

HUMAN

RIGHTS

HUMAN

**CIVIL SOCIETY REPORT  
ON HUMAN RIGHTS**  
IN KOSOVO IN 2021

HUMAN

RIGHTS

MAY 2022

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# LIST OF ACRONYMS AND ABBREVIATIONS

<b>AJK</b>	Association of Journalists of Kosovo
<b>AoK</b>	Assembly of Kosovo
<b>CAT</b>	Convention against Torture and Other Cruel, 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>CYAC</b>	Central Youth Action Council
<b>ECHR</b>	European Convention for the Protection of Human Rights and Fundamental Freedoms
<b>EU</b>	European Union
<b>FCNM</b>	Council of Europe Framework Convention for the Protection of National Minorities
<b>GoK</b>	Government of Kosovo
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>IMC</b>	Implementation and Monitoring Council
<b>IPA</b>	Information and Privacy Agency
<b>Istanbul Convention</b>	Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence
<b>KCS</b>	Kosovo Correctional Service
<b>KJC</b>	Kosovo Judicial Council
<b>KPC</b>	Kosovo Prosecutorial Council
<b>KPCVA</b>	Kosovo Property Comparison and Verification Agency
<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>LGBTIQ+</b>	Lesbian, Gay, Bisexual, Transsexual, Intersex and Queer
<b>LYACs</b>	Local Youth Action Councils
<b>MCYS</b>	Ministry of Culture, Youth, and Sports
<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>MPRC</b>	Missing Persons Resource Center
<b>NGO(s)</b>	Non-governmental organization(s)
<b>NPM</b>	National Preventive Mechanism
<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>OP-CAT</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>PPE</b>	Personal protective equipment
<b>SOC</b>	Serbian Orthodox Church
<b>SPRK</b>	Special Prosecution Office 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>UNMIK</b>	United Nations Interim Administration Mission in Kosovo
<b>Venice Commission</b>	Venice European Commission for Democracy Through Law

# 1. INTRODUCTION

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**1.** This document presents the third annual CSO report on the human rights situation in Kosovo for the year 2021.<sup>1</sup> The report is produced jointly by civil society organizations (CSOs) working in a diverse number of 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 life, 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 analyses 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 specific groups and persons, such as the rights of children, youth, persons with disabilities, non-majority communities, LBGTIQ+ communities, 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, and the impact of environmental issues in relation to human rights.

## 2. METHODOLOGY

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**3.** The joint CSO report on human rights 2021 serves as a comprehensive overview of the human rights situation in Kosovo in 2021. The document reflects upon areas critical to an in-depth understanding of the development of human rights in Kosovo in the context of its transition to a democratic society with universal values of inclusivity 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 CSOs 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.

**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 in Kosovo. The data collection for compiling the joint CSOs report consisted of several approaches.

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<sup>1</sup> See the respective Civil Society Reports for the Human Rights situation in Kosovo in the years [2019](#) and [2020](#). 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).

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 and specific groups are examined followed by intersectional topics including transitional justice, corruption and the environment in Section D. The second part of the process included desk research. For each of the sections provided, data was amassed from a variety of reliable resources including official documents of government institutions, reports of the international organizations, and foreign embassies as well as esteemed academic publications and traditional media coverage. In addition, the report was reviewed at two phases of the drafting process. By means of three consultative meetings organized by Human Rights Network (HRN) (November 2021, February 2022 and March 2022), contributing CSOs were able to address issues and provide suggestions subsequently incorporated into the joint CSOs report.<sup>2</sup> Furthermore, the consultative procedures were enabled by means of email correspondence between the CSO YIHR KS, which serves as the secretariat of HRN and two outsourced researchers.

**5.** The following 37 CSOs contributed to this report: Activism Roots, Advancing Together (AT), Artpolis, Balkan Investigative Reporting Network (BIRN), Balkan Sunflowers Kosova (BSFK), Center for Affirmative Social Action (CASA), Centre for Equality and Liberty (CEL), Civil Rights Program Kosovo (CRP/K), CiviKos Platform, Democracy Plus (D+), EcoZ, FOL Movement, Forum for Civic Initiative (FIQ), Gracanica Innovation Center (GIC), Group for Legal and Political Studies (GLPS), HANDIKOS, Humanitarian Law Center Kosovo (HLCK), Coalition of Non- governmental Organizations (NGOs) for Child Protection (KOMF), K10 Coalition with the leading NGO Action for Mothers and Children (AMC), Kosova Education Center (KEC), Kosova Rehabilitation Centre for Torture Victims (KRCT), Kosovar Centre for Security Studies (KCSS), Kosovar Civil Society Foundation (KCSF), Kosovo Law Institute (KLI), Kosovo Women's Network (KWN), Kosova Young Lawyers (KYL), Local Initiative LINK, Medica Gjakova, Missing Persons Resource Center (MPRC), Network of Roma, Ashkali and Egyptian Women's Organizations of Kosovo (RROGRAEK), New Social Initiative (NSI), NGO AKTIV, NGO THY, Roma in Action (RIA), Roma Versitas Kosovo (RVK), Syri i Vizionit, Terre des Hommes Kosovo, Youth Initiative for Human Rights - Kosovo (YIHR KS), and YMCA in Kosovo. The respective inputs of the CSOs for the joint report are referenced in the footnotes throughout the text.

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

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<sup>2</sup> [Human Rights Network](#) (HRN) (2021). 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), Kosova Women's Network (KWN), New Social Initiative (NSI), Voice of Roma, Ashkali and Egyptians (VoRAE). YIHR KS is the founder and the Secretariat of the HRN.

**6.** The Constitution of Kosovo and its legislation are aligned with international human rights standards, thereby guaranteeing fundamental human rights and freedoms. The protection of human rights is presented in three scales in the Constitution. First, the Constitution stipulates numerous provisions concerning the protection and promotion of fundamental freedoms and human rights.<sup>3</sup> From its general provisions onwards (Article 3), the Constitution provides an obligation for public authorities in Kosovo to ensure the equal treatment of all individuals before the law and fully respect internationally recognized fundamental human rights and freedoms. In Article 7, the Constitution establishes that Kosovo's constitutional order is primarily based upon equality, respect for human rights, freedoms and non-discrimination. It also enshrines gender equality as a fundamental value. Chapter II of the Constitution establishes the main provisions that ensure the protection of civil and political rights (e.g., fair trial rights, the right to privacy and the freedoms of opinion and expression, peaceful assembly, association, and movement) as well as economic, social, and cultural rights (e.g., the rights to education and free choice of profession). Notably, Article 53 stipulates that all interpretations of the human rights and fundamental freedoms safeguarded in Kosovo's Constitution comply with the jurisprudence of the European Court of Human Rights.

**7.** The Constitution comprises of numerous international human rights instruments. The integration of an international framework is stipulated in Article 22: Nine UN and regional human rights instruments directly apply in Kosovo and therefore cement the promotion of human rights in Kosovo on a universal legal basis.<sup>4</sup> An important development for the rights of women and girls concerned the inclusion of the Istanbul Convention. In September 2020, the AoK amended Article 22 by adding the Istanbul Convention to the list of directly applicable human rights instruments.<sup>5</sup> It is significant to underscore that these directly applicable human rights instruments supersede Kosovo's legislation in cases of diverging interpretations or conflict. The ICESCR is not listed among the international human rights instruments directly applicable in Kosovo. In this regard, the AoK adopted in a unanimous resolution in January 2018 the 2030 Agenda and its 17 Sustainable Development Goals. This provided a meaningful point of departure for promoting and protecting economic, social, and cultural rights in Kosovo.

**8.** The supervisory bodies ensuring the implementation of the international human rights framework that gives primacy to international instruments over Kosovo's legislation remains in the jurisdiction of Kosovo. This is because Kosovo is not a member of any of the international treaty bodies involved in the universal declarations. As mentioned above, Article 53 makes specific mention to the ECHR in an effort to fully align the interpretation of human rights and Fundamental Freedoms with the European Commission despite that Kosovo is not a member of the Council of Europe.

<sup>3</sup> [The Constitution of Kosovo](#) (2008).

<sup>4</sup> At the level of UN, this includes the [UDHR](#) (1948), the [ICCPR](#) (1966,1977), the [CERD](#) (1965), the [CEDAW](#) (1981); the [CRC](#) (1990), and the [CAT](#) (1984). At the level of EU, this includes the [ECHR](#) (1950), the [FCNM](#) (1995), the [Istanbul Convention](#) (2011).

<sup>5</sup> [The Constitution of Kosovo](#) (2008).

**9.** The Constitution of Kosovo is especially dedicated to the protection and promotion of the non-majority communities traditionally and historically present in Kosovo.<sup>6</sup> The power-sharing mechanisms described in the Constitution provide the non-majority communities with significant legal protection.

**10.** In 2015, Kosovo made further progress in aligning its legal framework with international standards. In particular, the GoK adopted a package of basic laws on human rights including the law No. 05/L-019 on Ombudsperson, the law No. 05/L-020 on Gender Equality, and the law No. 05/L-021 on the Protection from Discrimination. Their full application is key for the effective implementation of the human rights framework in Kosovo and requires the allocation of necessary resources and serious capacity building efforts. As highlighted throughout this report, in addition to the above-listed laws, Kosovo has adopted a number of other specific pieces of legislation relevant to the protection of certain rights and groups of persons.

**11.** The GoK promotes and protects human rights through dedicated mechanisms and supervisory bodies. In particular, the Office of Good Governance, Human Rights, Equal Opportunities, and Non-Discrimination (OGG) designs policies in the areas of good governance, human rights, equal opportunities, and combating discrimination. The OGG also oversees and provides advice to Ministries in the above-mentioned areas. The Inter-Ministerial Coordinating Group on Human Rights is a high-level political mechanism established by the Kosovo Government in April 2016 to monitor Kosovo's implementation of human rights policies. Their most recent meeting took place during the reported period in July 2021. The Committee for Human Rights, Gender Equality, Missing Persons, and Petitions is permanently mandated to formulate draft laws and to monitor the implementation of existing laws. Although the Committee was not originally envisaged as an individual complaint mechanism, it can highlight human rights issues and trends within the AoK and address any individual or group complaint as appropriate. The Ombudsperson Institution of Kosovo (OiK) is an independent constitutional body tasked with monitoring, defending, and protecting the rights and freedoms of individuals from the wrongdoing of authorities. In fulfilling its mandate, the OiK may, among other responsibilities, receive complaints, launch investigations, make recommendations, publish reports and advocate for changes that advance the implementation of human rights standards.

**12.** Towards the end of 2021, the GoK presented an initiative to introduce a law that will provide persons in Kosovo with more opportunities for the realization of their civil rights, specifically the right to a fair trial within a reasonable time. If drafted and implemented effectively, the law can have a positive impact for the promotion of fair and impartial trials as it provides legal remedies when the condition of reasonable time is violated. The next steps for this initiative are expected to materialize in 2022.

## 4. OVERVIEW OF THE IMPACT OF THE COVID-19 PANDEMIC ON HUMAN RIGHTS IN KOSOVO

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<sup>6</sup> Ibid.



**13.** The ongoing COVID-19 pandemic continued to impact the development of the human rights situation in Kosovo in 2021. In terms of the health emergency, the GoK committed to prioritizing the management of the COVID-19 pandemic in its government program presented to the AoK in May 2021. The program includes the goal to reach a vaccination rate of 60 percent by the end of 2021. Since the start of the Deployment and vaccination plan in late March 2021, the government has endorsed active vaccination campaigns and provided mobile health care teams to facilitate easy and non-discriminatory access to vaccination centers. Yet, according to the EU report, many K-Serb residents received vaccinations from select locations in Serbia.<sup>7</sup> In addition, diagnostic capacities have increased tenfold along with the use of vital equipment ensured since the beginning of the pandemic. Despite these efforts, however, the vaccination rate remains rather low compared to the rest of the western Balkan region.<sup>8</sup>

**14.** Regarding the right to affordable and non-discriminatory access to COVID-19 vaccines, Kosovo only received the first batch of AstraZeneca vaccines from COVAX on 28 March, allowing it to commence with the three-phase vaccination plan to vaccinate 60 percent of the population that first prioritized medical workers, older persons over 80 years-old, and older persons with chronic medical conditions. Following the receipt of additional vaccines, the vaccination rollout expanded to include persons over 65 years-old in May and to other categories of people in June, such as teachers, media personnel, and people with chronic medical conditions, and to children aged 12 to 15 in November. The Kosovo Correctional Service (KCS) had reportedly vaccinated 90 per cent of prisoners with at least one vaccine dose as of 2 September.<sup>9</sup> To address reports that members of K-Roma, K-Ashkali, and K-Egyptian communities were being excluded from the process, the Ministry of Health established mobile vaccination teams to facilitate their vaccination and to vaccinate other people who were physically unable to travel to vaccination centers in July. Several municipalities, such as Mitrovicë e Jugut/ Južna Mitrovica, Pejë/Peć, and Ferizaj/Uroševac, operationalized mobile vaccination teams to vaccinate members of K-Roma, K-Ashkali, and K-Egyptian communities, while the NGO BSFK also worked to identify and vaccinate members from these communities in 13 municipalities with the UN's support. In addition, the Main Family Medicine Center in Ferizaj/Uroševac reported that it had vaccinated 155 Afghan refugees, while the asylum center in Magurë/Magura organized vaccination for over 30 asylum seekers.<sup>10</sup>

**15.** Throughout the reported period, the GoK annulled, revised and re-imposed a range of COVID-19 measures. Following the global COVID-19 patterns, a significant flare-up of COVID-19 infections was recorded in August. This prompted the GoK to reintroduce a new set of health containment measures.<sup>11</sup> In addition, the overall institutional strategy of the government vis-à-vis the pandemic crisis has been with the adoption of Law No. 07/L-006 on Preventing and Combating the Covid-19 pandemic in Kosovo. This Law foresees measures that may temporarily supersede on the full realization of basic human rights in order to contain the further spread of

7 European Commission (2021), [Annual Progress report](#).

8 [Instituti Kombëtar i Shëndetësisë Publike të Kosovës](#) (2022).

9 [Gazeta Metro](#) (2021).

10 [Zeri](#) (2021).

11 European Commission (2021), [Annual Progress report](#).

COVID-19. This includes restrictions on the right to peaceful assembly, religion, cultural rights, movements and related rights that can intersect with the effective management of the pandemic outbreak.

**16.** The measures taken in 2021 to contain COVID-19 included imposing curfews, limiting gatherings to only 10 people at a time, only permitting religious gatherings from 5 April at reduced capacity, permitting cultural activities at reduced capacities, and imposing various limitations on business working hours.<sup>12</sup> On 6 December, the GoK imposed a mandatory vaccination regime under which participating in most facets of public life required proof of two vaccine doses or one vaccination dose plus a negative PCR test or proof of having had COVID-19 in the past six months.<sup>13</sup> Notably, it exempted people “with medical evidence who have scientifically proven contraindications to vaccination”, although they still needed to provide a negative PCR test.

**17.** All the GoK’s COVID-19 decisions required relevant institutions to monitor the epidemiological situation and enforce measures, the fulfillment of which may be regarded as aimed at being in keeping with their positive due diligence obligations under the rights to health and life to mitigate the spread of life-threatening diseases. In April, a police officer was arrested on suspicion of using excessive force against a person when enforcing COVID-19 measures. CSOs reported that the government’s pandemic response suffered from several challenges, including a lack of a clear legal basis for decisions, outdated emergency response strategies, and limited resources and capacities.

**18.** Regarding the right to education, classes resumed using a combination of in-person education and distance learning in the Kosovo-supported and Serbia-supported educational systems, although some grade levels temporarily reverted back to only distance learning in March, April, August, and September due to the serious epidemiological situation, raising concerns for students that lack IT equipment and/or internet access. The Kosovo Ministry of Education, Science, Technology and Innovation (MESTI) announced that, based on its decision of 20 April, supplementary education commenced on 5 May for students who experienced “stagnation in achieving [educational] results” due to the pandemic, including for students with learning disabilities. Public and private primary and secondary schools in the Kosovo-supported system remained suspended until 26 September, while pre-school institutions and day-care centers were suspended from 12 to 26 September. Starting on 27 September, most public and private pre-university educational institutions began the new academic year with in-person education with no more than 20 students per class. According to MESTI, a small number of schools began teaching using a combination of in-person and distance learning, while five schools in Kamenicë/Kamenica delayed the teaching process due to the distribution of teaching staff to other schools. Primary and secondary schools in northern Kosovo within the Belgrade-supported system continued to teach using distance learning throughout September, while preschools remained closed.

**19.** In terms of the socio-economic consequences of the COVID-19 outbreak, government efforts to partially mitigate the effects were met through the advance of economic recovery schemes. In particular, the AoK passed an increase of the 2021 budget to finance a 420 million euros socio-economic recovery package.

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<sup>12</sup> GoK (2021), [government decision no. 01/05](#)

<sup>13</sup> Ibid.

**20.** The health crisis has also impeded on the development of EU-related reforms and Kosovo's development plans. In the first regard, the GoK committed in its national program to implement the second phase of the European reform agenda through a dedicated action plan adopted in August 2021. Secondly, the COVID-19 restrictions severely hindered the effective cooperation of the government with CSOs as per the National Strategy 2019-2023.

**21.** The ongoing COVID-19 pandemic highlighted pre-existing inefficiencies in Kosovo's judicial system. The excessive number of cases impeded basic administrative rights. The containment restrictions caused by the pandemic limited the number of court hearings, simultaneously restricting access to justice and the right to a trial within a reasonable time. Despite that, a number of online hearings were held, but the technological investment and increase of IT services in judicial institutions is in urgent need of improvement if they are to efficiently adapt to the conditions created by the pandemic.

**22.** The pandemic and related COVID-19 containment measures continued to disproportionately affect the rights of members of non-majority communities in Kosovo and persons in vulnerable situations. The rights of women and girls continued to be disproportionately impacted by the ongoing COVID-19 crisis due to the reported increase in cases of gender-based violence, including domestic and sexual violence, and unpaid care work, resulting in considerable setbacks in efforts to advance gender equality. According to the Kosovo Police, the period of January to December 2021 saw 2,456 reported cases of domestic violence, an increase from 2,069 reported cases of domestic violence in 2020.<sup>14</sup> The pandemic also continued to disproportionately affect children's rights to life, physical and mental health, security, and education, especially for children with disabilities.<sup>15</sup> The LGBTI+ communities continued to be disproportionately affected by the pandemic, as members of the community experienced a disproportionate number of job losses, a negative impact on mental health, a reliance on partners and family for financial support, and an increased need for shelter from domestic violence.<sup>16</sup> The ongoing crisis continued to hinder the realization of the rights of members of K-Roma, K-Ashkali, and K-Egyptian communities as members from these communities faced challenges with regard to, among other things, accessing COVID-19 testing, education, and economic recovery measures due to not being formally registered with Kosovo's employment centers. In addition to this, crisis communication by the government in non-Albanian languages was restricted, so that non-majority communities could not access information in their own mother tongues as expeditiously as Albanian speakers. During the reporting period, according to Civil Rights Program Kosovo (CRP-K), people on the move faced an increased risk of contracting COVID-19 due to their limited ability to follow physical distancing measures as well as their limited access to adequate food, personal protective equipment (PPE), hygiene products, and essential medications for chronic medical conditions.<sup>17</sup>

<sup>14</sup> [Presidential speech](#) (2021).

<sup>15</sup> [Office of the Prime Minister](#) (2021).

<sup>16</sup> [CEL](#) (2021).

<sup>17</sup> Civil Rights Program Kosovo (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

**23.** According to the monitoring by CSOs and international organizations, the KCS generally managed the situation well in correctional and detention facilities to protect detainees and prisoners from COVID-19. Among other measures taken, the KCS relaxed, re-imposed, and then lifted restrictions on family visits, weekend furloughs, and quarantines in accordance with the epidemiological situation. Reportedly, 223 KCS staff and 46 prisoners contracted COVID-19 and four prisoners died as a result by the end of March 2021, while overcrowding in Kosovo's prisons is not a problem due to a 20 percent reduction in the number of prisoners from 12 March to 31 December 2020. The KCS in January decided to once again allow weekend furloughs for prisoners who meet certain conditions subject to COVID-19 prevention measures, such as placing returning prisoners under quarantine for at least seven days. In August, the KCS adopted new COVID-19 measures for correctional facilities to preserve the health of prisoners, detainees, and correctional staff that were in effect from 31 August to 15 September.<sup>18</sup> Under the measures, family visits were temporarily banned; weekend furloughs, work outside of correctional institutions, and visits to special premises were prohibited; and transfers of prisoners were restricted to only "necessary cases". Prisoners were allowed to use Skype to maintain family contacts and the number of allowed telephone calls had been increased. Pre-trial detainees could contact their defense counsel for in-progress cases, while visits were permitted with a negative PCR or antigen test by the OiK, acting as the preventive mechanism against torture and ill-treatment, and human rights monitoring organizations that have a memorandum of understanding with the Ministry of Justice and KCS. Measures were once again eased in September when family visits with one close family member were permitted as of 28 September if the family member possessed one of the previously mentioned pieces of COVID-19 evidence.<sup>19</sup> The KCS decided to allow weekend furloughs to resume for prisoners as of 5 October and eased restrictions on family visits for prisoners by allowing, as of 28 October, two adults and two children to visit a prisoner subject to COVID-19 protection measures, such as physical distance, and the presentation of COVID-19 evidence.

