren during Haskuka mayorship. Kasami's actions, as revealed in BIRN's 2021 report, involved manipulating a tender to benefit a specific economic operator, thereby causing financial harm to the budget of the Prizren municipality.<sup>427</sup>

421 Kallxo (2023), [A dihet se ku nis korrupsioni në Kosovë?](#)

422 Pristina Insight (2022), [Kosovo progressed on – but still doesn't control – corruption.](#)

423 Pristina Insight (2022), [Kosovo progressed on – but still doesn't control – corruption.](#)

424 Kosova news (2022), [IKD: gjate vitit 2022 u parashkruan rastet e 28 te akuzuarit per korrupsion.](#)

425 Evropa e Lire (2022), [Si u shndërrua Brezovica në skeme korrupsioni?](#)

426 BIRN (2022) input for the joint CSO report on Human Rights in Kosovo 2022.

427 BIRN (2022) input for the joint CSO report on Human Rights in Kosovo 2022.

**331.** Also in February, Kallxo published an internal audit report from the MoJ which identified that €92,000 intended for the Council for the Defence of Human Rights and Freedoms (CDHRF) to cover travel expenses associated with monitoring sessions at the Kosovo Specialist Chambers in The Hague was instead diverted towards covering the staff salaries and office rent of this NGO. Prompted by BIRN's coverage of the matter, the MoJ severed the memorandum of understanding with CDHRF and demanded the return of the money.<sup>428</sup> The case reflects a severe instance of mismanagement.

**332.** In March, following an investigation of BIRN,<sup>429</sup> four former officials from the Urban Traffic public enterprise of Prishtina municipality, as well as a private company manager, were arrested for abusing official position or authority and conflict of interest for having damaged the public budget.

**333.** In November, KALLXO published a groundbreaking two-year investigation which revealed that €150,000 had been given to influence a number of ongoing court cases in Kosovo's prosecutorial system.<sup>430</sup> Kallxo's filmed recordings show Haxhi Derguti, the head of Appellate Prosecution, in a series of meetings negotiating the fate of cases in exchange for money.<sup>431</sup>

**334.** In May 2022, after an in-depth 2020 BIRN investigation that revealed how Dhurata Hoxha, the former Minister of European Integration lobbied for Kosovo's border changes,<sup>432</sup> the Special Prosecution of Kosovo filed an indictment against Hoxha for abuse of public post. The indictment followed an investigation into a lobbying contract, signed in 2019, with a company from Paris, which ultimately promoted the idea that "territorial exchange" could be a solution in the Kosovo-Serbia dialogue.<sup>433</sup>

**335.** The case known as "Fund 3 percent" of the six accused in the Construction Reinforcement Factory (CRF) scandal involving the former deputy of the Democratic League (LDK), Naser Osmani, is yet another high-profile corruption case. The accused have allegedly abused their positions at the Privatization Agency of Kosovo (PAK) by privatizing the Construction Reinforcement Factory (CRF), resulting in property benefits of 5,400,000.00 Euro for Agim Deshishku while damaging the government budget and employees of the enterprise. Following the retrial process, Osmani was found not guilty. Deshishku, on the other hand, was tried by the Basic Court in Pristina/Priština for the criminal offense of continuous fraud, and found guilty. This resulted in a sentence of 1 year in prison. Furthermore, Deshishku was also sentenced to 1 year in prison and a 10,000 Euro fine for the criminal offense of tax evasion. As a result, he was sentenced to a unique sentence of 1 year and 8 months in prison where time spent in detention and house arrest also count. This case is just one of many examples of corruption in Kosovo that has undermined human rights, eroded public trust, and hindered the country's progress towards EU integration.<sup>434</sup>

428 BIRN (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

429 BIRN (2022), [investigation](#).

430 Kallxo (2022), [Ish-kryeprokurori i Apelit, Haxhi Dërguti, intervistohet nga Policia lidhur me hulumtimin e KALLXO.com](#)