## 5. SECTION A: CIVIL AND POLITICAL RIGHTS

### 5.1 The right to life

**24.** The right to life is a constitutionally enshrined fundamental right stipulated in Article 25 of the Constitution. In compliance with Article 2 of the ECHR, which is adopted in the Constitution, the right to life is protected in any legal conditions and processes. In accordance with Protocol 13 of the directly applicable ECHR, the capital punishment is forbidden in Kosovo.<sup>20</sup>

**25.** The PIK is responsible for the investigation of allegations concerning unlawful and arbitrary assassinations by government agents whereas the State Prosecution is responsible for prosecuting the cases.<sup>21</sup> In 2021, there were no reports that the GoK or its agents committed arbitrary and/or unlawful assassinations.

<sup>18</sup> [Kosovo Correctional Service](#) (2021).

<sup>19</sup> *ibid* (2021).

<sup>20</sup> [See the ECHR](#).

<sup>21</sup> See: Kosovo 2020 Human Rights Report, U.S. State Department, Bureau of Democracy, Human Rights and Labor, available at: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/kosovo/>

**26.** The discontinuities between the legal mechanisms and their implementation in practice was evident in the number of femicides related to domestic violence. The lack of protective mechanisms and action in reported complaints of abuse may have indirectly contributed to the fatalities in domestic abuse cases. According to the KP, three women were killed in 2021 in the context of domestic violence and gender-based violence. Credible reports indicate that from 2017 to 2020, at least 74 women have been murdered.<sup>23</sup> Under international and domestic law, prior knowledge of women's exposure to domestic violence inherently requires action by the respective agencies and institutions.

**27.** The respective femicide cases of Sebahate Morina and Marigona Osmani by male domestic abusers brought to the fore the lack of protective measures undertaken by the KP and other institutional agencies. Although the victims and their respective families previously filed complaints and alerted the KP, the relevant institutions failed in applying the legal mechanisms put in place to protect domestic abuse victims. In the case of Sebahate Morina, the daughter alarmed the police about the risk to her mother's life. This happened eleven days prior to the murder of the victim by her husband, but the KP did not take any action. In April 2021, the OiK filed a complaint on behalf of Sebahate Morina on the basis of negligence and unprofessionalism. The case is currently pending at the Constitutional Court. Likewise, in the case of Marigona Osmani, the male abuser was pending trials for other cases, as Kosovo institutions failed to undertake appropriate legal action.

**28.** The death of a person resulting by the use of force by police authorities and other institutional agencies requires independent and effective investigation, as stipulated in Article 2 of the ECHR. The investigation should accord with the five distinct principles of independence, effectiveness, speed, public scrutiny, and family involvement. The ECHR states that "the essential purpose of such an investigation is to ensure the effective enforcement of domestic laws that protect the right to life, and in cases involving state agents or bodies, to ensure accountability for deaths that have occurred under their responsibility."

**29.** The protection of the right to life is pertinent in places of detention including prisons, police stations and places of confinement, as the detained persons are under the complete supervision of official institutions. The European Court of Human Rights explicitly mentions that authorities have a duty to protect detainees (*Oselav v. Turkey*). In the event of the death of prisoners or detainees, the State Prosecution Office is obligated to undertake an ex-officio investigation on the cause of death. As in previous years, there were no such reports of investigations that found prison authorities responsible for deaths in prison.

### **30. Recommendations:**

- Increasing the competence of law enforcement authorities is necessary to respect human rights in places of deprivation of liberty where the right to life is most vulnerable;

22 KWN (2021), input for the joint CSO report on Human Rights Kosovo in 2021.

23 [Kallxo](#) (2021).

- In the event of the death of a person at the hands of authorities, the investigative bodies and the entire judicial system involved must react swiftly, efficiently, and respect the principle of publicity.
- Increase preventive and reacting mechanisms within the law enforcement authorities in response to cases of domestic violence in which women's right to life is endangered/violated.

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

**31.** The Kosovo Constitution explicitly prohibits any kind of inhumane treatment. This includes torture, cruel, inhuman or degrading treatments and punishment, as per Article 27. This stipulation should be viewed as part of the universal human rights under Article 22 and its international instruments directly applicable in Kosovo. As noted previously, the international provisions take precedence over local public institutions and laws.

**32.** Particularly relating to the prohibition of torture, cruel, inhuman, or degrading treatment or punishment, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and the ECHR serve as the international instruments directly applicable in Kosovo.

**33.** Apart from the constitutional protection against ill-treatment and torture, the legal framework of Kosovo further elaborates on the right to humane treatment by criminalizing torture and mistreatment in the exercise of official duties by public institutions. In the Criminal Code No. 06/L-074, torture and mistreatment by official authorities are specified as criminal offences.

**34.** The relevant legislation in Kosovo establishes that the OiK acts as a National Preventive Mechanism (NPM) against torture and other cruel, inhuman, and degrading treatment or punishment and is in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT).<sup>26</sup>

**35.** According to various CSOs reports, the EU Progress Report (2021) and US Country Report on Human Rights on Kosovo (2020), the prevention of torture and ill treatment is satisfactory in Kosovo and the Kosovo authorities continue to show commitment to preventing these practices in all circumstances.

**36.** Efforts to address the recommendations issued by the CPT in 2015 are ongoing. During 2020, a CPT delegation visited Kosovo to prepare a new report.<sup>25</sup> The National Preventive Mechanism against Torture (NPMT), which operates under the OiK, temporarily suspended its visits to prisons, detention centers, psychiatric facilities, and police stations in March due to COVID-19 mitigation

24 KLI (2021), input for the joint CSO Report on Human Rights in Kosovo 2021. Ibid. [gov.net/ActDetail.aspx?ActID=10922](http://gov.net/ActDetail.aspx?ActID=10922)

25 European Commission (2021), [Annual Progress report](#).

measures. The pandemic also hindered detainees' contact with the NPMT via lawyers, family members, and international organizations. To ensure detainee protection, the NPMT established four hotline numbers providing round-the-clock access to NPMT officials and used secure drop-boxes for written complaints in detention centers. Only OiK staff have access to these telephone calls and written complaints. Before suspending its site visits, the NPMT carried out 40 visits to police stations, prison facilities, psychiatric facilities, social care homes, and institutions used for quarantine. It received no allegations of torture or mistreatment from persons in police custody during NPMT visits. The NPMT filed reports on its findings, and published follow-up reports on government compliance.<sup>26</sup>

**37.** Upon request by YIHR KS, OiK declared that during 2021, a total of 98 complaints were submitted by persons deprived of liberty. Of them, 39 were admitted and 59 dismissed on jurisdictional grounds.<sup>27</sup>

**38.** The situation in Kosovo regarding the right to humane treatment and prohibition of torture during 2021 has not changed significantly from the previous year, but some positive developments have been made in terms of improving material conditions for prisoners. The most significant change is the initiative of the Ministry of Justice to renovate block D in the Correctional Center in Dubravë/Dubrava, as a separate place for persons with special needs who are deprived of liberty. With the functioning of this block, it is expected that there will be an improvement in terms of proper and humane treatment of inmates with special needs, especially those with mental disorders, as so far it has been one of the biggest challenges faced by the KCS. The criminal legislation has provided special provisions in the Criminal Code of Kosovo (CCK) and the Code of Criminal Procedure of Kosovo (CPCCK) for their placement and treatment. However, these legal provisions have not been implemented in practice. While Article 509, part. 2 of the CPCCK stipulates that the detention of perpetrators with mental disorders be held in health care institutions, Kosovo's correctional and health system does not have special institutions for the application of detention for such cases. KRCT has consistently advocated for the provision of a special place for prisoners with mental disorders, therefore, since the Ministry of Justice has allocated the budget for the renovation of block D for prisoners with special needs, it is of necessity to also take into consideration the special spaces for juveniles and female prisoners.

**39.** Based on KRCT's reporting on monitoring visits of correctional institutions, there have been allegations by some prisoners of ill-treatment and excessive use of force against them by correctional officers. Further, cases of (sexual) violence towards convicts have also been reported.<sup>28</sup> Institutions where such cases have been reported are Dubravë/Dubrava Prison, the High Security Prison in Gërdoc/Grdovac, the Detention Centre in Prishtinë/Pristina, and Lipjan/Lipljan Prison. Although in recent years there has been a decrease in cases of excessive use of force, this phenomenon is still present in correctional institutions in Kosovo. Reporting of such incidents is based on interviews KRCT monitors have conducted with the detained persons.

26 United States Government (2020), [country report on human rights in Kosovo](#).

27 OiK (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

28 [Kallxo](#) (2021).

**40.** One of the most frequent complaints received by KRCT from interviews with prisoners was the Conditional Release Panel. According to them, the decisions of this panel are being taken in contradiction to the legal provisions and evaluation reports provided by the officials of the correctional institutions. Furthermore, there have been allegations by prisoners from most of the correctional facilities visited that many decisions by this panel are being taken on corrupt grounds. Regarding this issue, it is expected that there will be positive changes with the approval of the draft law on amending the Law no. 04/L-149 on Execution of Criminal Sanctions, which provides the prisoners the right to file a complaint against the decision of the Conditional Release Panel, because until now they had no right to do so. This has been a systemic challenge for Panel performance for many years and one of the main concerns of CPT, OiK, and local monitoring bodies in Kosovo.

**41.** Furthermore, KRCT continuously receives complaints about delays or lack of responses to transfer requests. 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 Block will provide them with a copy of the completed 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. KRCT recommends that in some institutions the form of providing and addressing the requests must be corrected and that confidentiality must be ensured. It is very important that the concerns and complaints of convicts are reviewed by the Director of the institution, especially when requests are continuous and raise allegations of any serious human rights violations.

**42.** According to KRCT, the KCS has not yet managed to implement proper 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 their sentence.

**43.** During the monitoring visits in 2021, KRCT has identified the cases when in a ward of the juvenile correctional center, adult inmates for serious offenses and long sentences were being held. After the reaction of KRCT, in December 2021 these inmates were transferred from this center.<sup>29</sup>

**44.** An ambiguous situation presented itself in late 2021 with news that Kosovo and Denmark are expected to sign an agreement to lend Denmark the use of the Detention Center in Gjilan/Gnjilane for a period of at least 5 years. The number of prisoners expected to be transferred is 300 and none of them are Danish nationals. The KRCT views this action by the Ministry of Justice with reservations because the resettlement of 200 prisoners in this center would result in overcrowding and the deterioration of conditions in other prison and detention facilities. The Ministry of Justice of Kosovo and the Ministry of Justice of the Kingdom of Denmark have signed letters of intention to enter into such an agreement in December 2021. Concerns were expressed regarding potential violation or risks this agreement presents towards prisoners' rights including the right to visitation from their families and the right to respect for their private and family life, their home and their correspondence.<sup>30</sup>

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29 Data received from Kosova Rehabilitation Centre for Torture Victims (KRCT), 15.03.2022.

30 [See KRCT \(2021\)](#).



## 45. Recommendations:

- Ministry of Justice should provide trainings for correctional staff on their behaviors towards inmates and to conduct monitoring of their performance;
- Ministry of Justice through KCS should ensure that correctional staff in correctional institutions in Kosovo are aware that all forms of physical abuse or ill-treatment are forbidden by applicable law and international standards and such actions are punishable by law;
- The KCS should ensure that all ways of submitting the requests and complaints are available including easy access to the complaint forms for the prisoners;
- Apart from placement of male adult prisoners and detainees with mental disorders in a separate block in Dubrave/Dubrava Prison, it is recommended that the Ministry of Justice and KCS take measures to ensure such special placement and treatment for juveniles and female prisoners as well.

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

**46.** Kosovo's Constitution, legislation and the directly applicable human rights instruments, provide a strong basis for the protection of the right to liberty and security of a person. Article 29 of the Constitution stipulates that all individuals are guaranteed the right to liberty and security and that no one shall be deprived of liberty except in the cases foreseen by law and after a decision of a competent court. Sentences for committing a crime, mandated pre-trial detention, educational measures for minors, medical supervision of a person and cases of illegal entrance to Kosovo are listed among exceptions/reasons for which liberty of a person can be lawfully limited. Such constitutional guarantees are transposed in the Criminal Procedure Code and Code of Juvenile Justice.

**47.** In spite of legal stipulations warranting the right to liberty, authorities continue to apply detention as a temporary measure for different categories of migrants (e.g. those who do not request asylum or are not considered asylum seekers). Alternative measures to detention as foreseen in the Law no. 06/L-026 on Asylum in Kosovo needs to be considered and detention to be used only as a last resort.<sup>31</sup>

**48.** The right to liberty and security of a person is, at last instance, dependent on and linked with an independent and efficient judiciary. Despite a good normative framework upholding the fair, independent, impartial, and just administration of justice, Kosovo's justice system continues to be undermined by an administration of justice that remains slow, inefficient, and vulnerable to undue political influence.<sup>32</sup>

31 European Commission (2021), [Annual Progress report](#).

32 Ibid.

**49.** In the context of the right to liberty and security of person, the NGO “FOL” underscores the importance of implementing the Law no. 05/L-003 on Electronic Supervision of Persons, whose movement is limited by the Decision of the Court approved by the AoK in 2015.<sup>33</sup> The Law, however, has yet to be implemented six years after its entry into force due to lack of initiative by the responsible Ministries (Ministry of Justice and Ministry of Interior Affairs). The Ministries have not undertaken measures to establish enforcement mechanisms, including the functioning of the operating room within the KP or the provision of electronic bracelets.

**50.** Electronic surveillance could prove essential in the protection of victims of crime in general, and victims of domestic violence in particular. The implementation of this law could undoubtedly be a guarantee that the institutions could provide to victims of domestic violence. However, despite the guarantee and security that this law could offer, the creation of conditions for its implementation in practice was not addressed in the National Strategy of Kosovo for Protection from Domestic Violence and the Action Plan 2016 – 2020, introduced by the Ministry of Justice, one year after the entry into force of the Law no. 05/L-003 on the Electronic Supervision of Persons.

**51.** Enabling the conditions for the implementation of electronic surveillance is planned through the new National Strategy of Kosovo for Protection from Domestic Violence 2022-2026, which was in the process of being drafted during 2021. Under the objective “improvement of the law” of this draft strategy, a special activity foresees the establishment of a digital monitoring system for the adequate implementation of Protection Orders.<sup>34</sup>

**52.** According to direct monitoring of trends in non-majority communities, there has been an increase in concerns within the K-Serb community caused by a number of security incidents. During the first 6 months of 2021, NGO AKTIV and Rapid Response Civic Group (RRCG) recorded 48 various incidents throughout Kosovo. The increase in the number of incidents was in the period from 23 March to 30 June, during which 27 different incidents that were recorded were of particular concern.<sup>35</sup> Despite the fact that NGO AKTIV sent requests concerning the security situation among K-Serb communities to relevant central-level institutions and urged them to react, there was no official response.

### **53. Recommendations:**

- 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. There is a judgment of the Kosovo Constitutional Court issued in 2019 on the use of detention and alternatives in all stages of criminal proceedings that needs to serve as guidance for judges in Kosovo;
- The Ministry of Justice and Ministry of Internal Affairs should take actions to establish enforcement mechanisms, including the functioning of the operating room within the Kosovo Police and the provision of electronic bracelets, for the purpose of implementing the Law on Electronic Surveillance.

33 See [Official Gazette](#) (2015).

34 [Draft National Strategy on Protection against Domestic Violence and Violence Against Women \(2022-2026\)](#) (2022).

35 AKTIV (2021), [security incidents in the period from January 1 to June 30, 2021](#).

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

**54.** The Constitution and applicable international instruments safeguard citizens' rights to fair trial and effective legal remedy. Article 31 of the Constitution provides all persons equal protection of rights in the proceedings before courts. In public hearings, the right to examine witnesses and the presumption of innocence until proven guilty are also inherent components of fair and impartial trials under Article 31.

**55.** The right to effective legal remedy is also stipulated in a set of provisions within the Constitution. At a general level, Article 32 in the Constitution provides all individuals the right to pursue legal remedies against judicial and administrative decisions which infringe on his/her rights or interests, in the manner provided by law. In addition, any individual deprived of liberty by arrest or detention enjoys the right to use legal remedies to challenge the lawfulness of the arrest or detention according to Article 29(4) of the Constitution. This Article dictates that cases shall be promptly decided by a court and a release shall be ordered if the arrest or detention is determined to be unlawful. Further, the right to legal remedies is also afforded under general judicial protection of rights clause of Article 54 providing that all persons enjoy the right of judicial protection if any right guaranteed by this Constitution or by law has been violated or denied. Additionally, all persons have the right to an effective legal remedy if found that such rights have been violated. Finally, at the constitutional level, Article 113 (7) and (8) allow individual and incidental submissions before the Constitutional Court.

**56.** The rights to a fair trial and effective legal remedy accord with international standards that are applicable in Kosovo's legal order by means of Article 22 of the Constitution. The most employed of those is Article 6 of the ECHR which is often used by higher courts (especially the Constitutional Court) to reverse or nullify results of judicial proceedings by courts of lower instance.

**57.** At the legislative level, different procedural laws regulate the right to fair trial and effective legal remedies. Such provisions are found in specific laws regulating each type of the procedure (e.g. the Code No. 06/L-074 of Criminal Procedure, Law No. 03/L-006 on Contested Procedure, Law No. 05/L-031 on General Administrative Procedure etc.).

**58.** According to KLI, the violation of the right to a trial within a reasonable time is manifested in several forms. The most pressing violations are linked with the delay of the court procedure until the final epilogues, and due to the delay in the execution of the final decision after court issues. As in previous years, during the reported period, the efficient processing of cases was obstructed by the overload of cases in the judicial system and their duration.

**59.** Also according to KLI, 224,801 cases remained pending by December 2021. In addition, the efficiency of the judiciary in resolving cases in process has marked a negative trend. This is caused by the fact that in 2018 some 42.33 percent of cases had been resolved, while in 2019 this rate dropped to 39.81 percent, then 29.10 percent in 2020, and only 20.18 percent during the first six months of 2021.

**60.** Following the appointment of 24 judges in January and March 2021, Kosovo now has 400 judges (132 women and 268 men) and 187 prosecutors (79 women and 108 men), which means around 21 judges and 10 prosecutors per 100,000 inhabitants. According to the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ), the European average is 21 judges and 12 prosecutors per 100,000 inhabitants. Unfortunately, according to independent local monitoring organizations this has not been reflected by increased efficiency in performing cases in progress, as the number of pending cases remains high. Another very important issue is that Kosovo still has a low percentage of female judges and prosecutors in comparison with most other European countries.<sup>36</sup>

**61.** Further based on KLI analyses, the issue of postponement of court hearings as a factor that affects the duration of court proceedings persists. During the period of January to November 2021, 810 sessions or 37.90 percent of total case hearings were postponed in the Criminal Division. In the Civil Division the total postponement rate is at 22.25 percent. According to the same organization, the Department for Serious Crimes, has postponed 26.24 percent of sessions during the reported period.<sup>37</sup>

**62.** In terms of length of proceedings, out of 250 analyzed judgments/cases of first instance, KLI found that a concerning amount of time was taken to resolve cases. In those cases, an average of 2,309 days passed between submitting of the indictment and issuing of a decision by the Criminal Division of the General Department in the first instance case. In the Serious Crimes Department, this period was on average 2,158 days, whereas in civil cases, it took courts 1,755 days after filing of lawsuits to issue a first instance decision.<sup>38</sup>

**63.** A report by the Group for Legal and Political Studies (GLPS) highlighted similar problems in 2021. Based on reports by "Drejtësia sot" (Justice Today) containing data of the period April-September 2021, legal violations were found by the courts regarding the procedural deadlines for scheduling and holding court hearings in corruption cases.<sup>39</sup> These violations have been found in almost all courts Kosovo wide, a situation which undermines the right to a fair trial. The first violation is related to non-compliance with the procedural deadline for scheduling the initial hearing, while the second violation is non-compliance with the procedural deadline for scheduling and holding the main trial - deadlines set out in the Criminal Procedure Code of Kosovo No.04/L-123 (CPCRK). According to the report, the deadline for holding the initial hearing by the courts was not respected in 9 cases, while the deadline for the main trial was not met in 3 cases, causing delays in the progress of court proceedings. In this regard, such procrastination of court hearings constitutes a violation of fundamental human rights guaranteed by international instruments such as fair trial as set out in Article 6 of the ECHR.

**64.** Furthermore, during the reporting period, GLPS recorded one case in which recording within the court proceedings was not allowed or was limited through a non-reasoned decision despite the fact that international standards and good practices dictate the need for a reasoned decision.

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36 European Commission (2021), [Annual Progress report](#).

37 KLI (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

38 Ibid.

39 [Drejtësia Sot](#) (2021).