431 BIRN (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

432 Kallxo (2022), [Paratë e taksapaguesve u përdorën për të lobuar për ndryshim të kufijve](#).

433 BIRN (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

434 YIHR KS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

**336.** In the reported period, the NGO Aktiv published a policy proposal entitled “Road map for anti-corruption efforts and enhanced transparency in Kosovo Serb-majority Municipalities.” This policy proposal followed research conducted in six municipalities with Serb-Majority communities (North Mitrovica, Zubin Potok, Leposavić/Leposaviq, Zvečan/Zveçan, Gračanica/Graçanicë, Štrpce/Shtërpçë). The report calls for the adoption of a context-specific Action Plan at the municipal level in the fight against corruption. According to the NGO AKTIV, such a plan would present a “clear analysis of the municipal context, preventive anti-corruption mechanisms, indicators based on which corruption is measured, as well as ways to manage risks and eliminate them.”<sup>435</sup> In addition, this Roadmap offers more than 40 practical recommendations for fighting corruption and increasing transparency in municipalities, such as reorganization of existing and establishment of new mechanisms, risk assessment, control and monitoring, publication of contracts, lists, education, etc.

**337.** Civil society continues to play a significant role in conveying to the public the challenges that Kosovo society faces with corruption. In December 2022, the Coalition of Civil Society Organizations which consists of the NGOs IKD, the GLPS, the Initiative for Progress, Çohu, Columbus and FOL organized the weeklong event Together against Corruption. This event had as its ultimate aim to raise awareness among institutions about the importance of transparency and accountability in the fight against corruption.

### **338. Recommendations**

- The prosecutions and courts should deal with the cases of high profile corruption swiftly and transparently as well as increase their involvement in the fight against corruption and increase the trust of the public in these institutions;
- Prosecutors in the Department for Corruption and Financial Crime in the The Special Prosecution of the Republic of Kosovo (SPRK) should be appointed on the basis of merit criteria, while the Kosovo Prosecutor’s Office and the SPRK should continuously invest in the professional development of prosecutors in this department;
- The SPRK should increase the number of ex-officio investigation cases;
- The SPRK should establish a special department for the fight against corruption;
- The responsible institutions, including the judiciary and law enforcement authorities, should ensure that corruption indictments are thoroughly and timely investigated and that justice is served.

435 Aktiv (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

## 8.3 The environment and human rights

**339.** Human rights and the environment are closely interlinked.<sup>436</sup> Human rights cannot be enjoyed without a sustainable, safe and healthy environment. The adverse effects of climate change threaten the full enjoyment of human rights, including the rights to a sustainable, safe and healthy environment, the right to life, water, sanitation, food, health, housing, self-determination, culture and development.<sup>437</sup> In July 2022, the United Nations General Assembly adopted a resolution in which it is declared that “everyone on the planet has a right to a healthy environment.”<sup>438</sup> The resolution is a landmark decision that explicitly declares access to a clean and healthy environment as a universal human right.<sup>439</sup> It subsequently calls upon stakeholders to scale up their efforts to mitigate the effects of the climate crisis including states, international organizations and businesses.

**340.** The Kosovo Constitution does not recognize the right to a healthy environment. However, it states within Article 52 that “Nature and biodiversity, environment and national inheritance are everyone’s responsibility” and that “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”.

**341.** The Green Agenda for the Western Balkans aims to reflect the European Green Deal in a proportionate and adapted manner for the respective countries. The objective is to turn regional environmental and climate challenges into opportunities and renewable solutions. Given that natural resources and climate change do not know any borders, the Green Agenda foresees joint regional action, which will contribute to the sustainable socio-economic development and the green recovery of the entire region in the post-pandemic period.

**342.** The Western Balkans leaders, including the GoK, signed the Sofia Declaration on the Green Agenda in November 2020. The signatories of the document commit to decarbonization by 2050, thus ending the use of all fossil fuels: oil, gas, and coal. To achieve this objective, the GoK is still in the process of drawing up a National and Energy Climate Plan (NECP), which will focus on concrete steps and milestones between now and 2030.

**343.** In May 2022, a position paper funded by the EU was published by BIRN Kosovo, providing the GoK with 32 concrete recommendations to be included in the NECP. The document consists of concrete recommendations to reduce Kosovo’s reliance on coal and implement more sustainable policies.<sup>440</sup> The recommendations focus on the five pillars of the NECP for which Kosovo is at a crossroads and require decisions: (1) energy security, solidarity and trust, (2) a fully integrated international energy market, (3) energy efficiency contributing to moderation of demand, (4) decarbonization of the economy, and (5) research, innovation and competitiveness.

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436 [Geneva Environment Network](#) (2023).

437 [OHCHR](#) (2022).

438 [Geneva Environment Network](#) (2023).

439 United Nations (2022), [UN general Assembly declares access to a clean and healthy environment a universal human right](#).

440 BIRN (2022), [Position paper: Kosovo’s national energy and climate plan \(NECP\)](#).

**344.** Real-time monitoring of air quality is now made possible through a network of 12 air monitoring stations positioned in geographically spread locations in the municipalities of Kosovo. This enables measuring the air quality in Kosovo in real time. Access from these 12 stations is accessible through the European Environment Agency (EEA's) European Air Quality Index platform.<sup>441</sup> In addition to this, in December 2022, the Law No. 03/L-230 on Environmental Impact Assessment was approved. The Law is seen as a milestone in the context of environmental protection in Kosovo. It ensures that projects with an impact on the environment are not granted permission unless sustainable mitigation measures are put in place that comply with the environmental acquis.<sup>442</sup>

**345.** The air quality in Kosovo ranks as the third worst in Europe.<sup>443</sup> The capital city of Pristina/Priština consistently accounts for the worst air quality within Kosovo borders. A key factor contributing to the current situation is the dependence on coal power to provide the energy supply as well as the practice of burning solid fuels including firewood for domestic heating and cooking. A diachronic trend analysis covering the years 2019, 2020 and 2021 show that the air quality – shown here in micrograms per cubic meter of air – is consistently above the WHO air quality guidelines of 10 µg/m<sup>3</sup>.<sup>444</sup>

**Table 6. Air quality in micrograms per cubic meter of air in Kosovo from 2018 to 2022**

Year	2018	2019	2020	2021	2022	WHO guideline
Average Air Quality Index in µg/m <sup>3</sup>	30.4	23.5	20.0	14.7	19.41	0

**346.** The main sources of air pollution are from emissions by burning solid fuels including coal and wood both domestically and in the energy industry which uses coal fired power plants. According to the World Bank, this constitutes around half of the Particulate Matter 2.5 (PM2.5) emissions in Kosovo (see the following paragraph). While an estimated 20 percent of the air pollution in Kosovo comes from outside the country, the majority is the result of sources that can be controlled by the GoK.<sup>445</sup>

441 IQ Air (2023), [What is Kosovo doing about air pollution?](#)

442 BIRN (2022), [Position paper: Kosovo's national energy and climate plan \(NECP\)](#).

443 IQ Air (2023), [What is Kosovo doing about air pollution?](#)

444 Air Quality Index (2023), [Kosovo Air Quality Index](#).

445 IQ Air (2023), [What are the main sources of Kosovo's air pollution?](#)



**347.** The coal power plants of Kosovo constitute a major source of air pollution. The two existing power plants termed Kosovo A and Kosovo B are located in the town of Obiliq/Obilić, which neighbors the capital of Pristina/Priština and is therefore responsible for much of the air pollution over the capital. It should be underscored that the power plants rank as Europe's first and third most polluted power plants. Together, they emit four times more PM2.5 than the majority of other coal plants in the Balkan region.<sup>446</sup> While they provide Kosovo with its energy infrastructure, the resulting air pollution is damaging to the natural environment and human health.

**348.** The only sustainable solution is the supply of renewable energy. In March 2022, the large-scale wind park established in the municipality of South Mitrovica was inaugurated, marking an important step towards green energy.<sup>447</sup> During the inauguration, Kosovo's PM stated that the functionalization of the wind park complies with Kosovo's green agenda, which is a priority of the GoK. This includes an important aspect of Kosovo's EU integration process and is important towards maintaining Kosovo's energy independence while simultaneously phasing out coal.<sup>448</sup> Notably, the wind park can only cover 10 percent of Kosovo's energy meaning that 90 percent remains reliant on coal fuels from which air pollution continues unabatedly.