**65.** Positive developments have been clearly evidenced in the publication of judgements by the courts, which has demonstrably contributed to the transparency of the justice system. The Basic Courts, the Court of Appeals, and the Supreme Court have increasingly published their judgements.<sup>40</sup> At the time of drafting this report, courts have published over 63,000 court judgments. Judgments are published on each of the courts' websites as well as on the KJC website. KJC also published an increased number of disciplinary decisions, a trend occurring in 2020 and 2021.<sup>41</sup>

**66.** The high caseload and backlog, which has been caused by inefficient case management, insufficient resources and human capacities, and slow progress in resolving cases over the years, continues to impede the efficient administration of justice and due process. The pace of resolving cases remains slow, contributing to a climate of legal uncertainty for many in Kosovo. In addition to new cases, thousands of unresolved cases have been transferred every year. Table below reflects the situation with backlog of cases in 2021.<sup>42</sup>

**Table 1: The clearance rate per each type of procedure**<sup>43</sup>

Case type	Active cases	Backlogged cases	Percentage
Criminal	32,959	14,399	11.87
Serious crimes	4,129	2,159	1.78
Juvenile	1,429	552	0.46
Civil	74,899	25,764	21.25
Commercial	1,731	239	0.2
Administrative	6,045	1,829	1.51
Special department	64	21	0.02
Non-Backlog cases	121,256	76,293	62.92

40 See [Judgments](#) of all courts (2021).

41 See [Disciplinary statistics and decisions](#) (2021).

42 Official data from [KJC](#) (2021).

43 Ibid.

**67.** These delays in proceedings, in combination with a preference for detention instead of alternatives to detention as provided in Criminal Procedures Code of Kosovo, have led again to cases of overly long detention.<sup>44</sup>

**68.** Towards the end of 2021, the GoK presented an idea to introduce a law that will provide citizens the opportunity for the realization of civil rights, including the right to a fair trial within a reasonable time. If drafted and implemented properly, the law can have a positive impact in promoting fair and impartial trials in a reasonable time, by providing legal remedies when such rights are violated. The next steps for this initiative are expected to materialize during 2022.

### **69. Recommendations:**

- The KJC should work to increase the efficiency of the judges in dealing with cases and reduce backlogs which remain high;
- The KJC should oversee and ensure the compliance with the procedural deadline scheduling of the initial hearing and the procedural deadline for scheduling and holding the main trial in court proceedings as set out in the Criminal Procedure Code.

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

**70.** The freedom of expression is guaranteed by Article 40 of the constitution which defines such freedom to include the right to express oneself and to disseminate and receive information, opinions, and other messages without impediment. The right to information is provided by Article 41 which guarantees every person the right of access to public documents. The right to privacy is protected under Article 36 of the Constitution guaranteeing everyone the right to have her/his private and family life respected, the inviolability of residence, and the confidentiality of correspondence, telecommunication and other communication.

**71.** At the legislative level, constitutional protections related to freedom of expression, the right to information and protection of personal data are transposed in a number of laws, including the Law No. 04/L-046 on the Radio and Television of Kosovo, the Law No. 02/L-65 against Defamation and Insult, the Law No. 06/L-085 on the Protection of Whistleblowers, the Law No. 06/L-081 on Access to Public Documents, the Law No. 04/L-137 on the Protection of Journalism Sources, and the Law No. Law No. 06/L-082 on Personal Data Protection. In 2018, the Law No. 06/L-085 on the Protection of Whistleblowers replaced the previous Law Law No. 04/L-043 on the Protection of Informants of 2011 whereas the Law No. 06/L-081 on Access to Public Documents was amended in 2019.

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44 European Commission (2021), [Annual Progress report](#).

**72.** Kosovo benefits from a lively and pluralistic media environment and its legal framework is mostly in line with European standards.<sup>45</sup> The most recent Western Balkans Journalists' Safety Index indicated that the legal framework in Kosovo is adequate, however Kosovo lacks implementation of the relevant laws.<sup>46</sup> According to the abovementioned report, the Law No. 02/L-65 against Defamation and Insults defines civil liability against persons or journalists when there are lawsuits for defamation or insult. The legal framework in Kosovo has decriminalized insults. Thus, journalists cannot be subject to criminal investigation for their articles, reports, or opinions. The Civil Law No. 02/L-65 against Defamation and Insults is designed to be implemented and interpreted in accordance with the practices of the European Court of Human Rights as a guarantee for the promotion of freedom of expression and opinion. However, the lack of knowledge and expertise on the part of judges to implement the practices of the ECHR is an obstacle to promoting the rights of journalists and the media in Kosovo.<sup>47</sup>

**73.** Recent years have seen an increase of Strategic Lawsuits against Public Participation (SLAPP). During 2021, after an 11-year long battle, the Court of Appeals decided in favor of the YIHR KS and against Klan Kosova's lawsuit submitted in 2010 after YIHR KS had published a report that stated that based on extensive monitoring there was an obvious link of this media outlet with a certain political party.<sup>48</sup> Public Radio Television of Kosovo sued Mr. Agron Demi, a civil society activist, in 2021 for "damage of public image" of this institution, after Mr. Demi published a post on Facebook.<sup>49</sup>

**74.** In terms of freedom of the media, legislation protects anonymous journalistic sources and other media professionals. Journalists and other media professionals are obliged to disclose the identity of the source of information only at the request of the competent court and only in cases where disclosure of the source is necessary to prevent a serious threat to physical integrity resulting in death of one or more people. In Kosovo, the Law No. 04/L-137 on the Protection of Journalism Sources is in force, which provides the standards and security for journalists, limiting their obligation to disclose anonymous sources only by court decision. This law has limited the right of the Police, Prosecution, or other law enforcement institutions in Kosovo to request the disclosure of anonymous sources of journalists without a decision issued by the competent court. Journalists have no obligation to respond to the invitation from the Police or Prosecution to talk about sources of information.<sup>50</sup> A positive case of implementing such constitutional and legal guarantees was the discovery of a large-scale non-merit employment scheme based on political affiliations by Insajderi (a news investigative media portal) which led to the indictment of a number of senior figures within the PDK party, also known as the "Pronto Case".<sup>51</sup>

45 Ibid.

46 Western Balkans Journalist' Safety Index, [Narrative report of Kosovo 2020](#).

47 Ibid.

48 [Youth Initiative for Human Rights, Kosovo](#), (2021).

49 [Kallxo](#) (2021).

50 Western Balkans Journalist' Safety Index, [Narrative report of Kosovo 2020](#).

51 [Insajderi](#), (2021).

**75.** With regard to protection of privacy, the Law on Protection of Personal Data is harmonized with the General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR).<sup>52</sup> Since this law came into force, its provisions have yet to be tested in practice. After many delays and failures to have political consensus on candidates, members of parliament of the AoK, on June 17, managed to elect the first Commissioner for Information and Privacy,<sup>53</sup> who is in charge of the Information and Privacy Agency (IPA) and is responsible for the protection of personal data and privacy of individuals. The entire process was monitored by civil society and the election of the commissioner was welcomed by all relevant institutions and stakeholders.<sup>54</sup> During 2021, a reputable news agency reported on suspicions of misuse of children's personal data in Kosovo by an international NGO.<sup>55</sup>

**76.** With regard to data privacy, during 2021, the IPA issued a number of "advices" related to concerns that public institutions and persons raised.<sup>56</sup> It is not clear if these documents are obligatory documents and in all six of these advising opinions published by IPA, there were no violations of the law and no breach of personal information was found.<sup>57</sup> IPA publishes in its webpage the status of complaints about the potential breach of personal information. No inspections were conducted by IPA inspectors on Data protection or privacy complaints received by citizens, due to lack of capacities.<sup>58</sup> The Kosovo Press Council concluded that many news portals published articles in media outlets that breached personal information and privacy which violates Chapter VII of their Code.<sup>59</sup> The number of cases in which the Kosovo Press Council approved complaints and found violations of privacy has increased.<sup>60</sup>

**77.** In practice, CSOs reported a continuing positive trend of the respect of freedom of expression this year.<sup>61</sup> Similarly, to the previous reporting period, CSOs did not report problems or difficulties when exercising this right. Nonetheless, during the reporting period, some of CSOs noted an attempt to limit the freedom of expression. During the selection process of the Media Complaints Board, CSOs monitoring this process were requested to sign a confidentiality statement that prohibits them from publishing any information regarding the process, until the selection is finished. A group of CSOs and activists issued a joint statement noting that such an action marks an attempt to silence CSOs and limit the freedom of expression. A local media outlet published an audio recording where prominent figures in the media, the judiciary and Kosovo Intelligence Agency are allegedly heard discussing plans to capture the media and publish articles targeting various public figures in Kosovo.<sup>62</sup>

**78.** Additionally, cases of threats and denigrating language as well as physical attacks against journalists were reported during 2021. In several cases the Association of Journalists of Kosovo

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52 [The General Data Protection Regulation \(Regulation \(EU\) 2016/679\)](#)

53 [AoK \(2021\)](#)

54 [Kosovo Civil Society Letter \(2021\)](#).

55 [Kallxo \(2021\)](#).

56 KYL (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

57 See the [information and Privacy Agency \(2021\)](#).

58 See the IPA (2021), [Media Report](#).

59 Establishing that "the press shall avoid intrusions and enquiries into an individual's private life, unless such intrusions or enquiries are necessary due to the public interest. Treatment of stories involving personal tragedy shall be handled sensitively, and the affected individuals shall be approached with sympathy and discretion."

60 See the [Kosovo Press Council \(2021\)](#).

61 KCSF (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

62 Ardita Zeqiri for [Kallxo \(2021\)](#).



(AJK) condemned the denigrating language used against journalists and their online media. An example is the case of the Adviser to the President of Kosovo, Blerim Vela. Vela labeled media outlets as “the media of the former Pronto regime”. The AJK stated that this is “language that serves to spread hate and incites attacks on journalists and media in Kosovo”, and invited the President, Vjosa Osmani, to ensure that denigrating language will not be repeated from her office in the future.<sup>63</sup> The AJK condemned threats and insults towards journalists of the news website “Gazeta Sinjali” by relatives of five men who were arrested by Kosovo Police on suspicion of planning terrorist attacks in Kosovo. The AJK called upon the competent authorities “to protect the journalists and this online news media in order to prevent any eventual incident”.<sup>64</sup> Similarly to the previous year, responsible institutions are not doing enough to solve cases of assaults against journalists. Investigations are delayed and/or affected by third parties, resulting in a low rate of solved cases and the imposition of short sentences.

**79.** Another pressing development was the attacks on journalists by K-Serb protesters in northern municipalities of Kosovo while reporting live on a Kosovo Police action against smuggling and organized crime. Attacks against the journalists were condemned by the Secretary-General of the European Federation of Journalists, Ricardo Gutierrez, and the AJK.<sup>65</sup>

**80.** According to the Freedom House report for 2021, there has been a regress in ranking for Kosovo by two points, from 56 to 54, marking the country as “partly free”.<sup>66</sup> Kosovo also regressed by eight positions in a 2021 report by Reporters Without Borders, dropping in rankings from 70th in 2020 to 78th place in 2021.<sup>67</sup>

**81.** During the pandemic throughout 2020 and 2021, it was reported that due to improper implementation of language rights, the right to information was reportedly violated. In some cases, due to the lack of translation into Serbian, members of non-majority communities had limited access to information on the epidemiological situation and on the measures taken by the institutions to combat the epidemic and overcome its economic consequences. This consequently might have increased the risk of the virus spreading, but also the risk that Kosovo residents who do not speak Albanian would be sanctioned for violating the measures or would be denied economic assistance. Numerous journalists and civil society organizations during the pandemic have repeatedly criticized the lack of information in Serbian language. Complaints were addressed either directly to institutions that violated the Law on the Use of Languages or to the Office of the Language Commissioner.<sup>68</sup> The Language Commissioner confirmed receiving only one complaint of this nature in 2021, while noting that a larger number of complaints were submitted in 2020.

63 [Association of Journalists of Kosovo](#) (2021).

64 Ibid.

65 See [Koha](#) (2021) and [Kallxo](#) (2021).

66 [Freedom House Report 2021](#) (2022).

67 [Reporters without Borders](#) (2021).

68 [AKTIV](#) (2021).

**82.** During 2021, Balkan Investigative Reporting Network (BIRN), submitted a total of 172 access to public documents requests, of which 122 were approved, 4 rejected and 45 went unanswered.<sup>69</sup> BIRN has reported on seven active lawsuits against the organization on claims of defamation and/or insult, that usually and most-likely followed publication of investigative shows that aimed to expose mismanagement across different sectors and institutions.

### **83. Recommendations:**

- Relevant branches of government, including the legislature, the executive, and the judiciary, should uphold constitutional and legal guarantees for freedom of expression, information, and privacy;
- The judiciary should obtain more specific trainings on European Court of Human Rights jurisprudence related to freedom of expression, information, privacy;
- A sustainable mechanism is recommended to assist the media, CSOs as well as whistleblowers with SLAPP lawsuits;
- Public institutions should discourage their employees from engaging in unhealthy discussions about journalists, media, and members of CSOs;
- The GoK and judiciary should continue to practice effective and swift institutional and lawful handling of cases of threats against members of the media and CSOs;
- The KP should put in place adequate measures and implement such measures necessary to guarantee journalists' safety in cases of protests;
- All actors should ensure that any processing of health-related data is secure and kept confidential in accordance with the applicable legal framework in Kosovo;
- The Kosovo Press Council should apply more drastic measures to ensure that news outlets do not breach Chapter VII of the Code of the Council;
- The Commissioner for Information and Privacy should be more active and publicly engaged in issues related to the public interest.

## **5.6 The freedom of peaceful assembly**

**84.** The freedom of peaceful assembly is guaranteed by the Constitution under Article 43. It provides every person the right to organize gatherings, protests, and demonstrations as well as the right to participate in them. Such rights may be limited by law if it is necessary to safeguard public order, public health, national security, or the protection of the rights of others.<sup>70</sup>

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69 BIRN (2022), input for the joint CSO report on Human Rights in Kosovo in 2021.

70 Constitution of Kosovo (2008), Article 43.

**85.** Credible international reports establish that the right to freedom of peaceful assembly is generally respected.<sup>71</sup> During the reporting period, demonstrations were limited in number and size due to public health measures related to the pandemic. In most cases, COVID-19 measures were respected, with the notable exception of the political party campaign events ahead of the early parliamentary elections. No major security incident related to public gatherings was reported.<sup>72</sup>

**86.** At the legislative level, the freedom of peaceful assembly is covered by a number of laws, including the Law No. 03/L-118 on Public Gatherings, the Law No. 04/L-076 on Police, and the Criminal Code No. 06/L-074 of Kosovo.

**87.** The Law No. 03/L-118 on Public Gatherings guarantees all citizens the right to organize and participate in public gatherings. CSOs enjoy the right to freedom of peaceful assembly both individually and through their organization. Competent authorities are obligated to ensure that all conditions for organizing an assembly set out by the law are met, while administrative procedures are considered easy to follow. The only prerequisite for organizing a public gathering is that competent authorities must be notified 72 hours in advance. The provisions of the law refer only to “citizens of Kosovo”, leaving it unclear whether freedom of assembly also extends to stateless persons, refugees, foreign nationals, and others. Even though not explicitly stated, simultaneous and counter-assemblies are not allowed under the Law. The Law on Public Gatherings is in the amending process and underwent written public consultation during the second part of 2021. Some CSOs have submitted their comments tackling mainly the unclear issues discussed in this paragraph.

**88.** In 2020, the Law no. 07/L-006 on Preventing and Combating COVID-19 was adopted. The said law placed some limitations on the freedom of peaceful assembly in respect to the pandemic. Hence, as CSOs have reported, this freedom was mostly limited by COVID-19 related measures, which impacted its practical implementation.<sup>73</sup>

**89.** In 2021, GoK introduced a series of preventive measures to combat the spread of COVID-19. These measures mostly had an impact on the freedom of peaceful assembly.

**90.** In direct correlation with the number of new infections, this freedom was subjected to several types of restrictions. By the second half of 2020, as new infections spiked, new preventive measures were introduced by the government following recommendations from the National Institute of Public Health. These measures prohibited all kinds of public gatherings, including gatherings of more than five persons in public squares, and the freedom of movement of citizens was limited to a fixed period from 05:00 to 22:30. By the end of September 2020, as the number of new COVID-19 cases began to drop, the GoK started to lift some of the measures, including the limitations imposed on the freedom of movement. However, the limitations on public gatherings

71 European Commission (2021), [Annual Progress report](#).

72 Ibid.

73 KCSF (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

remained, with exceptions for participation in religious rituals as well as indoor and outdoor sporting activities. These same restrictions imposed on the freedom of peaceful assembly have also continued in 2021.

**91.** However, despite the pandemic-related measures, the positive trend of people organizing public assemblies to make their voices heard over various concerns continued in 2021. Even though numerous constraints, mostly impacting freedom of peaceful assembly, were imposed due to the emergence of the COVID-19 virus, citizens still found creative ways to make their voices heard.

**92.** During 2021, there were frequent public gatherings related to various themes. Protests asking for urgent and immediate actions against several cases of femicide in Kosovo took place together with protests calling for women's rights and equality. An example is the protest demanding justice for the murder of an 18-year-old woman by her partner.<sup>74</sup> The Collective for Feminist Thinking and Action carried out actions in various cities throughout Kosovo in 2021. The painting of public spaces with messages like "unpaid work of women bears the state", and "sexual harassers are criminals" have also caught the attention of the public.<sup>75</sup>

**93.** Healthcare workers were also vocal in expressing their demands through protests. They mainly asked for better working conditions, especially during the pandemic. Specifically, they demanded "continuation of social dialogue with the Minister, issuance of Administrative Instruction on Salary Supplements, as well as approval of the Law on Salaries" and additional payment for working on public holidays.<sup>76</sup> In another case, medical staff of the Regional Hospital of Mitrovica protested in support of their colleague who was attacked physically by a patient's relative. They called upon the competent authorities to prosecute the case and give the perpetrator a meritorious sentence.<sup>77</sup>

**94.** In relation to protests and marches related to worker's rights, several gatherings were organized and attended by private and public institution employees demanding better working conditions. People throughout Kosovo organized to demand from their respective municipalities improvement in infrastructure and other working conditions in their neighborhoods.<sup>78</sup> Through protests, citizens expressed discontent with several judicial decisions, such as the one of the Basic Court in Ferizaj/Uroševac to release under house arrest the person who caused a car accident that resulted in 5 victims.<sup>79</sup>

**95.** Political parties held their campaigns without due regards to the COVID-19 measures, and staged several protests and performances mainly with the aim to exercise pressure towards the government.<sup>80</sup> Examples include the use of pacifiers in front of the government's building in efforts to oppose the government's decision to close kindergartens as part of the new COVID-19 measures.<sup>81</sup> In another separate example, several activists condemned the agreement reached

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74 [Kallxo](#) (2021).

75 [Koha](#) (2021).

76 [Koha](#) (2021).

77 [Kallxo](#) (2021).

78 [Kallxo](#) (2021).

79 [Koha](#) (2021).

80 [Evropa e Lire](#) (2021).

81 [Kallxo](#) (2021).

between Kosovo and Serbia on vehicle and license plate stickers that covered cars' official plates with similar stickers.<sup>82</sup>

**96.** In 2021, there were at least two reported cases of police brutality against organizers or attendees of instances of public assembly.<sup>83</sup> These cases happened when the activists of the Social Democratic Party of Kosovo were arrested while staging actions and protests, and the party accused the KP of violence, claiming that its activists were injured during the arrests.

### **97. Recommendations:**

- The amended Law on Public Gatherings should consider regulating the freedom of peaceful assembly also for the categories of stateless persons, refugees, foreign nationals, and others;
- The Kosovo Police should ensure the effective implementation of the freedom of peaceful assembly of citizens as a constitutional and legal right and refrain from the unnecessary use of force by respecting the basic principles such as legality and proportionality in cases of arrest;
- The PIK is recommended to monitor the performance of police officials in relation to their behavior during various rallies or protests by citizens.

## **5.7 The freedom of association**

**98.** Article 44 of the Constitution guarantees the freedom of association, including the right of everyone to establish, join, and participate in an organization without permission and the right to establish trade unions. It further provides that competent courts may prohibit organizations that "infringe on the constitutional order, violate human rights or freedoms, or encourage racial, national, ethnic or religious hatred." Several human rights instruments that directly apply in Kosovo also uphold the freedom of association.<sup>84</sup>

**99.** The new Law No. 06/L-043 on Freedom of Association in Non-Governmental Organizations came into force in 2019. Its legal provisions, aligned to best international standards and practices, guarantee the right to associate without the need to obtain permission. It allows NGOs to exist in three legal forms: association, foundation, and institute. It also determines that NGOs must provide a public or mutual benefit and also grants them a beneficial tax status. Law No. 04/L-011 for the Organizing Trade Union in Kosovo upholds the right to form private and public-sector trade unions, while Law No. 03/L-212 on Labor establishes work-related rights relevant to the freedom of association.

<sup>82</sup> [Kallxo](#) (2021).

<sup>83</sup> [Civicus](#) (2021).

<sup>84</sup> Constitution of Kosovo (2008, Article 22 and 44).

**100.** Department of NGOs (DNGO) initiated the process of drafting the secondary legislation for the implementation of the Law on Freedom of Association in NGOs in 2019.<sup>85</sup> During 2021, no bylaws were issued for implementation of the said Law, compared with 2020 which saw two such sub-legal acts.<sup>86</sup>

**101.** Registration of organizations is not mandatory. Freedom of association applies equally to individuals and legal entities that wish to establish associations, foundations, or institutes. Protection against any form of discrimination is guaranteed by the Law No. 05/L-021 on the Protection from Discrimination.<sup>87</sup> No one is to be persecuted for the decision to associate or to not associate and no person shall be required to associate against their will. When groups decide to obtain legal status, the following criteria must be met: associations are membership organizations, therefore their establishment requires at least three physical or legal persons; foundations can be established either by one person or by a testament and an initial monetary fund is required; institutes can be established by at least one person. The new Law has shortened the registration procedure from 60 to 30 days. Registration is free of charge and registration rules are considered simple to follow. The online platform for CSO registration further eases the process.