**349.** The air pollution in Kosovo episodically rivals that of big cities including New Delhi, Mumbai and Beijing with the winter period particularly hazardous because of the increased demand for heat and causing smog over the territory. For human health, the most harmful pollutant is PM, given its small size, which can travel deep into the human system and enter the bloodstream, causing a range of health effects including cancer, and ischemic heart disease.<sup>449</sup> Known short-term effects include asthma and respiratory symptoms. Research shows that 760 premature deaths are caused by air pollution in Pristina/Priština. Furthermore, calculations by the World Bank show that 11 percent of premature deaths as the result of air pollution are in the capital.<sup>450</sup>

**350.** In addition to its risks to human health, air pollution is damaging to the natural environment. The chemical compounds nitrogen oxide and ammonia released into land and water results in chemical imbalanced spaces with significant dysregulations in the natural ecosystems and biodiversity. Other impacts include the erosion of buildings, and acidic rain contributing to the damage of plants, forests and crops. A particularly important source for global heating and climate change concerns greenhouse gas emissions.

**351.** The shortage of energy as the result of rationing during the reported period has propelled many Kosovo citizens to turn to wood, coal and pellets for heating and domestic use. This has not only driven up the prices of wood by 60 percent, and exacerbated air pollution. The rise of fuelwood is alarming because it also drives deforestation. In turn, this accelerates climate change because there are less trees available to sink the CO2 released into the atmosphere.<sup>451</sup> To bring the situation into perspective, over the past 20 years Kosovo forests have shrunk by 7,600 hectares which accords with a daily loss of 1.5 hectare.<sup>452</sup>

446 IQ Air (2023), [What are the main sources of Kosovo's air pollution?](#)

447 Prishtina Insight (2022), [New wind park hailed as step towards green energy.](#)

448 Prishtina Insight (2022), [New wind park hailed as step towards green energy.](#)

449 World Bank (2023), [Air pollution management in Kosovo.](#)

450 World Bank (2023), [Air pollution management in Kosovo.](#)

451 Euraktiv (2022), [Rising energy costs cause problems for Kosovo's forests and citizens' lungs.](#)

452 Euraktiv (2022), [Rising energy costs cause problems for Kosovo's forests and citizens' lungs.](#)

**352.** The three hydropower projects on the Deçan/Deçani river, Lumbardhi/Bistrica and Belaja/Belica, have been the subject of a dispute between the Ministry of Environment, Spatial Planning and Infrastructure of Kosovo and the Austrian hydropower investor KelKos. These projects were in operation until 2021 when their operational permits were suspended by a Supreme Court ruling based on environmental grounds. However, the ruling was recently declared unconstitutional by the Constitutional Court, and a final decision on the validity of the permits is still pending. In the original trial, KelKos was accused of violating environmental regulations and endangering the Deçan/Deçani river, a vital water source for the region. The suspension of the operational permits marked a significant victory for environmental activists who had been campaigning against the projects for years. The projects were also criticized by the European Parliament and the EU Enlargement Commissioner as being environmentally unsustainable. Now, upon requests from both parties, a mediation process is initiated to arrive at a sustainable and environmentally responsible solution that protects the well-being of the people and the environment of Kosovo.<sup>453</sup>

**353.** The GoK has yet to provide a state-sanctioned, and centralized waste management policy based on western European models of waste economy. Waste production in Kosovo is partially impelled by an overarching consumerist culture which requires a bottom-up approach that raises the awareness of the general population for the importance of the ecosystem's preservation and reverses the citizens' daily habits. In contrast to this, the current situation is marked by overwhelming amounts of plastic waste: Kosovo's riverbanks are currently flooded by plastic waste and public sites are saturated with non-recyclable waste.