**102.** Kosovo still does not have a targeted legal framework on grassroots organizing. However, although not explicitly, such organization is foreseen under the Law on Freedom of Association in NGOs. The Law does not recognize grassroots as a specific category for exercising this freedom even though it allows the operation of non-registered initiatives. Networks are registered as associations, thereby, the same rules and procedures apply as prescribed by the Law on Freedom of Association.

**103.** In 2021, there were no suspensions of CSOs by the DNGO. The last wave of suspensions happened in 2018 when 20 CSOs were suspended. The problem is the legal base upon which the DNGO relies, the Administrative Instruction GRK – No. 02/2014 on Registration and Functioning of NGOs,<sup>88</sup> which states that CSOs can be suspended by DNGO for activity that does not coincide with the constitutional order of Kosovo, based upon the request of “authorized security institutions.” However, in the cases of the suspensions to date, there has been no evidence of prior investigations into alleged breaches having been carried out, and the “authorized security institutions” that issued the requests have never been specified. KCSF data shows that from 2014 to 2021, a total of 70 CSOs have been suspended. Suspension decisions for 24 organizations are renewed annually, meaning they remain suspended.

**104.** Legislation on financial reporting and accounting rules did not change in 2021. As such, it continues to ignore the specific nature of CSOs. CSOs are allowed to engage in economic activities in order to support their activities in line with the not-for-profit principle. Legislation allows CSOs to engage in economic activities both directly or by owning property and assets. Income generated from such activities should be used only for purposes related to the organization’s mission. In addition to economic activities, CSOs are allowed to receive foreign and private funding, with the legislation in force not prohibiting it in any form.

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85 Ibid.

86 See [Official Gazette](#) (2019).

87 [Kallxo](#) (2021).

88 [Administrative Instruction GRK – No. 02/2014 on Registration and Functioning of NGOs, \(2021\)](#).

**105.** In 2021, there were no reported cases of violation of the Law on Freedom of Association. No CSOs reported difficulties in exercising freedom of association, either online or offline.<sup>89</sup> However, a delay in registering an organization has been noted. Parents of children attending a community-based kindergarten were required to register an organization for the operation of the kindergarten. Despite their application in October 2020, the group reported in the first part of the 2021 that the DNGO had not yet issued an answer.<sup>90</sup>

### **106. Recommendations:**

- Specific legal framework regarding grassroots organizing should be completed;
- The Department for NGOs should draft by-laws of the Law No. 06/L-043 on Freedom of Association in NGOs with the involvement of NGOs. Moreover, DNGO should increase its capacities in order to effectively implement its mandate. Its staff should be trained in the international principles of freedom of association and the new provisions included in the adopted the Law No. 06/L-043 on Freedom of Association in NGOs;
- The Financial Intelligence Unit, the Ministry of Finance and the Central Bank of Kosovo should draft and adopt the specific regulatory framework on banks and CSOs based on FATF recommendation 8, respectively sectoral risk assessment, to allow unhindered financial services for CSOs and encourage bank transactions within CSOs' financial operations.

## **5.7 The freedom of belief, conscience and religion**

**106.** Belief, conscience, and religion are constitutionally guaranteed rights pursuant to the Article 38 of the Constitution of Kosovo. The freedom of belief, conscience, and religion includes the right to accept and manifest religion, the right to express personal beliefs, and the right to accept or refuse membership in a religious community or group (Article 38 paragraph 2). In addition, it is worth noting that the Constitution establishes Kosovo as secular and neutral country on religion, ensuring the protection of religious heritage and prohibiting discrimination on religious grounds. (Article 8). Furthermore, several human rights instruments protecting this freedom directly apply in Kosovo pursuant to Article 22 of the Constitution.

**107.** The situation regarding the legislative framework did not change from the previous reporting period. The Law No. 02/L-31 on Freedom of Religion in Kosovo guarantees the freedom of belief, conscience, and religion to all religious communities in Kosovo, including with regard to equal rights, legal protection, and property rights. However, it does not provide religious communities with the right to register and acquire legal personality, which according to the Venice Commission violates Articles 9 and 11 of the ECHR on the basis that religious communities lacking

89 KCSF (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

90 [Gazeta e Prizrenit](#) (2021).

legal personality will likely encounter “discriminatory legal obstacles” in relation to acquiring or renting property, financial affairs, contracts, and protecting their rights in legal fora.

**108.** A revised draft bill that seeks to amend the Law no.02/L-31 on Freedom of Religion to allow religious communities in Kosovo to register and obtain legal entity status has been pending since October 2017. Initially prepared based on recommendations by international actors and requests by religious communities in Kosovo,<sup>89</sup> the draft bill was revised in 2017 and eventually placed on the AoK’s agenda in May 2019, although it was neither discussed nor adopted by the AoK in 2019. If adopted, the draft bill would provide for the automatic registration and legal status of six recognized religious communities in Kosovo and elective registration for “new” religious communities if certain conditions are satisfied. The Venice Commission found that this differentiated system complies with Articles 9 and 14 of the ECHR because there is an “objective and justifiable basis for historical reasons” in Kosovo for treating these religious communities differently.<sup>91</sup> Until the law is amended, religious groups are not allowed to register as legal entities in Kosovo, making them unable to conduct business, monetary partnerships, or legal matters with other public and private entities. Amendment of the Law on Religious Freedoms is in the Legislative Program of the Government for 2022.<sup>91</sup>

**109.** There are 24 Special Protection Zones in Kosovo established based upon religious and cultural significance that are legally protected from activities that may disrupt or damage the historical, cultural or natural environment. A multiethnic police unit provides 24-hour specialized protection to these zones. Although there have not been any reported incidents at these sites in two years, theft and vandalism at the Serbian Orthodox Church (SOC) sites outside these zones have been reported.

**110.** The May 2016 final judgment by the Constitutional Court on the land dispute case involving the Visoki Dečani monastery and Deçan/Dečane municipality which confirmed the monastery’s legal ownership of the land remains unimplemented.<sup>92</sup>

### **111.Recommendations:**

- The Constitutional Court Judgment KI132/15, pertaining to the Visoki Dečani/Deçan Monastery, should be implemented;
- The Kosovo Police and the Office of State’s Prosecutor should thoroughly and efficiently investigate religiously motivated offenses and crimes;
- The GoK and the AoK must ensure adequate amendment of the Law no.02/L-31 on Freedom of Religion, to provide religious groups with the right to register and acquire legal personality.

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91 See the [Legislative Program for 2022](#).

92 European Commission (2021), [Annual Progress report](#).



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

### 6.1 Labor rights

**112.** Labor rights in Kosovo are protected by the Constitution of Kosovo. The law 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>93</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 the employees to establish trade unions in the public and private sector.

**113.** The Labor inspectorate of Kosovo is the central monitoring body that oversees the implementation of the labor laws in practice. Although the number of inspectors has increased compared to 2020, from 30 to 39 employers, the draft Law no. 07/L-028 on the Labor Inspectorate, which intends to address informal employment and the increase of business inspectors’ capacity to prevent violations, is still awaiting approval as per the previous progress report.

**114.** In terms of ensuring occupational safety and health (OSH) at work, the International Labor Organization (ILO) reports that Kosovo has accelerated its efforts to develop a legislation and labor inspectorate that aligns with international and European standards. However, despite the adoption of international principles, major gaps have been identified regarding the compliance of workers with the strict procedures that can achieve a safe working environment, especially in the area of construction. In addition to this, there is a critical lack of statistics concerning work-related accidents, a lack of public awareness of OSH at work, and no proper occupational health surveillance system that ensures the treatment of work-related diseases.<sup>94</sup>

**115.** According to KLI, women in particular are at risk for labor-related disputes.<sup>95</sup> From February 2020 to December 2021, KLI identified and monitored 151 court hearings of civil and administrative nature where women were involved in various disputes concerning their employment. The courts rule did not rule on any of the cases on the grounds of discrimination under Law no. 5/L-021 on Discrimination.

<sup>93</sup> The Constitution of Kosovo (2008).

<sup>94</sup> [International Labor Organization](#) (2021).

<sup>95</sup> KLI (2021), input for the joint CSO report on Human Rights Kosovo 2021.

**116.** Unemployment among young people remains a significant socio-economic challenge in Kosovo. The Statistical Agency of Kosovo (KSA) reports a Youth Unemployment Rate (YUR) of 46.8 percent for the year 2021. Likewise, the European Commission report describes a youth inactivity rate of around 62 percent.<sup>96</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.

**117.** The K-Roma, K-Ashkali, and K-Egyptian communities suffer from an especially high unemployment, and individuals with these ethnic backgrounds are at an especially high risk of discrimination in the workplace on the basis of their ethnic background.<sup>97</sup>

**118.** There are around 208 trade union associations in Kosovo today. In spite of this, the working conditions of employees, especially the private sector, remain poor with overall low minimum wages and working conditions that almost entirely depend 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>98</sup> Nepotism and partiality on the basis of personal preferences are a widespread phenomenon in public and private workplaces as there is a lack of sufficient control mechanisms. Insufficient transparency has resulted in informally employed personnel in formal enterprises.

### **119. Recommendations:**

- The GoK should ensure that Draft Law No. 07/L-028 on the Labor Inspectorate is approved;
- The GoK should provide more concrete support to all persons who are unemployed, with a particular focus on groups in marginalized situations;
- The GoK should provide greater care to ensure the right of all workers to occupational safety and health, including, in particular, proper work environments that fully comply with COVID-19 protection and safety measures.

## **6.2 The right to education**

**120.** Article 47 of the Constitution grants everyone the right to a free basic education and requires that public institutions provide them with equal educational opportunities “in accordance with their specific abilities and needs”. Additionally, the Constitution affords members of non-majority communities the right to receive public education in one of the official languages of their choice at all levels as well as the right to receive pre-school, primary, and secondary public education in their own language to the extent prescribed by law, with the thresholds for establishing specific classes or schools for this purpose being lower than normally stipulated for educational institutions.<sup>99</sup> Laws on education are assigned, by the Constitution, a special status as legislation

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96 European Commission (2021), [Annual Country Report on Kosovo](#).

97 [Kosovo Center of Gender Studies](#) (2021).

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

99 Constitution (2008), Article 59.

of vital interest (Article 81).

**121.** According to Article 8 of the Law No.03/L-047 on the Protection and Promotion of the Rights of Communities and their Members in Kosovo, all persons belonging to communities shall have the right to receive public education at all levels in one of the official languages of Kosovo of their choice.<sup>100</sup> Furthermore, the general duty of the Ministry is to provide all pupils with equal opportunities in access to education in accordance with their specific abilities and needs and to promote their education and social development.<sup>101</sup>

**122.** NGO Advancing Together (AT) reports that, similarly to previous years, the MESTI has continued with their good practice of supporting students in upper secondary education from K-Ashkali, K-Egyptian and K-Roma communities with scholarships.<sup>102</sup> As a result, 500 students have benefited from such support. Nevertheless, for the first time, a group of K-Roma students (approximately 70) attending education within the Belgrade-supported education system have been excluded from the process. Due to lack of education curriculum in their mother tongue or an education in the Serbian language in their specific areas by Kosovo authorities, these K-Roma students are forced to attend the Belgrade-administered educational system.

**123.** A draft Law on Higher Education, which would ensure mechanisms for quality assurance and the independent operation and autonomy of higher education institutions, has not been adopted yet. Kosovo's qualification framework in the field of education is based on the European Qualifications Framework. Law No. 05/L-066 on the Regulated Professions, which regulates the mutual recognition of professional qualifications between EU member states, is aligned to a certain degree with the EU's legal framework but further harmonization is still needed. The Kosovo Accreditation Agency, which accredits both public and private institutions for higher education, was excluded from the European Quality Assurance Register for Higher Education in September 2019 and has yet to reinstate its member status to that institution. There are a number of negative consequences caused by such lack of membership, mostly affecting exchange of data and obstacles in recognizing documents issued by Kosovo educational institutions.<sup>103</sup>

**124.** Enrollment of children in compulsory education, primary, lower and upper secondary education, is universal (100 percent attending grades 1-5, 90.5 percent 5-9 and 86.6 percent 9-12). The dropout rate remains higher among K-Roma, K-Ashkali, and K-Egyptian children, even though statistics are unreliable.

**125.** According to HANDIKOS, the pandemic has disrupted access to education for persons with disabilities.<sup>105</sup> Inclusion of children with special needs in the education system remains a challenge.<sup>106</sup> The latest data show that 3,903 children with special needs are enrolled in regular classes and 349

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

101 See [Law no. 04/L-032](#)

102 AT (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

103 [Radio Evropa e Lire](#) (2019).

104 European Commission (2021), [Annual Progress report](#).

105 HANDIKOS (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

106 KOMF (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

in resource centers.<sup>107</sup> Based on the UNICEF's information and also from the MESTI, there are only 11 percent to 12 percent of children with disabilities included in the education process. During the period 2017-2021, attached classes Kosovo-wide have been reduced from 76 to 18. These classes are expected to be converted into source rooms.

**126.** CSOs report that participation and inclusion of K-Roma, K-Ashkali, and K-Egyptian children in compulsory education increased over the years. However, participation of children in preschool, pre-primary, and higher secondary education remains a challenge.<sup>108</sup> According to the Kosovo Agency of Statistics, the inclusion of children/students from the K-Roma, K-Ashkali, and K-Egyptian communities, especially in pre-school education, pre-primary education, lower secondary, and upper secondary education, continues to be extremely low compared to the national average.<sup>109</sup>

**127.** The COVID-19 pandemic affected all children, but especially children from groups in vulnerable situations,<sup>110</sup> children of low socio-economic status, children with special education needs, and children from the K-Roma, K-Ashkali, and K-Egyptian communities. Also, non-Albanian speakers were affected negatively, as distance learning via virtual classes commenced initially in Albanian-only. Findings show that children from marginalized groups were faced with a lack of IT equipment as many families from marginalized groups have no laptop, tablet, or computer, and often some children in a family have only one smartphone available for distance learning, thus being denied the right to education due to technical obstacles. No specific policy has been developed to avoid the deepening of inequalities in education during the pandemic. Kosovo has tried to overcome the problems of a lack of digital platforms and teaching materials by broadcasting pre-recorded lessons on the Radio Television of Kosovo (RTK), to which a large percentage of the people have access. However, in order to offer mass television lessons, the subjects taught and the teaching time were significantly shortened, which means that the right to education for students who relied on television was less effectively facilitated than for those who had proper digital infrastructure and information technology skills.<sup>111</sup> Furthermore, the transition from physical to online education and vice versa has caused problems for students with special needs because online learning has to be done through parents.

**128.** KWN reports that the Kosovo Correctional Service (KCS) and the Probation Service still do not have programs for the reintegration and rehabilitation of perpetrators of violence or tracking these cases. Centers for Social Work have struggled to provide appropriate case management due to staff shortages. This undermined their ability to represent the rights of the child. Shelters continued to face financial problems, though financing improved since 2019. Representatives of education and health institutions continued to lack awareness about gender-based violence and may not always report cases to police. Treatment programs are limited. The Vocational Training Centre and Employment Office officials generally lacked awareness on their legal responsibilities and approach they should have in assisting persons who have suffered gender-based violence.<sup>112</sup>

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107 BSFK (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

108 Ibid.

109 See [KEC](#) (2021).

110 Ibid.

111 See [KEC](#) (2021).

112 Ibid.

**129.** The impact of the COVID-19 pandemic and the challenges brought by it have further aggravated the social position of young people in Kosovo. The high rates of unemployment, misalignment between education and labor market needs, and nepotism in recruitment processes are the prominent issues stressed by the youth and the persistent problems of the Kosovo youngsters noted in the reports of many NGOs and international and regional organizations. The youth unemployment rate is as high as 49 percent, whilst youth inactivity rate is around 62 percent.<sup>113</sup>

**130.** The existing Youth Strategy 2019-2023, in congruence with the Law No. 03/L-145 on Empowerment and Participation of Youth, set up the groundwork for youth participation in decision making processes, public life, participation in informal education, employability, education, health promotion, culture, sports, and recreation.<sup>114</sup> This strategy highlights non-formal education as a way to broaden the skills of young people and engage them to impact their surroundings.

### **131. Recommendations:**

- The MESTI should step up efforts to implement applicable legislation on official languages in the education system;
- 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;
- Institutions should address the concerning low percentage of including children with disabilities in the education system;
- The MESTI must examine and initiate measures for remedying the impact of COVID-19 in more vulnerable groups;
- Although the GoK has committed to the implementation of the Youth Guarantee Scheme, it should appoint a coordinator and coordinating body as well as start with the development of a Youth Guarantee implementation plan;
- 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;
- 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.

113 European Commission (2021), [Annual Progress report](#).

114 MCYS (2021), [Strategy for Youth \(2019-2023\)](#).

## 6.3 The right to health

**132.** The right to health is covered by Article 51 of the Constitution providing that healthcare and social insurance are regulated by law. The Constitution states that “basic social insurance related to unemployment, disease, disability, and old age is regulated by law.”<sup>115</sup> At the legal level, the provision of healthcare services is regulated by several laws. The following list includes relevant laws in force in the context of the right to health: The Law No. 04/L-125 on Health, The Law No. 06/L-042 Law for Blood and Blood Products, the Law No. 02/L-76 on Reproductive Health, the Law No. 02/L-109 for Prevention and Fighting against Infectious Diseases, the Law No. 02/L-78 on Public Health, and the Law No. 2004/38 on the Rights and Responsibilities of the Citizens in Health Care.

**133.** Health authorities in Kosovo were focused mainly on managing the COVID-19 pandemic during 2020-2021. During 2021, the OiK issued an ex-officio report No. 434/2020 on the limitations on the provision of health services during the COVID-19 pandemic in Kosovo, which recommended a number of measures to uphold applicable constitutional and legal rights in the area of health.<sup>116</sup> Vaccination is ongoing according to the National Deployment and Vaccination Plan. At the time of finalizing this report a total of 1,815,804 persons were vaccinated.<sup>117</sup> New facilities and equipment were established in Pristina and regional centers to support the efforts of the Ministry of Health to manage the pandemic. The diagnostic capacities of central and regional laboratories have been significantly increased. Still the COVID-19 pandemic has put Kosovo’s health system under significant strain.<sup>118</sup> The Ministry of Health informs the public on a daily basis about the main statistics related to the pandemic, including daily cases, number of vaccinations, number of fatalities, etc. However, such information is mostly distributed in the Albanian language, thereby impairing the ability of persons who do not speak Albanian to access such data and information.

**134.** While there has been significant progress in terms of access to health services, the quality of healthcare continues to be a source of concern. Kosovo has yet to implement a universal health-care plan. The approval of the Health Insurance Law, as well as the start of the collecting of health premiums, has been postponed once more. The public health information system remains inoperable. The health system is being harmed by the increased emigration of healthcare personnel, namely physicians and certified nurses. In comparison to 2020, the overall budget for the health sector in 2021 has been increased by 10 percent. Despite this growth, health-care spending still accounts for roughly 3 percent of GDP. There was no progress on the health sector strategy, and not all citizens have equal access to healthcare.<sup>119</sup> Access to basic healthcare is free, but spending on diagnostic services and medications is not reimbursed. High reliance on private out-of-pocket expenditures (estimated at 40 percent of total medical costs – only 65 percent of annual public health needs are covered by public spending, mostly on fixed costs) limits access for vulnerable groups. Health financing is not based on needs assessments and institutional accountability has not increased.<sup>120</sup>

115 [The Constitution of Kosovo](#) (2008, Article 51).

116 See OiK (2021), [Ex Officio Report 2021](#).

117 See the Ministry of Health (2021), [Data on vaccines](#).

118 European Commission (2021), [Annual Progress report](#).

119 World Health Organization (2021), [Maintaining essential health services in Kosovo](#).

120 Ibid, footnote 103.

**135.** The health situation for children in vulnerable situations remains a challenge in Kosovo. Based on the Kosovo Agency of Statistics, 73 percent of children aged 24 - 26 months in Kosovo have been vaccinated according to the immunization calendar.<sup>121</sup> From these, 4 in 5 children aged 24 - 35 months who live with rich families in Kosovo are fully vaccinated compared to 3 in 5 children of the same age who live with poor families. Furthermore, only 38 percent of children from K-Roma, K-Ashkali, and K-Egyptian communities are fully vaccinated compared to 73 percent of children from the general population. This statistic is of a huge concern as it indicates severe health issues for children in the short, middle and long term. Sixteen children under the age of 5 die out of 1000 births. This statistic is almost two times higher for children from K-Roma, K-Ashkali, and K-Egyptian communities with 27 children dying out of every 1,000 births. Child victims of drug abuse cannot receive the needed rehabilitation services, due to the lack of adequate capacities of psychiatrists and pediatricians as well as the lack of necessary resources at disposal. As a result, there are no services for identification, physical and psychological rehabilitation, and social integration of such victims.<sup>122</sup> Furthermore, as KOMF reports in terms of improvement of the legal framework, the Criminal Code of Kosovo remains a source for concern, as it sanctions selling and serving alcohol to persons under the age of 16 years old, while based on the Constitution of Kosovo, every person under the age of 18 is considered a child.<sup>123</sup>

**136.** The COVID-19 pandemic, through its impact on many life activities, has produced concern, anxiety, and trauma among individuals, especially, among children. Based on the evidence provided by the Kosovo Agency of Statistic through the publication of the MICS survey under the section "Functioning of children", anxiety has been reported as the main sphere of functional difficulties among children aged 5-17 years old.<sup>124</sup>

**137.** According to the CSO BSFK's report on the health status of the K-Roma, K-Ashkali, and K-Egyptian communities in the municipalities of Fushë Kosovë/Kosovo Polje, Shtime/Štimlje, Obiliq/Obilci, and Gračanica/Gračanica, 16 percent of newborns and 63 percent of mothers from Roma, Ashkali, and Egyptian communities did not have postnatal health visits after being discharged from the hospital. According to this report, 60.94 percent of women in Fushë Kosovë/Kosovo Polje and 71.15 percent in Obiliq/Obilci did not visit their gynecologist regularly. Based on the data of this report, over 50 percent of respondents answered that they do not need a gynecologist. The birth rate in the K-Roma, K-Ashkali, and K-Egyptian communities remains high from year to year. There are 43 (7.5 percent) pregnant women from 574 households surveyed in four municipalities. Of this number, 15 of them are under the age of 18.<sup>125</sup> Only 38 percent of children living in K-Roma, K-Ashkali, and K-Egyptian communities are fully vaccinated compared to 73 percent of children in the general population that have received all vaccines according to the immunization calendar.<sup>126</sup>

121 KOMF (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

122 Ibid.

123 Ibid.

124 Ibid.

125 [Balkan Sunflowers](#) (2021).

126 BSFK UNICEF project report in 12 municipalities: Mitrovicë, Podujevë, Obiliq, Fushë Kosovë, Lipjan, Shtime, Ferizaj, Gjilan, Klinë, Istog, Pejë, Prizren

### 138. Recommendations:

- The Ministry of Health and hospitals in Kosovo should ensure that specialist visits and elective surgeries are provided to those who need them in a timely manner even during the ongoing pandemic in full compliance with COVID-19 prevention measures;
- The GoK should take all necessary measures to immediately ensure the implementation and enforcement of Law No. 04/L-249 on Health Insurance without any further delay, including by ensuring that all people in Kosovo are provided with universal healthcare insurance;
- The GoK should increase the budget allocated to the healthcare system in Kosovo, including additional funding for mental healthcare services;
- The Ministry of Health and the KIPH should fully comply with their obligations under the Law No. 02/L-37 on the Use of Languages by ensuring all official communications, including their websites, provide information in Kosovo's official languages;
- The GoK should put in place a plan for implementation of the Health Insurance Law;
- The GoK should consider changes to the Criminal Code to forbid serving of alcohol to minors under the age of 18;
- The Ministry of Health should enhance vaccination, immunization, and provide other health services to groups in vulnerable situations.
- Relevant institutions must ensure full and continuous implementation of the Ex-officio Report of the OiK (Ex-officio case no.489/2018) on use of narcotic substances by children.<sup>127</sup>

### 6.4 Property rights

**139.** The Constitution guarantees, values, and prohibits interference with the right to ownership of property. Article 46 specifically deals with property protection, defining that the right to own property is guaranteed. Use of property is, according to the Constitution, regulated by law in accordance with the public interest. The Constitution prohibits arbitrary deprivation of one's property. Any public authority of Kosovo may not expropriate property, except in lawful expropriations, and must protect intellectual property. Additionally, under Article 156 of the Constitution, Kosovo is obliged to assist refugees and IDPs "in recovering their property and possession." Articles 122 regulates the use of property of special interest and natural resources, while Article 159 addresses socially owned enterprises and property interests.

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127 [OiK \(2019\)](#).



**140.** At the legislative level, laws and regulations relevant to the protection of property rights include the Law No. 03/L-154 on Property and other Real Rights, the Law No. 05/L-010 on Kosovo Property Comparison and Verification Agency (KPCVA), the Law No. 2002/5 on Establishment of the Immovable Property Rights Register, the Law No. 03/L-007 on Non-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.

**141.** The Kosovo Property Comparison and Verification Agency (KPCVA) is an independent Agency, established under the Article 142 of the Constitution and the Law on the KPCVA from 2016 that inherited the mandates of the Kosovo Property Agency (KPA) and Housing and Property Directorate (HPD) regarding occupied properties. According to Article 16.6 of the Law, the decisions of the Supreme Court of Kosovo are final and enforceable and cannot be challenged through ordinary or extraordinary remedies. Still, there are cases where the courts have allowed re-litigation of disputes adjudicated by valid Housing and Property Claims Commission (HPCC) or Property Claims Commission (PCC) decisions. The international community in Kosovo called upon responsible institutions to comply with the relevant legislation and to ensure that the fundamental rights of all citizens are respected, including the return to their place of origin.

**142.** Regarding property rights, the draft law on the Kosovo Property Comparison and Verification Agency (KPCVA) was revised according to the OILn's recommendations, but not adopted by the AoK. Overall, implementation of the judicial decisions, including 33 Constitutional Court decisions, remains an issue, particularly in conflict-related property cases. During 2021, institutions took some positive measures towards the protection of the property rights of communities in vulnerable situations, displaced persons, and women. The KPCVA performed 18 evictions and one demolition of an illegal structure built on the property of a displaced person, providing an effective restitution of property rights. Some progress has been made in the implementation of the Administrative Instruction on Demolition of Illegal Structures adopted in April 2020, though lack of funds prevent the KPCVA carrying out the demolitions swiftly.<sup>128</sup>

**143.** In April 2021, the GoK extended the affirmative measure to increase the registration of joint immovable property on behalf of both spouses for six years. This measure, first introduced in 2016, has led to a noticeable increase in the registration of women as property owners, from only 104 in 2016 to 7,417 in 2020.<sup>129</sup> There are no available data on registration of property by women as owners/co-owners for the year 2021.

**144.** CSOs report on the importance of resolving property claims as a major step towards protecting the rights of non-majority communities. Effective and sustained respect for this fundamental human right can have a positive effect on creating a path to legal security for those citizens who have not yet been able to exercise their property rights. NGO AKTIV reports that when it comes to

128 European Commission (2021), [Annual Progress report](#).

129 Ibid.

issues related to property rights, a group in a particularly vulnerable situation are IDPs whose return is conditioned primarily by the right to free use of their property. Such issues might prevent any serious progress in the policy of returning IDPs to Kosovo.<sup>130</sup> The case of Dragica Gasic may have set a noteworthy precedent in this respect, as after returning to her apartment in the city of Gjakova/ Đakovica the Municipality of Gjakova/ Đakovica filed a lawsuit for cancellation of the contract of Gasic. The Municipality asked the Basic Court to evict the Serbian returnee for not having paid rent since 1997.<sup>131</sup> Although the Basic Court of the Municipality dismissed the lawsuit in August 2021, such cases can intimidate other displaced persons from returning to their homes.

**145.** The regularization of large-scale informal settlements whose residents mainly belong to communities in vulnerable situations, continues to be hampered by lack of political will to address the issue.<sup>132</sup>

#### **146. Recommendations:**

- The resolving of property claims should be employed as a tool to facilitate inter-community reconciliation and to avoid potential conflicts ignited by disputes over property;
- The GoK should continue to extend affirmative measures on joint registration of property until statistics demonstrate a more equal distribution in property registration to both genders;
- The Kosovo Police and the Prosecutor's Offices should ensure that properties belonging to members of non-majority communities are not re-occupied after evictions conducted by the KPCVA;
- Central and local level authorities should continue the awareness campaign on the importance of the legalization of constructions without a permit;
- Central and local level authorities should take appropriate steps to formalize informal settlements in due time.

## **6.5. Cultural Rights**

**147.** In the legislative framework of Kosovo, the Constitution emphasizes 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>133</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>134</sup> While the Constitution of Kosovo includes various universal human rights and international instruments (see Article

130 [AKTIV](#) (2021).

131 [Gazeta Express](#) (2021).

132 European Commission (2021), [Annual Progress report](#).

133 The Constitution of Kosovo (2008).

134 *Ibid.*

22), this is not the case with the International Covenant on Economic, Social, and Cultural Rights that has yet to be included and its international cultural rights reflected in Kosovo's legal framework. 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>135</sup> In its government program, the GoK commits to improving the legal framework for the promotion of Kosovo's cultural heritage.<sup>136</sup>

**148.** 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>137</sup> In 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>138</sup>

**149.** Kosovo has yet to draft the Law on Cultural Heritage, which the GoK committed to in Annex V of the Ahtisaari Plan. According to the European Commission Report (2021), the Implementation and Monitoring Council (IMC) remains the only formal mechanism for dialogue between the government and the Serbian Orthodox Church.<sup>139</sup> An arrangement was reached, following renewed tensions, on roadworks within and around the Deçan/Dečani Special Protective Zone (SPZ). Whilst the IMC is foreseen to monitor this progress, there is a need for communication and cooperation to improve between both sides. The Implementation and Monitoring Council needs to resume meetings and identify joint solutions to be reached between Kosovo and the SOC. In addition to this, the Ministry of Justice has put together a team to devise the national strategy on transitional justice and dealing with the past.<sup>140</sup> The team consists of state representatives, foreign experts and CSO representatives that will prepare a draft document detailing with how the strategy should be implemented. However, it is crucial that the document and the drafting process is inclusive and also focuses on the reconciliation component that has thus far lacked.

**150.** The mutually conflicting discourses of both K-Albanians and K-Serbs about Kosovo's ethnic identity continue to politicize the cultural heritage of one another in the region. In 2021, concerns remain about the safety of the religious sites of the SOC and Serbian religious sites remain on the UNESCO List of World Heritage in Danger. The GoK pledged its commitment to protect the cultural heritage of Kosovo and requested that the Visoki Deçani/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.<sup>141</sup> Since 2015, GoK has requested membership in UNESCO.

135 Ibid.

136 Republic of Kosovo (2021), [Government Program 2021-2025](#),

137 Ibid., Article 58.5.

138 [The Cultural Heritage Law](#) (2005, Article 1.3).

139 European Commission (2021), [Annual Country report on Kosovo](#).

140 [Balkan Insight](#) (2021).

141 United Nations Security Council (2021), [Annual Country Report on Kosovo](#).

**151.** Against discontent of the GoK, the NGO Europa Nostra, which is committed to the preservation of natural and cultural heritage in Europe and based in the Hague in the Netherlands, included the Visoki Dečani monastery on the list of the seven most endangered heritage sites in Europe. This announcement triggered reactions from both representatives of the Serbian Orthodox Church in Kosovo and members of the GoK. The Serbian Orthodox Church welcomed the decision. Referencing the UN Security Council Report, representatives of the Church accused the Kosovo authorities of trying to make Kosovo “an ethnically clean Albanian territory.”<sup>142</sup> Notwithstanding the claims of the GoK that the monastery did not meet the criteria to be included in the list, the monastery remains on the List as do the four above-mentioned religious sites on the UNESCO List of World Heritage Sites in Danger.

**152.** The vandalization of Serbian Orthodox churches and desecration of graveyards with anti-Serbian spray-paintings and graffiti continues to be concerning in Kosovo, according to Serbian language media and the Ministry of Serbian Culture.<sup>143</sup> In June 2021, it was reported that the Church of Saint Peter and Paul in the village of Brod has been desecrated. The destitute condition of many Serbian Orthodox churches and graveyards around Kosovo are also the result of the depopulation of K-Serbian villages and the decrease of K-Serb worshippers in the area. Recently, however, Albanian protests were held by University students in Kosovo after a Church liturgy was organized in the Serbian Orthodox Church. The protests concerned a longstanding dispute between the Serbian Orthodox Church and the university regarding the ownership of the land: The Church was erected on the University of Pristina campus under the Prishtinë/Priština administration of Slobodan Milošević in the mid-1990s. This was done after the Serbian authorities abolished the official use of Albanian from the university and the institution was renamed to Свети Сава (Latin: Sveti Sava) after the Serbian National Saint.

### **153. Recommendations:**

- The GoK should recognize cultural rights as core human principles and incorporate the International Convention on Economic, Social and Cultural rights into the Constitution;
- The GoK should fully comply with Law No. 02/L-37 on the Use of Languages in all activities and provide information on cultural rights and protection of cultural heritage in a timely manner in Kosovo’s official languages, including on the MCYS website;
- The GoK should try to depolarize the question of cultural heritage without discrimination;
- The GoK should adopt the Law on Cultural Heritage and ensure consistent functioning of the implementation;
- The GoK should provide long-term sustainable funding for cultural activities and provide information on cultural rights and the protection of cultural activities through sufficient budgetary allocation.

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142 Ibid.

143 See [Balkan Insight](#) (2021).

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

### 7.1 Women's rights and gender equality

**154.** The legislative framework of Kosovo ascertains gender equality as a fundamental right and core principle. In Article 7.2 of the Constitution, 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>144</sup> In addition to recognizing gender equality as a foundational principle of democratic development, the Constitution emphasizes international agreements and conventions. In particular, Article 22.5 states that priority over local laws and provisions is rendered to internationally recognized conventions. Specific reference is made to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Istanbul Convention.<sup>145</sup> While not explicitly cited in the Constitution, the legislation of Kosovo recognizes the United Nations Security Council Resolution 1325 on Women, Peace and Security (UN Resolution 1325).<sup>146</sup> 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 of 2020.

**155.** 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.

**156.** An important advance towards gender mainstreaming Kosovo's local policy-making and the implementation of the legal framework is the Kosovo Program for Gender Equality 2020-2024 (KPGE).<sup>147</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

144 The Constitution of Kosovo (2008).

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

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

147 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).

Kosovo.<sup>148</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.

**157.** Gender equality is prioritized in the EU integration processes of Kosovo. In addition to adopting the EU Charter of Fundamental Rights (Article 23), gender equality has been the focus of a total of thirteen administrative directives, pertaining mainly to the labor market regulations.<sup>149</sup>

**158.** 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 Kosovo. In particular, gender mainstreaming and gender-responsive budgeting (GRB) are not yet fully institutionalized.<sup>150</sup> Similarly incongruous, the local electoral frameworks conflict with Law no. 05/L-020 on Gender Equality. While a gender equality quota of 50 percent is mandated for the AoK, the electoral legislation has a 30 percent benchmark. According to Kosovo's Women's Network (KWN), the persistence of such discontinuities impedes on the development of a genuinely equal society in which individuals are provided equal access to opportunities, regardless of gender.

**159.** Partially resulting in the disparities stated above, the equal representation of women in meaningful decision-making positions across legislative, executive, and judiciary domains remains a challenge. The European Commission's Report (2021) states that "merit-based recruitment" has been conventionally used as a reason for circumventing the appropriate implementation of the gender equality quota.<sup>151</sup> The recent elections of 2021 showed some progress in this respect with a record number of 43 seats out of 120 (36 percent) in the AoK were won by women following the snap elections of February 2021. Although these events signaled positive progress towards gender parity, the National Democratic Institute (NDI) called attention to the perpetuation of male-dominated cultures in political structures by stating that male-dominated party structures discourage women from pursuing leadership roles, something especially perceptible in the latest municipal elections which resulted in no female politicians serving as mayors.<sup>152</sup>

**160.** 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 and Belgrade. However, the government has yet to recognize the importance of women's inclusion at the negotiation table.<sup>153</sup>

**161.** 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. As noted by the Kosovo Women's Network (KWN), Kosovo has the lowest women's labor participation rate in the Balkan region. This is attributed to a range of factors including low salaries, limited access to child

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

149 Gueye, Elisabeth (2021), Gender equality in Kosovo.

150 Ibid.

151 European Commission (2021), [Annual Country report on Kosovo](#).

152 NDI (2021), [Kosovo Vibrant Democracy: Closing the deficit in women's full participation](#).

153 Kosovo Women's Network (2021), input for the joint CSO report on Human Rights in Kosovo 2021.

care, labor regulations, and the endurance of patriarchal societal norms. Women are more often provided short-term contracts as a way of avoiding labor laws and regulations relevant to maternity leave.<sup>154</sup> Inadequate inspection of violations enables the persistence of gender-based discrimination. Table 1 shows the unemployment rate per gender numerically and in percentage scores, according to the latest available data from the Statistical Agency of Kosovo (ASK).<sup>155</sup> As the data shows, women remain underrepresented in the labor market with an unemployment rate of 32.2 percent compared to male unemployment rates totaling 23.5 percent in 2021.

**Table 2: Kosovo unemployment rate by gender between the ages 15-64 (2021)**

2020	Male	Female	Total
Unemployment ('000s)	80.173	41.206	121.379
Unemployment rate (percent)	23.5	32.3	25.9

**162.** The participation of women shows marked progress in the health care sectors and tertiary education. More women are employed in health care institutions than men.<sup>156</sup> Further, current statistical data of 2021 reveals that more women are engaged as academic and administrative personnel in public universities than men.<sup>157</sup> Related to this, other reports have indicated that women surpass men at the university level of education. On the other hand, this is not the case for primary and secondary education in rural areas, where the drop-out rate for girls remains higher than that of boys.<sup>158</sup>

**163.** Despite positive developments with the Policy against Sexual Harassment in Public Administration issued in 2020, sexual harassment both in and outside workplace environments remains an underreported issue. According to research conducted by KWM and OSCE, only two (2) percent of sexual harassment incidents are reported.<sup>159</sup> In the work environment, KWN states that only four (4) percent of sexual harassment incidents are reported to the authorities.<sup>160</sup> Additionally, representatives of the Labor Inspectorate and the Agency for Free Legal Aid later noted the failure of the

154 Kosovo women's Network, (2019), [Gender-based discrimination and labor in Kosovo](#).

155 [Statistical Agency Kosovo](#) (2021).

156 Guye, Elisabeth (2021), Gender equality in Kosovo.

157 Statistical Agency Kosovo (2021), [the number of academic and administrative staff according to gender](#).

158 Ibid.

159 [Zëri i Amerikës](#) (2021).

160 KWM cited in Akademi Pune (2021), [A po rritet vetëdijësimi i raportimit të ngacmimeve seksuale në vendet e punës në Kosovë?](#).

Labor Inspectorate and other institutions to utilize the Law on the Protection from Discrimination during the reporting period.<sup>161</sup>

**164.** Current policy only partially addresses the needs of women from non-majority communities. The Center for Affirmative Social Action (CASA) reports that women from minority communities are excluded from appropriate representation in the KPGE and its accompanying action plan. No adequate participatory mechanisms are in place for the substantial input of stakeholders from non-majority communities. In a similar vein, the 2021 report of the Kosovo Center for Gender Studies (KCGS) and the 2021 NDI report independently confirm the disconnect between the government and gender-related issues pertaining to women from non-majority communities.

**165.** The unemployment rate of women from non-majority communities is exceptionally high according to a recent 2021 study of KCGS on the economic situation of K-Roma, K-Ashkali, and K-Egyptian women. Patriarchal norms, lack of child care, and ethnic discrimination are cited as reasons for the high unemployment rate of these non-majority groups.<sup>162</sup> The lack of institutional mechanisms addressing the needs of K-Roma, K-Ashkali, and K-Egyptian communities contributes to the socio-economic marginalization of women from these backgrounds.<sup>163</sup>

**166.** A recent 2021 study by KCGS on the perceptions and attitudes of the general population concerning women's rights in Kosovo shows positive developments with less gender-biased attitudes towards the participation of men and women in public life and their families dynamics.<sup>164</sup> In spite of the progress noted, the study reveals the reluctance of certain segments of the population to help combat gender-based discrimination when it involves immigrant women, LGBTIQ+ communities, and individuals with K-Roma, K-Ashkali, and K-Egyptian backgrounds.

**167.** The institutional response towards gender-based violence and domestic abuse, thus far, has been focused on legislation. As noted above, the Constitution and the Criminal Code have reflected the Istanbul Convention in legislation on domestic violence and sexual harassment by making them criminal acts.<sup>165</sup> The Ministry of Justice is in the process of drafting the new Strategy on the Protection from Domestic Violence and Action Plan (2022-2026). In practice, few policy interventions address forms of gender-based violence outside of domestic violence.

**168.** In April 2021, new quality guidelines were launched for shelters for survivors of violence against women and domestic violence. As part of the EU funded project "Reinforcing the Fight Against Violence Against Women," primary focus has been on the training of local social workers and legal professionals to combat violence and support the survivors. Throughout Kosovo, only eight (8) shelters run by NGOs exist. On average in the capital of Prishtinë/Priština, around 120-140 women, girls, and children are housed in women's shelters as a result of gender-based domestic violence.<sup>166</sup> The funding of these shelters is particularly problematic as they are only partially insti-

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161 [Meeting of the AoK Committee on Human Rights, Gender Equality, Victims of Sexual Violence During the War, Missing Persons and Petitions](#) (2021).

162 Kosovo Center of Gender Studies (2021), [The economic situation of Roma, Ashkali and Egyptian women](#).

163 NDI (2021), [Kosovo Vibrant Democracy: Closing the deficit in women's full participation](#).

164 KCGS (2021), [Public Perceptions on Gender Equality and Gender based violence in Kosovo](#).

165 For an in-depth account of amendments made to the criminal code, see the KWN (2019), [Kosovo Criminal Code Criminalizes Domestic Violence, Sexual Harassment](#).

166 Deutsche Welle (DW, 2021), [Kosove: Strehimoret e grave si vend strehimi](#).



tutionally funded by the Ministry of Labor and Social Welfare with almost 50 percent of finances entirely donor-based.

**169.** In December 2021, the manual for police intervention was published for cases of violence against women. The manual “provides practical guidance to the police, enabling effective and gender-sensitive responses to cases of violence against women and girls.”<sup>167</sup>

**170.** The Kosovo Police have reported a total of 2,200 new cases of domestic violence in Kosovo in the year 2021.<sup>168</sup> It should be highlighted that according to KWN, Kosovo Police has often failed in taking statements from domestic violence survivors. As shown in Table 2, this marks an increase in reported cases compared to the years 2019 and 2020. This may not necessarily be the result of increased domestic violence as a whole in the year 2021. Echoing the report mentioned previously, the increased number may be due to the population’s increased awareness of what constitutes domestic violence and how it can be reported.