**354.** Rather than approaching the problem from the institutional level, the circular economy is largely reliant on a number of social enterprises that have emerged in different territories throughout Kosovo. According to data citing the Kosovo Agency of Environmental Protection, Kosovo features a context of waste mismanagement with 1.189 dumpsites and no waste separation system.<sup>454</sup> The German International Development Agency (GIZ) is providing support for the development of a tailor-made deposit refund system (DRS) for beverage containers in Kosovo. GIZ is supporting the Ministry of Economy and Environment in its efforts to implement extended producer responsibility and guide Kosovo along the circular economy path. Concrete support has also been given in developing a strategic, legal, and institutional framework in line with the EU acquis and all 38 municipalities to provide sustainable waste services and to establish a functioning and sustainable waste management system.<sup>455</sup>

453 Energy Community (2022), [Secretariat to mediate between Ministry of Environment in Kosovo and Kelkos in dispute over hydropower plants](#).

454 Heinrich Böll Stiftung (2022), [Kosovo's waste \(mis\)management: from failures to alternatives](#).

455 <https://landbell-group.com/news/landbell-group-to-develop-drs-in-kosovo/>

**355.** Various international and national NGOs and enterprises have engaged in awareness-raising campaigns and activities to address issues about Kosovo's environment with relevant policymakers and the general public. It is worth mentioning that some law enforcement activities were undertaken concerning the environment such as the case when the Kosovo police and prosecutors seized around 100 villas and other buildings in the mountain resort of Brezovica in a series of operations targeting illegal constructions and allegedly corrupt officials.<sup>456</sup> In September 2022, UNICEF organized workshops educating children and young people about the dangers of air pollution and waste. In May 2022, the second high-profile conference Green Days was hosted by BIRN Kosovo regarding the strategies of Western Balkans leaders to comply with the Green Agenda.

### **356. Recommendations**

- The GoK should take into consideration the recommendations of CSOs in the development of the NECP;
- The NECP should be finalized and made accessible to the general public;
- The NECP should state the measures undertaken by the GoK to move away from coal-based energy;
- The GoK should present a concrete plan about waste management in Kosovo;
- The GoK should harmonize with and start implementing legal provisions on environmental liability, damage and crime; implement the polluter pays principle and raise public awareness on environmental protection;
- GoK should implement the climate change strategy and the action plan on climate change, prepare a roadmap for alignment with the Green Agenda for the Western Balkans and climate acquis and adopt a National Energy and Climate Plan, in line with the Energy Community requirements and finalize the drafting of the long-term decarbonization strategy;
- The GoK should consider building a substantial and improved collaborative engagement between CSOs and governmental counterparts at the central and local levels. In doing so, it will aim to ensure active and qualitative participation in policy and decision-making, monitoring processes for CSOs and people through priority setting processes at the municipal level, and increasing awareness about the benefits of best practices in the priority areas of the Green Agenda.

## 8.4 Non-discrimination, equality and human rights

**357.** Non-discrimination is a fundamental human right that is enshrined in various international human rights treaties, including the UDHR, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Article 14 of the ECHR enshrines the protection against discrimination in the enjoyment of the rights set forth in the Convention. Kosovo has a legal obligation to ensure that all individuals within its jurisdiction are protected from discrimination on the basis of race, ethnicity, gender, religion, sexual orientation, and other protected characteristics.

**358.** From a legal perspective, the Constitution of Kosovo in Article 24, explicitly prohibits discrimination and guarantees equal protection under the law for all individuals. The Law No. 05/L-020 on Gender Equality, the Law No. 05/L-100 on Protection from Discrimination, and the Criminal Code No. 04/L-082 also provide legal frameworks to protect individuals from discrimination and to hold perpetrators accountable. The Law on Ombudsperson has authorized the Ombudsperson Institution for promoting, monitoring and supporting equal treatment without discrimination on grounds protected by the Law on Gender Equality and the Anti-Discrimination Law. The Ombudsperson may also appear in the capacity of the friend of the court (*amicus curiae*) in judicial processes dealing with human rights, equality and protection from discrimination. The Administrative Instruction of the MLGA, No. 2007/08 on the Establishment of Human Rights Units in Municipalities has foreseen the establishment of units in municipalities composed of at least three officials, including the coordinator of the Human Rights Units.<sup>457</sup>

**359.** The fragmented legal acts and the lack of executive powers have significantly affected the legal certainty regarding the mandate of these municipal mechanisms, damaging the consistency and predictability of the protection, advancement, and promotion of human rights, which above all constitutes a serious violation of the basic principles for the rule of law.<sup>458</sup>