**Table 3: Cases of domestic violence between 2019 and 2021**

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

**171.** Courts continued providing low sentences in cases of gender-based violence, while some judges still encouraged family reconciliation and blamed victims for crimes perpetrated against them. In September 2020, Comparable to the 2020, courts continued with exceptionally low sentencing for perpetrators of domestic violence. The judicial system often fails to provide adequate protection for victims of domestic abuse, as perpetrators either frequently escape the justice system or the sentences passed are incongruous with the crimes committed. A particularly illustrative instance was the verdict of Ilir Haxhiaj in the Basic Court of Prizren in February 2022. Haxhiaj was sentenced to 15 years in prison after he beat his wife, who later died of her injuries.<sup>169</sup> According to the Kosovo Women’s Network, delays in the justice system remain to be concerning when it comes to gender-based violence.<sup>170</sup>

167 Tuzi-Nushi, V. (2021, own translation from Albanian), [Lansimi i “Doracakut mbi shërbimet policore me ndjeshmëri gjinore për rastet kur vajzat dhe gratë i nënshtrohen dhunës”](#).

168 Klan Kosova (2022), [Më 2021 policia intervenoi në 2200 raste dhune në familje](#).

169 [Kallxo](#) (2021).

170 The Kosovo Women’s Network’s “From Laws to Action” report, <https://womensnetwork.org/wp-content/uploads/2021/05/KWN-GBV-Report-ENG-Final-2.pdf>.

**172.** Large-scale protests organized by several CSOs erupted from the end of August throughout the reported period in the cities of Ferizaj/Uroševac and Prishtina/Priština following a case of femicide. In particular, Kosovo's judicial system was criticized as the male suspect was not held in pre-trial detention.<sup>171</sup>

**173.** The impact of COVID-19 on women in the reported period followed global patterns in that there was a 65 percent decrease in paid working hours.<sup>172</sup> According to UNT, women spent more time than men cooking and cleaning than before the health crisis.<sup>173</sup> While exact figures are unreliable, the socio-economic impact was higher among women from the K-Roma, K-Ashkali, and K-Egyptian communities.

#### **174. Recommendations:**

- The GoK should intensify the cooperation of the Ministry of Justice and the Office of the Coordinator against Domestic Violence with other relevant institutions to strengthen efforts towards the implementation of the respective laws;
- The GoK should create a permanent budget line that would provide sustainable funding for shelters for survivors of domestic violence;
- The KJC should provide gender equality training for judges, prosecutors, and the Kosovo Police, 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;
- The GoK should increase campaigns and awareness-raising of domestic violence;
- The GoK should establish an expert group that reviews the existing strategic approach of the GoK in combating gender discrimination and identify the practical and substantial reach of the institutional response to non-majority communities in Kosovo.

## **7.2 Children's rights**

**175.** 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 document establishes children's rights within the six fundamental human rights treaties.<sup>174</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 on Child Protection.

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171 United Nations Security Council (2021), [Annual Report on Kosovo](#).

172 Picciano, N. (2021), [Kosovo: Covid-19 and socio-economic impacts on women](#).

173 Ibid.

174 United Nations Human Rights, Office of the High Commissioner. [Convention on the Rights of the Child, 1990](#).

Relating to a recent 2021 UNICEF 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>175</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. 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.

**176.** The institutional mechanisms warranting the implementation of legislation are defined by the Law 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 OGG. Instrumental to ensuring effective implementation of the child protection mechanisms in Kosovo is the Strategy for the Rights of the Child (2019-2023).<sup>176</sup> The OGG 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>177</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.

**177.** The legislative and institutional contexts in which the protection of children’s rights are understood in Kosovo are inseparable from changes in the political climate. According to NGO KOMF, the improvement of legislation relevant to children’s rights is delayed due to structural reorganizations in the new government.<sup>178</sup> In line with the 2021 European Commission Report on Kosovo, discontinuities persist between the legislation and its effective implementation by law enforcement, leading to the inadequate safeguarding of groups in vulnerable situations.

**178.** The Administrative instruction (AI) GRK-NO.01/2021 on the Protection and Treatment of Children as Offenders of Criminal Offenses under the Age of Criminal Responsibility was finalized and published in the Official Gazette of Kosovo on 22 January 2021. This entered into force seven days after being signed by the Prime Minister of Kosovo and sets out the protection program; peer mediation; legal assistance; and treatment.<sup>179</sup>

**179.** The Administrative Instruction (AI) GRK-NO.02/2021 for the Implementation of Child Friendly Justice in the Criminal, Civil, and Administrative Proceedings was finalized and published in the Official Gazette on 22 January 2021. This entered into force six months after its signing by the Prime

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

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

177 Ibid., p. 11.

178 They refer to the dissolution of the Ministry of Labor and Social Welfare and its merger with the Ministry of Finance Labor and Transfers, which prolonged the processes of adopting new draft legislation on Social and Family Services and on Local Government Finance.

179 Terres des Hommes (2022), input for the joint CSO report on Human Rights 2021.

Minister of Kosovo and defines the rules of child-friendly justice, as they relate to the rights of the child in criminal, civil, and administrative proceedings, based on the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice adopted on 17 November 2010.<sup>180</sup>

**180.** The Draft Civil Code has adopted a series of Articles proposed by KOMF, its associated CSOs, and UNICEF that are deemed crucial to improving the protection of children without parental care. The ratified proposals concern extended institutional and financial support for children who have reached adulthood in foster care. An additional proposal concerned restricting existing deadlines in Kosovo's adoption procedures in cases where the child has been abandoned and/or when the parent's whereabouts are unknown.<sup>181</sup>

**181.** Child trafficking remains a serious concern.<sup>182</sup> Data shows that the percentage of children identified as victims of trafficking has increased over the years. In 2021, Kosovo authorities identified 21 victims of trafficking out of which 18 are children. Ethnically marginalized communities and young girls are especially vulnerable to trafficking. Nearly 90 percent of identified victims are young girls being exploited for prostitution.

**182.** The Centers for Social Welfare (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. In this respect, social services have not been a priority of local governments. In addition, the CSWs lack professional staff specialized in the field of 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.

**183.** The number of children living in poverty in Kosovo remains alarming. 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>183</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.

**184.** Violence as a means of discipline remains a phenomenon embedded in the socio-cultural norms of Kosovo despite the Law 06/L-084 on Child Protection which serves to protect children from any form of physical, emotional, and psychological violence. The statistics provided by KOMF show that 72 percent of children in the age range 1 – 14 have experienced violence as a means of discipline. In 2021, actions undertaken by CSOs to raise public awareness against forms of physical

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180 Ibid.

181 KOMF (2022), [Proposals for the Protection of Children without Parental Care are Approved in the Draft Civil Code](#).

182 Ibid.

183 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).

discipline resulted in a two-week sensibilization campaign entitled “violence has no justification.”<sup>184</sup> The focus of the campaign was on shifting the normative attitudes regarding physical forms of disciplining a child. Banners reading “violence is not discipline,” “Nothing more and nothing less than security”, and “My parents should protect me, not beat me” were placed in the centers of the seven largest cities in Kosovo.<sup>185</sup>

**185.** In addition to physical violence, the exploitation of children through child labor and begging occurred unimpeded in the year 2021. KOMF reports that 5 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. The Kosovo Police confirmed the persistence (and slight increase) of child beggars compared to 2020 (see table 3). In this regard, KOMF highlights the importance of governmental action to counter child exploitation in the form of begging. The situation of children on the street has not improved much. According to the CSO *Terres des Hommes*, children are forced to beg in the street, while institutional action to address the issue is only ad-hoc without a concrete long-term solution.

**186.** Children from non-majority communities constitute the children in the most vulnerable position in social, economic, and cultural aspects. Child begging remains a problem, particularly among the K-Roma and K-Ashkali communities. Authorities have insufficiently moved beyond legislative stipulations towards social actions and programs.

**187.** 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 CSO BSKF, 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 CSO RROGRAEK organized a campaign entitled “door to door” through which discussions on early marriages with families were organized.<sup>186</sup> BSKF states that 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. They state that this situation significantly increases the risk of child poverty, and consequently forces them into child labor. About 17 percent of Roma, Ashkali, and Egyptian children are engaged in 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 this community, 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,

184 The campaign was held in five municipalities of Kosovo and was organized by CSOs *Syri i Vizionit* in collaboration with *Save the Children*.

185 [Kallxo](#) (2021).

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

K-Ashkali and K-Egyptian communities in Kosovo are illiterate. They state that this situation significantly increases the risk of child poverty, and consequently forces them into child labor. About 17 percent of Roma, Ashkali, and Egyptian children are engaged in 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 this community, 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>187</sup>

**188.** 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.

**189.** The COVID-19 pandemic had an impact on communities in vulnerable situations, especially regarding children and education. It is estimated that a total of 9,070 (or 2.8 percent) children were not involved in distance learning organized during the period March-June 2020, during the pandemic, due to lack of access to learning tools and equipment.<sup>188</sup> This has resulted in a general decrease in school results of children and an increase in the number of school dropouts of children from non-majority communities, in particular K-Roma, K-Ashkali, and K-Egyptian. Three years after the adoption of the Administrative Instruction No.19/2018 on the Establishment and Functioning of the Education Centers, the MESTI and MFLT have still not found a long-term and sustainable solution for financing and managing learning centers. This has resulted in an increased burden on municipal authorities who, depending on political will, run the above-mentioned centers without clear legal basis and risk of closure due to a lack of sustainable funding.<sup>189</sup> The pandemic has also increased the number of cases in need of social services. The services provided by institutions and NGOs to children have not extended to their full capacity. Likewise, official agencies of the central and municipal domain have almost exclusively focused on managing the COVID-19 pandemic, often disregarding the provision of social services.

#### **190. Recommendations:**

- The GoK should adopt a concrete strategy and action plan that helps protect children from poverty and situations of domestic violence and abuse;
- The GoK should adopt the new Strategy for the Inclusion of K-Roma and K-Ashkali communities in Kosovo society and its Action Plan;
- The GoK should adopt the new Strategy for Preventing and Combating Trafficking in Human Beings and its Action Plan;

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

188 European Commission (2021), [Annual Progress report](#).

189 Terres des Hommes (2022), input for the joint CSO report on Human Rights in Kosovo in 2021.

- The new Law on Child Protection, which protects children from all forms of physical and mental violence, should be implemented. Eighteen pieces of implementing legislation should be adopted;<sup>190</sup>
- As preventive measures and campaigns against early marriage among the Roma and Ashkali communities did not yield sufficient change, the GoK should develop and amend existing legislation to provide financial support for victims of early marriage, especially to those with children;
- The GoK and Municipalities should explore opportunities to increase the number of social workers within Centers for Social Work to enable them to deal effectively with the cases under their mandate;
- The GoK should follow the trends of best practices worldwide for adjusting the educational system in accordance with the needs of students in Kosovo and the economic situation, including for electronic-based lecturing;
- 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 toward labor market needs, including by offering more opportunities for paid hands-on experience opportunities for students in their field of studies;
- The GoK should consider the possibilities of providing sufficient and long-term funding for licensed NGOs that deliver specialized services to children in vulnerable situations;
- Authorities should increase financial support to scale up community-based social and health services for children with disabilities and increase efforts to integrate them effectively into educational institutions.

### 7.3 Youth rights

**191.** 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>191</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. With this in mind, the Law no. 03/L-145 plays a key role in ensuring the “[...] continued participation of youth [...] in the development of a democratic society.”<sup>192</sup>

190 European Commission (2021), [Annual Progress report](#).

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

192 Ibid.

**192.** 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 points out that there is a substantial lack of Local Action Plans for Youth and strategies for the empowerment and positioning of LYACs.<sup>193</sup>

**193.** 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>194</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>195</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.

**194.** A State Commission for Youth (SCY) was appointed in August 2021. Composed of 8 government 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. During the first meeting of SCY in September 2021, Prime Minister of Kosovo, Albin Kurti, highlighted the pivotal role of the SCY in government efforts to implement “the new national and transformative strategy for the youth.”

**195.** 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 (YUR) of 46.8 percent for the year 2021. Likewise, the European Commission report found a youth inactivity rate of around 62 percent.<sup>197</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 (53.5 percent) than among male youth (46.1 percent).<sup>198</sup>

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

Year	2018	2019	2020	2021
Youth Unemployment Rate (YUR) in percentage	55.41	49.76	49.66	46.8

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

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

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

196 GoK Decision No. 10/24 (11 August 2021).

197 European Commission (2021), [Annual Progress report](#).

198 Statistical Agency of Kosovo (2021), [Labor force survey Q1 2021](#).



**196.** 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. 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>200</sup>

**197.** The Economic Revival Package (ERP) 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 euros 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>201</sup> The ERP also has planned training in the field of IT (measure 1.5), stating that “in order to orient the new talents towards the IT field, we will offer coupons through which IT courses can be attended or training in practice. Those who successfully complete the course or training will be offered employment support for the first 3 months.”<sup>202</sup>

**198.** 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>203</sup>

### **199. Recommendations:**

- The central and local institutions should incorporate youth at all levels of the decision-making processes as the contribution of young people cannot be overlooked when drafting legislation that directly affects their socio-economic well-being. The needs and interests of young individuals are better met through policy-making that incorporates this age category (15-24 years old);
- The MESTI should revise existing policies and adopt a transformative approach that enables aligning its higher education with that of a European context and labor market;
- The GoK should implement the Youth Guarantee plan by appointing a coordinating body;
- The GoK should develop an inter-ministerial strategy that bridges the gap between education and labor market needs. In part, this can be done by offering more practical internships for students in their respective fields of study;

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

200 European Commission (2021), [Annual Progress report.](#)

201 Ministry of Finance, Labor and Transfers (2021, p. 4), [Economic Recovery Package.](#)

202 Ibid.

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

- For the proper functioning of the mechanisms of the CYAC and LYACs, 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.

## 7.4 The rights of persons with disabilities

**200.** 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. 04/L-131 on Social Schemes Financed by the State and Law no. 03/L-022 on the Material Support for Families of children with a permanent disability.

**201.** 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. On the other hand, the drafting of the Law on the Treatment and Categorization of Persons with Disabilities is completed and awaits approval. This law will focus on persons with disabilities and is inclusive of all forms of disability. 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 since 2018. 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 should be resolved.

**202.** The weak link between policy and practice translates into realities of continued discrimination and a lack of institutional care.<sup>204</sup> Infrastructural issues hindering the access to public buildings, schools, medical facilities and transport are in contradiction with administrative instructions guaranteeing access to public spaces.

**203.** Persons with disabilities have only limited access to basic health care facilities and social services provided by public authorities. According to the European Commission report on Kosovo for 2021, only an estimated 10 percent of children with disabilities in Kosovo have benefited from healthcare and social services.

204 HANDIKOS (2021), Annual progress report.

205 European Commission (2021), [Annual Progress report](#).

**204.** From a socio-economic perspective, HANDIKOS identifies persons with disabilities among the poorest social groups of the population. To counter this economic imbalance, Measure 1.4 of the Economic Revival Package (ERP) specifies the employment support that persons with disabilities will receive: “in order to achieve the goal<sup>206</sup> of an equal state for all, we will support each employee with special skills with 50 percent of wage, up to a maximum of 150 euros per month [...] for the first 6 months.”<sup>207</sup>

**205.** The high unemployment of persons with disabilities reflects the incongruity between Kosovo legislation and the realities of consistent exclusion and discrimination. This incongruity persists despite the implementation of Law no. 03/L-019 on Vocational Ability, Rehabilitation and Employment of People with Disabilities which includes an employment quota of one person with disabilities hired per fifty individuals employed. The experience of individuals with disabilities is that they are disadvantaged as their disability plays a decisive role in their employment opportunities irrespective of their competence and skills.

**206.** The lack of awareness of certain public institutions and the general population at large deprives persons with disabilities of the financial and social support they are legally entitled to. Children in particular have been excluded from financial support due to medical providers’ lack of knowledge of certain types of disabilities combined with a lack of understanding of the laws and administrative instructions that guarantee financial support.

**207.** Related to the paragraphs above, seven lawsuit cases have been filed through the OiK on the grounds of discrimination against persons with disabilities, six of which remain pending. In the Amicus Curiae (Legal Opinion), the OiK found the Municipality of Pristina in breach of the Constitution for not providing persons with disabilities physical access to public spaces.

**208.** The social integration of children with disabilities is underdeveloped and participation in society is limited, especially in the context of education. According to most recent UNICEF reports, an estimated 3,645 students with disabilities are enrolled in education (11 to 12 percent).<sup>208</sup> The report cites a variety of reasons that range from a lack of top-down institutional support to bottom-up stigmatization and traditions. Access to regular education is particularly challenging in the case of children with K-Roma, K-Ashkali, and K-Egyptian backgrounds.

**209.** The engagement of HANDIKOS and other organizations for persons with disabilities created promising opportunities for the improvement of the existing conditions from 2022 onwards. According to HANDIKOS, the opportunities include the approval of a three-year strategic plan that will enhance the rights of people with disabilities, the functionalization of the NCPD, and the commitment of Kosovo to amend the Constitution to include the UNCRPD.

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206 Ibid.

207 Ministry of Finance, Labor and Transfers (2021, p. 4), [Economic Recovery Package](#).

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

**209.** The engagement of HANDIKOS and other organizations for persons with disabilities created promising opportunities for the improvement of the existing conditions from 2022 onwards. According to HANDIKOS, the opportunities include the approval of a three-year strategic plan that will enhance the rights of people with disabilities, the functionalization of the NCPD, and the commitment of Kosovo to amend the Constitution to include the UNCRPD.

**210.** Year 2022 might bring better attention to disability-related issues considering that the OGG (Office of the Prime Minister) declared it the year of persons with disabilities. In coordination with HANDIKOS and other CSOs, the set of activities will focus on a variety of contexts relevant to individuals with disabilities (health, law, security, education, employment, social well-being, culture, sports).

### **211. Recommendations:**

- The GoK should ensure that practice and policy are fully aligned in all institutional and public spaces enabling equal access to people with disabilities;
- The GoK and AoK should amend Article 22 of the Constitution to make the CRPD directly applicable in Kosovo;
- The GoK should provide measures that ensure the full inclusion of children with disabilities in Kosovo in the education system to create equal education;
- The GoK should prioritize the inclusion of persons with disabilities in the socio-economic domains of public life;
- The GoK should ensure that the rights and needs of persons with disabilities are placed at the center of the COVID-19 response and recovery, including their right to access key information by providing sign language interpreters at all official press conferences and ensuring the full implementation of Law No. 04/L-092 for Blind Persons.

## **7.5 Non-majority communities' rights**

**212.** The legislative framework foresees the democratic principles of multi-ethnicity, diversity, and equality of all ethnic, religious, and linguistic groups in Kosovo.<sup>209</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>210</sup> The non-majority communities of Kosovo include the K-Serb, K-Turkish, K-Roma, K-Ashkali, K-Egyptian, K-Bosniak, K-Goran, and K-Croat communities. In Table 5 below, the demographic proportion of the respective communities is illustrated according to the last population census (KSA, 2011).<sup>211</sup> In addition to the Constitution, the rights of minority communities are guaranteed in the Law no. 03/L-047 on the Protection and Promotion of the Rights of

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

210 The Kosovo Constitution (2008).

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

Minority 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>212</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 the Law no. 02/L-37 on the Use of Languages (the Language Law) Albanian and Serbian both have the status of official languages and the languages of the non-majority communities are “officially in use” in municipalities where the non-majority languages are spoken as a mother tongue by more than 20 percent of the given population.<sup>213</sup> The official use of Turkish in the district 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>214</sup>

	K- Albanian	K- Serb	K- Turkish	K- Bosniak	K- Roma	K- Ashkali	K- Egyptian	K- Goran	Total
<b>Total</b>	1,616,869	25,532	18,738	27,533	8,824	15,436	11,52	10,265	1,739,825

**213.** The institutional mechanisms that safeguard the rights and responsibilities of the non-majority communities in Kosovo partially fall within the Community Consultative Council (CCC) of the Office of the President. The 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 (2017-2022). The government is yet to approve the Strategy and Action plan for 2022-2025, according to the CSO BSFK. 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 (2022-2025) assumes more action regarding the societal inclusion of the K-Roma, K-Ashkali, and K-Egyptian communities. 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>216</sup>

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

213 Ibid.

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

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

216 European Commission (2021), [Annual Progress report.](#)

**214.** 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>217</sup> Kosovo is represented as an ethnically inclusive society in its various laws and regulations, but the notion of ‘multi-ethnicity’ does not align with the realities of ethno-spatial separation that crystallized after the 1998-1999 war. The manifestation of ethnic separation as a defining feature of Kosovo impinges on the foundation of a society which all communities can share and equally consider their own.<sup>218</sup>

**215.** 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. It also ensured the use of English as an official language as long as UNMIK was present in Kosovo. As the Law itself does not identify means to support the development of municipal capacities to ensure its execution, the GoK administrative instructions in 2008 and established a Language Commission in order to oversee its implementation. 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>219</sup>

**216.** K-Serbs acted largely in line with advice on official COVID-19 measures and movement restrictions issued by public agencies in Serbia. The need for inclusive and collective action as a necessary way to fight COVID-19 and to provide communities with timely information and equal access to resources are reliant on information dissemination strategies targeting all communities in their respective languages.

**217.** While the AoK elections in 2021 were generally assessed by the international community as being free and fair, irregularities were noted in K-Serb municipalities, particularly in the north.<sup>220</sup> Prior to the elections, AoK member Duda Balje made accusations that a backroom deal had been reached between Adriana Hodžić (K-Bosnian member of the United Community Party), Gazmen Salijević, and his party Roma Initiative and Srpska Lista to secure votes from the K-Bosniak, K-Roma, K-Egyptian, and K-Ashkali communities to shore up Srpska Lista’s support in the AoK, thereby ensuring their control of the twenty (20) seats reserved for non-majority communities. On the day of the election, reports on social media indicated that large numbers of Serbs had voted for Hodžić’s party. This was later confirmed when votes were counted and showed that she had received several thousand votes in the municipalities of North Mitrovica, Leposavić/Leposaviq, Zvečan/Zveqan, and Zubin Potok. A decision was then made by the Election Complaints Panel to nullify around 4,000 votes that Hodžić had received in K-Serb municipalities. She then filed an appeal which was subsequently rejected by the Constitutional Court. This was the source of a considerable backlash among the K-Serb community, many of whom rejected the idea of widespread irregularities and tactical voting leveled by political actors from the K-Albanian and international communities.<sup>221</sup>

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

218 Demaj, U. (2019), What Color is your flag when it burns? Language, ethnic identity and conflict in the historical urban linguistic landscapes of Pristina, Kosovo.

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

220 NGO Aktiv (2021), input for the joint CSO Report on Human Rights 2021.

221 Caleb Waugh & Igor Marković (2021), [Assessment of the Status of the Rights of Non-Majority Communities in Kosovo](#).

**218.** The issue of voting rights of the K-Serbian community in the upcoming constitutional referendum of Serbia caused a controversy due to the recent resolution of the GoK disallowing a Serbian election in Kosovo.<sup>222</sup> The GoK stated that the Serbian referendum would constitute a violation of “the sovereignty and constitutional order of the Republic of Kosovo”<sup>223</sup> and would be “contrary to international practices and norms.”<sup>224</sup> The international community condemned the decision of the Kosovo government on the grounds that the K-Serbs have the right to “vote in elections and electoral processes.” The GoK decided that K-Serbs with Serbian citizenship could vote by mail or through the Serbian liaison office.<sup>225</sup> In practice, this was not implemented.

**219.** A crucial dimension of any situational assessment concerning the human rights situation in Kosovo is security as it shapes our perceptions on tensions between the communities. In their respective progress reports, the United Nations Security Council and the European Commission independently describe an increase of incidents involving mostly the K-Serb communities and the K-Serb Orthodox religious and cultural sites.<sup>226</sup> Four (4) incidents involving the harassment, intimidation, and physical assault of Kosovo Serbs were reported south of the Ibar/Ibër river in 2021.<sup>227</sup> The UN progress report of 2021 further recorded a reported total of fifteen (15) incidents involving different forms of vandalism, damage to property, and hateful graffiti in Serb religious and cultural spaces. As noted in the European Commission Report, although law authorities and police forces respond swiftly, security incidents “instill a perception of insecurity among the victims and therefore affect inter-community relations.”<sup>228</sup>

**220.** In contrast to inclusive policymaking, 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>229</sup> The European Commission report urges the GoK to accelerate preparations for a new 2021-2026 Strategy and Action plan that combats prevalent attitudes and provides access to equal participation in all spheres of social life. 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.

**221.** In spite of Local Action Plans 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. Instead, a 2022 BSKF

222 Foley, R. (2022), [Kosovo assembly adopts resolution preventing Serbian referendum](#).

223 Ibid.

224 Ibid.

225 Ibid.

226 Reference is made to two international reports: the European Commission Progress Report (2021) and the United Nations Security Council Report (2021).

227 Aktiv (2021), input for the joint CSO report on Human Rights in Kosovo in 2021.

228 European Commission (2021), [Annual Progress report](#).

229 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.

report found that most activities for the inclusion of these communities in society have been carried out by CSOs and development partners.<sup>230</sup>

**222.** Hate speech and acts of discrimination against non-majority communities and persons in vulnerable situations persisted in 2021.<sup>231</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.<sup>232</sup> 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. One instance of discrimination targeted at a K-Roma family included physical assault by private security guards in one of the shopping malls in Prizren/Prizren for not wearing a mask, despite the fact that other citizens from other communities were similarly not wearing masks. In addition, the regional hospital in Prizren did not provide adequate health treatment for the family and released the victims without medical records. Only after consistent pressure from the non-majority political representatives did the hospital undertake a proper medical examination and issue medical records needed for the court trials. The Technical Working Group for the protection from discrimination of K-Roma, K-Ashkali, and K-Egyptian communities addressed the issue and expressed commitment to undertake concrete actions to prevent similar discriminatory acts in the future.<sup>233</sup> According to the fifth Community Rights Assessment report of the Council of Europe, there is a need to raise the citizens' awareness of discrimination and build capacities to address instances of non-discrimination.<sup>234</sup>

**223.** In October 2021, ten ethnic Albanians were charged after an ethnically motivated attack on 11 ethnic Serbs amidst a heightened dispute that erupted over license plate identifications at the northern Mitrovica Administrative Boundary Line (ABL).<sup>235</sup> Also in 2021, some K-Serb gravestones were vandalized in a village cemetery in the center of Graçanica/Gračanica.

#### **224. Recommendations:**

- Technical Working Group for the protection against discrimination of K-Roma, K-Ashkali and K-Egyptian communities should come up with concrete and feasible preventive measures;
- Judicial institutions should properly address ethnically motivated crimes;
- Kosovo institutions should properly address potentially ethnically motivated crimes;
- Kosovo Police should recruit more police officers from non-majority communities, while also strengthening community policing as recommended by the European Commission.

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230 BSFK (2022), input for the joint CSO report on Human Rights in Kosovo 2021.

231 European Commission (2021), [Annual Progress report](#).

232 [Law no. 05/L-021](#)

233 AT (2021), input for the joint CSO report on Human Rights in Kosovo 2021.

234 OSCE Kosovo (2021), [Community Rights' Assessment Report, 5th edition](#).

235 [Balkan Insight](#) (2021).



## 7.6 LGBTIQ+ rights

**225.** Kosovo Constitution provides very favorable protections for the lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ+) communities. In addition to general provisions on equality under law, the Constitution provides for an explicit prohibition of discrimination based on sexual orientation.<sup>236</sup> In a positive legislative development, amendments to the Criminal Code enables prosecutors to seek and judges to impose harsher sentences where it is proven that a perpetrator was motivated to commit an offence on the basis of a victim's sexual orientation or because of a perception relating to sexual orientation.<sup>237</sup>

**226.** The pandemic situation undoubtedly has brought new challenges and difficulties for LGBTIQ+ people in Kosovo. With certain limitations, the situation of LGBTIQ+ persons has not changed much since the previous reporting period. Public awareness on the rights of the LGBTIQ+ persons and general acceptance is reported to be low. There have also been incidents of hate speech towards the LGBTIQ+ community, especially on social media, and cases of hate crimes against LGBTIQ+ persons are still not always properly investigated and prosecuted. The implementation of the Action Plan of the KPGE 2019 - 2022, is not progressing, partly due to the COVID-19 pandemic.<sup>238</sup>

**227.** Testing of discrimination was conducted in Pristina and the results showed that, out of the three groups involved, the LGBTIQ+ community is the most discriminated against group in all tested areas. The acts of discrimination vary from ignorance, staring, mocking, and making jokes, to threats of physical violence. Additionally, discriminatory acts toward LGBTIQ+ persons were not only committed by the subjects of situation testing<sup>239</sup> (staff of the bars in Pristina and real estate agencies), but also from other people who were not the subjects of testing, such as other guests in the bars, and passersby, regardless of sex, age, class, or other personal characteristics.<sup>240</sup>

**228.** Activists were able to hold the fifth Pride Parade in Pristina in July 2021. The Pride Parade march marked the closing of the Pride Week 2021. A significant number of people were gathered in the main squares of Pristina to celebrate the LGBTIQ+ communities and demand for their equal rights and opportunities. The Pride Parade continues to be revolutionary and a reminder that we need to keep fighting for the freedom, rights and liberties of the LGBTIQ+ communities. Pride Week had a large number of cultural and awareness raising activities which were of great interest to the participants. During the conference held during Pride Week, the importance of including same-sex marriage in the civil code continued to be emphasized.

236 In Article 24.

237 KCGS & CSGD, 2021.

238 European Commission (2021), [Annual Progress report](#).

239 According to the cited report, the situation testing is a method for proving discrimination and the following report is representing results of using this method to show the most common forms and ways of discrimination against lesbians, gays, and Roma women in Kosovo in accessing goods, services and housing.

240 Kosovar Centre for Gender Studies & Centre for Social Groups Development, Report on situation testing of discrimination against lesbian, gays, and Roma women in areas of access to goods, services and housing, 2021.

**229.** The Municipality of Pristina announced funding for and construction of a shelter during 2021 for LGBTIQ+ people who are survivors of domestic violence or are homeless due to rejection by their families. However, there have been significant delays in the process thus far. As a result, during 2021, the NGO Centre for Equality and Liberty (CEL) provided support to 9 victims of physical and psychological violence for which 7 were also provided with temporary shelter. Among the 9 cases, 3 cases were minors for whom CEL worked continuously in cooperation with the Center for Social Work as there were no opportunities for housing LGBTIQ+ people. Adequate housing is essential for the well-being of LGBTIQ+ persons, however shelters currently have major shortcomings as transgender persons cannot be housed in a dignified manner due to separation based on biological sex. The sheltered persons were also offered psychological assistance by CEL. Pro bono psychological sessions are an ongoing CEL program offered to LGBTIQ+ people. CEL reported an ever-increasing need for psychological sessions which required the organization to increase the number of psychologists from four to six.<sup>241</sup>

**230.** Legal revisions to allow for legal gender recognition are underway. A couple of judicial cases initiated the establishment of a working group within the Civil Registration Agency to draft a law on legal gender recognition. The draft concept document has been compiled and is in its final stage but has not yet been adapted.<sup>242</sup> Therefore, a certain, fair, and just legal framework for gender recognition is not yet adequately provided. This affects all spheres of LGBTIQ+ life from being able to express their gender identity or orientation and exercising their right to a private and family life, to education, employment, access to healthcare, etc.<sup>243</sup>

**231.** The media is reported to have been increasingly engaging with the topic of LGBTIQ+ rights and more discussions are taking place relating to sexual orientation and gender identity. While not all are positive or well informed, the engagement displayed on the whole has enabled this issue to be discussed more widely. The media's increased awareness as well as that of institutions and their collaboration with civil society has enabled, as elaborated above, the LGBTIQ+ Pride Parade to take place. Despite these positive developments, the Centre for Social Group Development (CSGD) and Kosovar Centre for Gender Studies (KCGS) report need for improvement in a number of areas that would uphold or guarantee equal treatment under the law for the members of the LGBTIQ+ communities.

**232.** The KPC continues to maintain a mechanism on tracking hate crimes. However, overall data collection on hate crimes remains insufficient. Hate speech against vulnerable and non-majority communities persists, especially on social media. The role of anti-discrimination officers in the municipalities and ministries need to be strengthened with clear reporting lines and description of duties. There have also been incidents of hate speech towards the LGBTIQ+ community, especially on social media. Cases of hate crimes against LGBTIQ+ persons are still not always properly investigated and brought to justice.<sup>244</sup> Cases of defamation and hate speech online and on social media are rarely addressed with effective judicial follow-up.<sup>245</sup>

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241 Center for Equality and Liberty (2022), inputs for the joint CSO report on the Human Rights Situation of Kosovo in 2021.

242 Ibid.

243 Kosovar Centre for Gender Studies & Centre for Social Groups Development, Protection from Discrimination in Kosovo, 2021.

244 European Commission (2021), [Annual Country report on Kosovo](#).

245 Ibid.

**233.** In December 2021, the GoK adopted the Draft Civil Code, which is pending adoption by the AoK at the time of reporting. CSOs voiced their concerns and disagreements with the Draft Civil Code's unequal and unconstitutional treatment of the LGBTIQ+ communities in regards to regulating marriage and cohabitation. More specifically, serious concerns were raised on the constitutionality of provisions defining marriage as a relationship between persons of different sexes. While the draft civil code stipulates that civil unions between same sex couples will be regulated with a special law in the future, CSOs and human rights activists argue such provisions to be inconsistent with the Constitution's prohibition of discrimination based on sexual orientation.

#### **234. Recommendations:**

- The KPC should ensure effective implementation of the new provisions within the Criminal Code that enable prosecutors to seek and judges to impose harsher sentences where it is proven that a perpetrator was motivated to commit an offence on the basis of a victim's sexual orientation or because of a perception relating to sexual orientation.
- The Kosovo Police, Prosecution, and the media should act in cases of hate speech and hate crimes towards the LGBTIQ+ community.
- More efforts should take place to increase anti-discriminatory awareness among all vulnerable groups including LGBTIQ+ people.
- Shelters should be equipped to allow for adequate housing and well-being of all LGBTIQ+ people, including transgender persons.
- More support should be provided to meet the ever-increasing need for psychological support for LGBTIQ+ 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 prosecution and the judiciary should properly apply provisions related to the "hatred" element in criminal cases;
- The prosecution should better organize data regarding hate crimes and hate speech against vulnerable groups.

## **7.7 People on the move**

**235.** 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>246</sup> Furthermore, in January 2018 the GoK issued Regulation no. 01/2018 on the Return of Internally Displaced Persons (IDP) and Durable Solutions. The Regulation, among others, defines the responsibilities of competent, decision making, and implementing bodies as well as assistance procedures and criteria.

**236.** The institutional mechanisms responsible for assisting returnees and IDPs is defined by Regulation no. 01/208 and involves the Central Appeals Commission, which reviews claims. According to the Regulation, the Municipal Commission on Return (MCoR) needs to forward all of its recommendations to the Central Review Commission (CRC) for final endorsement. However, the MCoR submits only positive cases while other cases are not processed and thus remain without a final decision from CRC.<sup>247</sup>

**237.** 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. 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. Moreover, Roma and Ashkali returnees from North Macedonia have not benefited from housing assistance as they are not taken into consideration by the municipality of Obiliq/Obilić since 2017.<sup>248</sup> Furthermore, the Ministry of Communities and Return did not develop a Data Management System which would enable prioritization of cases based on the vulnerability criteria.

**238.** A limited number of returnees and IDPs 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 acquiring legal identity and enjoying their rights and access to services. There are other issues affecting birth registration of these children such as the lack of documents from the place of origin (mother) and technical errors in the documents compared to the data in civil status books. Furthermore, the parents have a low level of knowledge on proceedings and/or addressing claims for their rights. Regulation of such documentation involves financial costs so due to their poor economic situation, the returnees/IDPs do not undertake relevant actions and are not able to apply for social assistance or other social benefits.<sup>249</sup>

**239.** According to data provided by UNHCR, the number of returns in Kosovo for the reported period was 473. This is a continuous increase both compared to 2020 (191) and 2020 (394), as shown in the table below.

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246 The Kosovo Constitution (2008).

247 AT (2021), input for the joint CSO report on the Human Rights Situation in Kosovo in 2021.

248 Ibid.

249 Ibid.

**Table 6: UNHCR data on returnees in Kosovo from 2019 to 2021**

	2019	2020	2021
Unemployment ('000s)	191	394	473

**240.** The voluntary, spontaneous return of returnees, excluding the coordination of relevant return stakeholders, is proving to be a very challenging exercise. The recent return of the K-Serb woman in Gjakovë/Djakovica Municipality has triggered a negative reaction from the local community, who publicly opposed such return out of fear of further possible future return in the area.<sup>250</sup> The situation was followed by security incidents and the refusal of service by local markets.

**241.** From 01 January until 31 October 2021, 31 incidents involving returnee/IDPs of non-majority communities were recorded throughout Kosovo. The K-Serb returnees continue to be targets of thefts, stoning, property damages, and intimidations, thus creating a negative perception of the security situation and impacting the reconciliation process.

**242.** Due to the political and security situation in the North Mitrovica, the Albanian IDPs have limited prospects of returning to their place of origin.

**243.** Kosovo still remains a transit route for mixed movements. Until mid-December 2021, 538 applications for international protection had been lodged and 33 of those were with recognized legal protection. Asylum seekers and refugees suffer from insufficient food as well as limited and selective access to and treatment within social assistance services including the Centre for Social Works, Municipal offices for community and returns, municipal employment offices to name but a few. The physical and social insecurity in the Asylum Centre in Magurë/Magura has also been recorded as an issue of concern.<sup>251</sup>

**244.** 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 the reflecting the standards contained within the 1951 Geneva Convention concerning the Status of Refugees.<sup>252</sup> This includes the 1967 Protocol ensuring the non-refoulement principle and the human rights of asylum seekers and refugees.

250 [Telegrafi](#) (2021),

251 CRPS (2022) input for the joint CSO report on Human Rights 2021.

252 [Stabilization and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo](#) (2015).

**245.** The Law No. 06/L-026 on Asylum provides a solid legal basis that guarantees access to the territory and respect for the principle of non-refoulement, reception conditions, access to refugee status determination procedures, freedom of movement, and alternatives to detention. The Law also provides a legal framework that governs family reunification thereby contributing towards the integration process of recognized refugees in Kosovo. Other laws relevant to the protection and rights of people on the move include the Law No. 04/L-219 on Foreigners, which defines refugees conform internationally defined standards, and the Law No. 04/L-218 on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking. Importantly, Law No. 04/L-219 on Foreigners prioritizes alternative measures to the detention of foreigners when feasible.

**246.** People on the move face an increased risk of contracting COVID-19 due to their limited ability to follow physical distancing measures and limited access to adequate food, PPE, hygiene products, and essential medications for chronic medical conditions.<sup>253</sup> These issues have had implications for their rights to life, health, and adequate food. However, Kosovo health institutions enabled their access to the immunization process and a significant number of asylum seekers and refugees have been vaccinated.

#### **247. Recommendations:**

- Coordination at the local and central levels should be increased and the GoK should develop an approach to address the negative sentiments in case of individual spontaneous return;
- The Municipal authorities should initiate trust-building activities in areas of K-Serb returns;
- Despite the fact that Kosovo institutions took first steps towards the integration of recognized refugees in Kosovo, further institutional support is needed for their inclusion in socio-economic opportunities;
- The GoK should ensure access to rights and basic services for all asylum seekers and refugees in a timely manner and improve the living conditions in all asylum centers in Kosovo;
- 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.

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

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253 Ibid.

## 8.1 Transitional justice and human rights

**248.** The development of an overarching national strategy on transitional justice in Kosovo has, until recently, been hampered by previous initiatives that suffered from a “lack of coordination.”<sup>254</sup> Yet, addressing the past is recognized as an essential part of Kosovo’s transition to a democratic society: Overcoming grievances and providing the victims of war social justice and restoration opens up the possibilities for peace and reconciliation. The current government has demonstrated a need for a comprehensive national approach in the context of transitional justice. As a result, the Ministry of Justice has appointed a working group of ten experts to develop the national strategy with a core program of justice and reparation for the victims of war crimes.

**249.** A concept document concerning the establishment of a government-authorized Mechanism for the documentation of war crimes has been drafted by the Ministry of Justice in 2021, and amended through the assigned working group following close consultations with various human rights organizations and relevant CSOs. The rationale for the establishment of this mechanism is defined in the text provided on the official website, as follows, “the documentation of serious human rights violations through war crimes can help in achieving justice for victims and society and accordingly play a key role in transitional justice.”<sup>255</sup> In spite of this overall objective, various CSOs including YIHR have criticized the document on the basis of several shortcomings. In particular, what can be specified as war crimes in Kosovo has not been detailed in the description. The pillars of transitional justice converge on the victims’ fundamental rights to truth, reparations and non-repetition are insufficiently treated in the document. Similarly, among others, the document lacks an elaborate plan that moves away from one-sided accounts and approaches the past in an ethnically inclusive and multi-dimensional manner. At this point, the question as to how the Mechanism will be determined by the relevant notions remains. In this respect, the foundational basis for inclusive discourses have been paved through relevant CSOs. The initiative Dealing with the Past Principles Kosovo (DWP Principles) as a distinctive undertaking in the Balkans and the wider regions has established a total of ten principles to help guide the public discourse on how victims, survivors, and Kosovo’s past should be treated.<sup>256</sup> Whether the principles will be considered in the new mechanism structures is yet to be seen.

**250.** Since the end of the EULEX’s executive and judicial mandate, the Special Prosecution Office (SPO) has taken over 900 cases and accepted 100 new war crime cases. With only four prosecutors, the SPO suffers from an excess workload and lack of support. In 2021, the amended Criminal Procedure Code (CPC) was adopted by the AoK to make trials involving the alleged violation of international human rights in absentia possible. This can accelerate the criminal procedures as the defendant does not have to be physically present to stand trial and knowledge about his/her whereabouts is not required.<sup>257</sup> Likewise, an electronic war crime database developed for the War Crimes Investigation Unit of the Kosovo Police (KP, the War Crimes Investigation Unit) with the

254 [Balkan Insight](#) (2021).

255 [See the draft concept](#) (2021)

256 [DWP Principles Kosovo](#) (2021).