**360.** Nonetheless, as the European Commission's annual report 2022 stated, the Law on Protection from Discrimination is substantially in conformity with European and international norms, but its implementation remains limited. It is still necessary to organize training courses for public officials for the protection against discrimination, in particular for the non-discrimination officers in the municipalities and ministries, whose capacities need to be further strengthened.<sup>459</sup> Furthermore, the Office of the Prime Minister has established the Working Group for drafting the Ex-Post Evaluation draft Report of Law No. 05/L-021 on Protection from Discrimination.<sup>460</sup>

457 CRPK (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

458 CRPK (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

459 EU Commission (2022), [Kosovo Report 2022](#).

460 YIHR KS (2022), input for the joint CSO report on Human Rights in Kosovo 2022.

**361.** Discrimination based on ethnic identity continues to be a major issue in the country. Members of the non-majority communities, particularly K-Roma, K-Ashkali, and K-Egyptian communities, face significant discrimination and marginalization in various aspects of life, including access to education, healthcare, employment, and housing.

**362.** Discrimination against women, particularly in the workplace, also remains a significant challenge. Women are often paid less than men for the same work, and are underrepresented in leadership positions. Discrimination based on sexual orientation and gender identity is also prevalent, with members of the LGBTQI+ community facing stigma, discrimination, and violence.

**363.** The implementation of non-discrimination measures in practice is further complicated by the weak coordination at the level of municipalities. Many marginalized communities lack access to justice and face barriers to seeking redress for discrimination. According to CRP/K, mechanisms for the protection of human rights at the local level can play a decisive role in strengthening the system of protection of human rights at the central level. Domestic case law on non-discrimination is still minor, and among the cases opened for investigation by the Ombudsperson in 2022, 48 related to discrimination. Moreover, discrimination cases are sometimes not taken seriously and processed slowly by the state authorities.<sup>461</sup> Notably, discrimination as a human right does not have an autonomous meaning, this right is usually violated together with another right, and for this reason the justice system is satisfied when it finds a violation of the basic right in which discrimination is not dealt with.

**364.** Wheelchair-user Faruk Kukaj sued the Municipality of Prishtina/Priština and won his case seeking compensation from the municipality for not providing infrastructure for people like him. In his lawsuit, Kukaj sought 320,000 Euro in compensation from the municipality for the material and spiritual damages caused to him as a result of the lack of infrastructure for wheelchair-users. Kukaj's lawyer in October 2022 asked the court for a minimum payment of 250 Euro per month for the companion he needs daily, and 300,000 Euro for the mental pain caused. The Court of Prishtina partially approved this request, ordering the municipality to pay 5,500 Euro for immaterial damage. In his public appearances and participation in court hearings, Kukaj encouraged people to demand better infrastructure for people with disabilities.<sup>462</sup>

**365.** In February 2022, the Complaints Commission of the Kosova Bar Association upheld a fine of 2,500 Euro against lawyer Tomë Gashi for his involvement in kicking the possessions of a person begging in Mother Teresa Square in February 2020. In response to this incident, the Youth Initiative for Human Rights - Kosovo (YIHR KS) filed a complaint with the Kosovo Bar Association on March 3, 2020, leading to the initiation of disciplinary proceedings.<sup>463</sup>

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461 EU Commission (2022), [Kosovo Report 2022](#).

462 Evropa e lirë (2022), [lufta kunder diskriminimit: personat me nevoja te veçanta](#).

463 YIHR KS (2022), [Komunikatë për publikun](#).

### 366. Recommendations

- The Office of Good Governance (OGG) within the Office of the Prime Minister needs more human, financial and administrative resources to fulfill its mandate and to oversee policies in the areas of human rights, good governance and anti-discrimination;
- The Ombudsperson, OGG and the Assembly's Committee on Human Rights need to ensure a more efficient implementation of the anti-discrimination legislation;
- KJC, KPC and the Academy of Justice should provide additional trainings on anti-discrimination for judges and prosecutors in handling discrimination cases in accordance with the applicable legislation;
- The GoK should provide awareness-raising campaigns for the general population about the anti-discrimination framework in Kosovo and its importance in society.