257 Drita Hajdari (2021) in [Balkan Insight](#).

support of the United Nations currently includes two fully digitalized cases<sup>258</sup> and has been a significant instrument for processing criminal cases. The MPRC has supported KP, the War Crimes Investigation Unit, to digitize all (5,711) hard-copy files of missing persons.<sup>259</sup> Furthermore, MPRC in cooperation with UNDP has facilitated the server where all missing persons files are inserted. This database will soon be available to relevant institutions and other stakeholders. The KP is also using the database for the investigation of cases involving missing persons. In 2021, the UN Security Council reported on issued judgements in two cases of war crimes. In March 2021, Kosovo courts issued verdicts in two cases of war-related crimes including two verdicts involving two former members of the Serbian Police, who were found guilty of war crimes against K-Albanian civilians in the villages of Nerodime e Epërme/Gornje Nerodimlje in the Ferizaj/Uroševac district. Also in March 2021, a K-Albanian man was placed in pretrial custody on suspicions of committing war crimes in Skënderaj/Srbica.<sup>260</sup> In July 2021, the Basic Court of Pristina found a former Kosovo Serb policeman guilty of war crimes including rape and the expulsion of Albanian civilians and sentenced him to 10 years imprisonment.<sup>261</sup> The ruling was a landmark verdict since it represented the first-ever conviction for conflict-related sexual violence (CRSV) by the local Kosovo courts.<sup>262</sup> Subsequently, in October 2021, the basic court of Pristina found Goran Stanisic guilty of war crimes against the civilian population in Lipjan/Ljipljane and sentenced him to 20 years in prison.<sup>263</sup>

**251.** Currently, two sentenced war criminals continue to occupy public positions including the Chief Executive of Kosovo's State Archive, Bedri Zyberaj. Lahi Brahimaj, who is the Interim Director of Administration with the Kosovo Food and Veterinary Agency was convicted by the International Criminal Tribunal for Former Yugoslavia.<sup>264</sup>

**252.** In September 2021, the Kosovo Specialist Chambers (KSC) started the first trials against former KLA members for war crimes. The existence of the Court is widely contested by the K-Albanian population. Following the public release of sensitive documents, the SPO charged the leadership of the KLA War Veterans Associations with obstruction of justice and intimidation of victims.<sup>265</sup> In September, seven protesters of the Socialist Democratic Party (SDP) were arrested after disrupting an event organized by KSC and its president.<sup>266</sup>

**253.** The right to truth is an intrinsic component of transitional justice that turns the attention to the families of missing persons and their right to clarify the fates of their loved ones. As of 2021, the fates of 1,622 missing persons (263 women and 1,359 men) as a result of the 1998-1999 Kosovo conflict have yet to be unearthed. The majority of the persons listed as missing are K-Albanians but there are also missing individuals with K-Serbian and K-Roma backgrounds. The Kosovo government Commission for Missing Persons (GCMP) is the government agency tasked with the investigation of cases of missing persons. The GCMP participates in the Pristina Delegation to the Working Group on Persons Unaccounted for in Relation to the Events in Kosovo (commonly referred to as Working Group on Missing Persons - WGMP). Established in 2004, the Working

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258 United Nations Security Council Report (2021), [Annual Country report on Kosovo](#).

259 The Missing Persons Resource Center (2022), input for the joint CSO report on Human Rights in Kosovo 2021.

260 Ibid.

261 Ibid.

262 Ibid.

263 [Basic Court Pristina](#) (2021).

264 International Criminal Tribunal for the Former Yugoslavia (2021), [judgment summary](#).

265 European Commission (2021), [Annual Progress report](#).

266 [Balkan Insight](#) (2021).



Group deals with the exchange of information and involves the Serbian Commission for Missing Persons in Belgrade. On 26 May, the WGMP announced the completion of the exhumation at the Kiževak mass gravesite (Raška municipality) in Serbia following the resumption of the exhumation on 5 May 2021 after being suspended since November 2020 due to unfavorable weather conditions. Human remains representing at least nine individuals were exhumed, including two who were identified during the first phase of the exhumation process in Rudnica mass gravesite in Serbia as victims of the Rezallë/Rezala massacre in which at least 80 civilians were killed. At the end of September, Kosovo and Serbia exchanged with each other the remains of three missing K-Serbs exhumed in Kosovo and the remains of K-Albanians discovered in Kiževak, respectively. In accordance with the Law no. 4/L-023 on Missing Persons, the GCMP collects, organizes, and keeps the personal data of missing persons in the Central Registry of missing persons. In 2021, the remains of three missing persons were exhumed from a mass grave and reburied in the graveyard of Shipol/Šipolje in Northern Mitrovica. This comes after the exhumation of 11 victims' remains in hidden graves in 2020, and the excavation of four other victims' bodies. The GCMP has supported the reburial ceremonies in close cooperation with the municipal institutions and the families of the missing persons.

**254.** The amendment procedure for the Law No. 04/L-023 on Missing Persons in Kosovo was launched in 2021 and is a central undertaking by the GoK in 2022. According to the Missing Persons Resource Center (MPRC), the right to know remains violated, politicized, and continuously halted in the changing political conditions of Kosovo and Kosovo's relations with Serbia.<sup>268</sup> The timeline of the law might change, thereby excluding persons who went missing after the 1998-1999 conflict in Kosovo.

**255.** In August 2021, the International Commission on Missing Persons (ICMP) published a practical guide with practices and principles applied by relevant institutions in their efforts to account for the whereabouts of the persons that went missing as the result of the events in Yugoslavia of the 1990s. The guide's purpose is to inform people as an informed public is a "prerequisite to upholding the rule of law and ensuring access to justice."<sup>269</sup>

**256.** The mutual cooperation between Kosovo and Serbia on the exchange of wartime records and missing persons cases remains difficult. Mutually exclusive truths and narratives of the Kosovo conflict restrict interaction between the two on resolving events and exchanging information on conflict-related cases. The two CSOs Youth Initiative for Human Rights (YIHR) in Kosovo and Serbia have called upon both delegations to release a public agreement on the exchange of secret archives, since it could help reveal the whereabouts of the remaining missing persons.<sup>270</sup> In their joint statement, the two YIHR organizations articulated the need to amend the laws on missing persons so that the UN Convention on the Protection of All Persons from Enforced Disappearance (2007) applies to crimes related to the missing persons cases.

268 MPRC (2022), input for the joint CSO report on Human Rights in Kosovo 2021.

269 Ibid., pp. 2

270 [Balkan Insight](#) (2021).

**257.** The work of the GCMP is insufficiently transparent, as reported by NSI. The Commission lacks a functioning official website, and as a result, access of the general public to information about their work is obscured. Likewise, although warranted by law, and despite efforts of the Union of Associations of Families of Kidnapped and Missing Persons (UAFKMP), the Prime Minister of Kosovo has yet to appoint a deputy chairperson from a non-majority background in GCMP.<sup>271</sup>

**258.** In addition to pressure exerted by civil society, cultural actors have also attempted to convey the voice of the general public in urging the government to resolve the cases of missing persons. An art exhibition entitled 'A Grave is Better Than Not Knowing' ran from November 2021 to January 2022 to highlight the authorities' need to intensify their efforts in clarifying the fates of the persons that went missing in relation to the 1998-1999 war.<sup>272</sup> Memorialization, however, still requires a more inclusive and channeled approach that focuses on the experiences of all communities.

**259.** In 2021, a memorial was dedicated by the Municipality of Podujevë/Podujevo to the victims of the NATO bombings on May 1 1999. However, the plaque bears the names of 31 K-Albanian victims, excluding 13 K-Serb victims who also lost their lives in this tragic event.<sup>273</sup>

**260.** An essential dimension of the transitional justice approach is conflict-related sexual violence (CRSV). In accordance with laws No. 04/L-054 on Family Pension after Death of Invalid of the KLA and No. 04/L-172 for the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Victims of Sexual Violence of War, Civil Victims and their Families survivors of war-related sexual violence in Kosovo during the period of 1998-1999 have the right to be granted sexual violence victim status.<sup>274</sup> CSOs have been advocating for the inclusion of survivors of CRSV after the official end date of the war. The UN Security Council Report of 2021 and the European Commission's Report of 2021 independently note that since its establishment in 2018, the CRVSV received 1528 individual applications of which 987 have thus far been accepted for wartime victim status of sexual violence and 222 cases rejected. The societal stigma associated with conflict-related sexual violence thwarts government attempts to provide individuals with material and psycho-social support. In 2018, the government licensed four NGOs to help survivors file their applications.<sup>275</sup>

**261.** In 2021, the United Nations Security Council reported on the landmark verdict against a former member of the Serbian reserve police who was convicted for CRSV. It represents the first-ever conviction made by the local Kosovo court structures for CRSV.

**262.** For the first time since the armed conflict, a project by the Kosovo Rehabilitation Center for Torture Victims (KRCT) was initiated with the aim to document crimes of sexual violence committed during the conflict. In addition to cases processed by KRCT, documentation also includes cases managed by partner organizations and licensed NGOs. The database is inclusive as it incorporates all communities and geographical locations where sexual crimes were omitted. The documentation is not limited to the official period of the conflict defined by law, but also includes conflict-re-

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271 [NSI in reference to Radio Kontakt Plus.](#)

272 [Balkan Insight](#) (2021).

273 [Kossev](#) (2021).

274 Reference is made to the law on the status and rights of the Martyrs, invalids, veterans, members of the Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian victims and their Families.

275 [Balkan Insight](#) (2021).

lated cases of sexual violence that occurred after 1999 and have therefore been rejected by the Government Commission for the Recognition and Verification for the Status of Persons Raped during the War in Kosovo. The database is accessible through the official KRCT website, and the cases have been published through the “Right to Truth – Unnamed Victims” report of 2021.

**263.** The dispositions of the reparations granted by the Law No. 04/L-054 on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of Kosova Liberation Army, Civilian Victims of War and their Families remain discriminatory towards non-majority communities.<sup>276</sup> While the official end date of the conflict in Kosovo is defined at the end of June 1999, many killings, cases of CRSV, and disappearances occurred after that. In particular, the majority of conflict-related victims after 1999 belonged to non-majority communities as the result of Albanian retaliation.<sup>277</sup>

#### **264. Recommendations:**

- Although the number of prosecutors dealing exclusively with war crimes has been increased from two to four, this number should be further increased;
- All officials, including police officers, prosecutors, and judges, should be provided specialized training in investigating and prosecuting war crimes and other international crimes;
- 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 GoK should further support and conduct extensive campaigns for survivors of CRSV in order to fight the stigma as it prevents many survivors from applying for the status;
- Kosovo institutions should adopt an inclusive approach to ensure the appropriate and inclusive documentation to commemorate the war in the form of a museum, the visible marking of crime sites, and other forms of commemoration. The initiatives should refrain from further politicizing transitional justice matters and be compatible with a human-rights and victim-centered approach.

## **8.2 Corruption and human rights**

**265.** The link between corruption and human rights violations regards among others the equal access to provisions, justice and safety. The GoK has prioritized a number of anti-corruption measures in its new strategy and action plan for the period 2021 – 2026. In line with the UN Report,<sup>278</sup>

<sup>276</sup> [Law No. 04/L-054.](#)

<sup>277</sup> [HLC \(2016\).](#)

<sup>278</sup> United Nations Security Council Report (2021), [Annual Country report on Kosovo.](#)

the government is in the process of ‘vetting’ its justice system and drafting a new law to address illegal properties. In this respect, the EU Commission’s report adds that the potential introduction of a full reassessment of all prosecutors and judges is concerning, stating that it should be a “last resort, once all existing tools and mechanisms to ensure integrity and fight corruption of judicial office holders have been exhausted.”<sup>279</sup>

**266.** Concerning anti-corruption measures in the judiciary, the Corruption and Financial Crime Department of the SPO has been functionalized. An anti-corruption measure was added to the Penal Code of Kosovo, which asserts that all verdicts read should be motivated by a rationale that is read in front of all legal representatives. Yet, as recorded by Justice Today, judges in many cases continue to go against their legal obligation to motivate and publicize their verdicts.

**267.** There is a lack of will and consistent follow-through of public agents in combating widespread corruption at the highest level of government. According to the KLI, high profile cases are not sufficiently followed through by means of final verdicts. They cite a number of cases including the accusations against the former mayor of Lipjan/Lipljan, Shukri Buja, which started in March 2011, on the grounds of corruption due to suspicions that he expropriated government property. Although he was sentenced to effective imprisonment in three cases, the cases expired in March 2021. Another important high-profile case that will likely conclude without a final verdict involves the six accused in the CRF case that includes the former deputy of the Democratic League (LDK), Naser Osmani. They are accused of having abused their position at the Privatization Agency of Kosovo (PAK) after privatizing the Construction Reinforcement Factory (CRF). According to the prosecution, they brought property benefits to Agim Deshishku that amounted to 5,400,000.00 euros while damaging the government budget and the employees of this enterprise. The case against them will expire by January 20 2022 with no possibility to read a final decision as the retrial processes at the first instance have not yet begun. Alongside these cases, the KLI has published an in-depth account of other high-profile cases of corruption, which will likely risk expiration in 2022 as a result of the current judicial processes.<sup>280</sup>

**268.** The Kosovo government has worked closely with the intergovernmental organization Regional Anti-Corruption Initiative to combat corruption and bring the institutional mechanisms closer in line with the relevant EU and UN frameworks. Yet, the integrity of Kosovo in relation to international assessments is at risk as officials seated in government and public positions have been arrested and accused of large-scale acts of corruption and bribery.<sup>281</sup> In the same vein, the EU Commission report describes a significant lack of adequate implementation of existing regulations with reported delays in the revision of legislation on political party financing.<sup>282</sup>

**269.** In addition, sustained efforts of the Kosovo Police have resulted in an increase in the number of arrests on suspicion of corruption and bribery. According to the UN Security Council Report, 33 employees of the Ministry of Agriculture have been arrested for illicit financing and on suspicion of bribery. The Kosovo Police also arrested the Chairperson and another official of the Independent Media Commission (IMC). The widespread abuse of official positions continues to be a

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279 European Commission (2021), [Annual Progress report](#).

280 KLI (2021), [Korrupsioni ne Prag te Vjetersimit](#).

281 KLI (2021), input for the joint CSO report on Human Rights in Kosovo 2021.

282 Ibid.

concerning issue in Kosovo. Continued efforts of the Kosovo Police in 2021 resulted in the arrests and indictments of two mayors, the former Minister for European Integration, and most recently, the former Secretary of the Ministry of Infrastructure and other officials for the criminal offense of taking bribes in the widely publicized case of Brezovicë/Brezovica.<sup>283</sup>

**270.** The KLI has monitored a total of 4,706 court hearings in Kosovo Courts; 1,234 in the Serious Crimes Departments, 232 in the Special Department of the Basic Court of Pristina, 2,044 sessions in Criminal Division, 942 in the Civil Division of the General Department, 106 others in the Department for Administrative Affairs, 35 in the Economic Court, 74 in the Court of Appeals, and 39 hearings of the Specialist Chambers in the Hague. From these monitored hearings, 708 of them included cases of corruption with 14 high-profile officials. Thus far, no judgment has been rendered in which any senior public official has been sentenced to effective imprisonment.

**271.** According to a recent Performance Index of Rule of Law Institutions in Kosovo (PIRLIK) report, the general population ranks the Kosovo Police among the most effective institutions that can combat corruption in 2021 (38.2 percent of total respondents).<sup>284</sup> Furthermore, the public believes that the Prosecution is more effective in fighting corruption than the Kosovo courts. In Kosovo's fight against corruption, only a limited number of people trust the effectiveness of EULEX (7.8 percent) and the courts (8.2 percent). This is surprising as EULEX spearheaded past efforts in combating the high level of corruption in Kosovo. Compared to EULEX and the courts, the media (13.16 percent), and the Kosovo Agency Against Corruption (AAC) (16.6 percent) are more favorably perceived by the general population.

### **271. Recommendations:**

- The presiding judge should briefly provide a rationale behind the judgment rendered against the accused whether or not the accused is being convicting, acquitted or dismissed;
- As central actors of justice, the prosecution and courts should 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 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 revision of political party financing legislation should be accelerated and amendments adopted.

283 [Kallxo](#) (2022).

284 GLPS (2021), input for the joint CSO report on Human Rights Kosovo 2021.

### 8.3 The environment and human rights

**272.** 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>285</sup> The Green Agenda for the Western Balkans aims to reflect the European Green Deal in a proportionate and adapted manner in the Western Balkans. The objective is to turn regional environmental and climate challenges into opportunities. 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. Kosovo should contribute by successfully implementing this joint regional vision with a high level of ambition. Like all in the Western Balkans, Kosovo endorsed the Green Agenda for the Western Balkans at the Sofia Summit in November 2020. The European Green Deal demands a complete transformation of Kosovo's economy, transportation, and many more factors, and as such, it also depends on a consensus on the green future of Kosovo. This is particularly important, considering that climate change is among the most significant global challenges humanity has faced in its history. International scientific research, reports, and analyses show that the global climate is changing drastically. Kosovo is no exception to this. Recent meteorological data show that Kosovo is facing mild winters, wet springs, heavy rainfalls that cause flooding, and droughts which was not the case around a decade ago.

**273.** Kosovo has undertaken a series of actions to monitor climate change and adapt and mitigate the impacts it causes. Kosovo is working to draft the Law on Climate, whereas other aspects related to climate change have been incorporated into legislation, such as the Law on the Environment, the Law on Protection from Air Pollution, the Law on Water, and other relevant legislation and by-laws. By-laws include administrative instructions on following guidelines on gas emissions, fuel economy, and CO2 emissions of passenger vehicles.

**274.** Greenhouse gas emissions as a result of human activity are among the key contributors to climate change and environmental degradation. Kosovo has prepared the greenhouse gas emissions inventory for 2008-2019, which shows that annual greenhouse gas emissions are approximately 9.6 million tons of CO2. The main source of emissions is from energy production (86 percent), followed by agriculture and land management (8 percent). Garbage accounts for 5 percent, while industrial processing contributes to about 1 percent. The agriculture sector is the only sector contributing to reduction of CO2 emission, with approximately -39,000 tons a year.<sup>286</sup>

**275.** The EU report on Kosovo for 2021 noted that, overall, Kosovo has some level of preparation in areas related to the Green Agenda and sustainable connectivity and it is actively participating in Transport Community and Energy Community meetings. The report also noted that Kosovo made some progress during the reporting period in the energy sector, notably with its increased investments in renewables. Despite this progress, Kosovo remains heavily reliant on coal. Limited progress was made in the areas of transport, environment, and climate change. Kosovo needs to substantially increase its ambition to properly implement EU standards for transport and the envi-

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<sup>285</sup> OHCHR (2022).

<sup>286</sup> Ibid.

ronment. Administrative capacities need to be reinforced in all sectors. Strategies, action plans, and legislation need to be more consistent across the sectors and need to align with the principles and objectives of the Green Agenda.

276. Furthermore, many activities and campaigns have been launched regarding the state of the environment in Kosovo. However, nothing seems to have made an impact in terms of raising societal awareness about the risks that the environment poses. People experience environmental threats first-hand every day, starting from the denial of the basic human right to access clean drinking water to the ongoing damaging of Kosovo's natural landscape, often through illegal business activities. Insufficient education, unimplemented laws, weak environmental policy, and media misinformation all contribute to ongoing environmental degradation. There are dozens of lawsuits against polluters in Kosovo who continue to operate without any legal intervention, mostly because they are not being reported by the media or seen as important by the responsible authorities.

**277.** Despite the adoption of air protection laws and a similar legislative framework, Kosovo is still far from meeting EU standards. The state of the air in the region has proven to be harmful to the population and the environment. The health effects of air pollution in Kosovo include acute respiratory illnesses, worsened conditions of patients suffering from heart and asthma problems, cancers caused directly by pollutants, eye or nose irritations, stress, and harm to general well-being. Air pollution also has significant environmental impacts and directly affects vegetation and fauna. Furthermore, the effects on health and the environment also create significant market costs such as reduced labor productivity, additional health costs, and loss of agricultural production. The World Health Organization conducted a study on the exposure to PM in Kosovo to calculate the health effects on the population. The study has shown that out of 1,000 total deaths in Kosovo, 6 are due to air pollution. The main contributors to air pollution in Kosovo include coal that is burned by KEK's power plants, road transport emissions, and the household burning of wood and coal as a main source of energy.

**278.** Kosovo's rivers also continue to face degradation, pollution, and even abuse, since they are being used simply as resources. Improperly run hydropower plants have damaged both local communities and biodiversity, while rivers have also become receptacles for all kinds of waste. According to Kosovo's last census in 2011, only around 56 percent of people have access to the sewage system. Most of the waste in Kosovo ends up in regional landfills, causing an environmental disaster, due to the contamination of soil and groundwater. The release of gases, including methane, during the decomposition of waste on these sites leads to persistent fires. Kosovo has also become a dumping ground for obsolete vehicles that are taken out of use in European countries due to their harmful emissions. The use of fossil fuels in industry and Kosovo's dependence on coal for energy means that fossil fuels often find their way onto the black market, with customers using them to heat households and businesses.

**279.** In October 2021, the Supreme Court of Kosovo ruled that three hydropower plants near the village of Dečan/Dečani must be shut down as the operating power plants as it would potentially

cause irreparable harm to local residents and the habitat.<sup>287</sup> Following the ruling, Kelkos Energy, the main investor in hydropower in the Balkans dropped their lawsuits against the two activists, Shpresa Loshaj and Adriatik Gacaferi, who have continuously protested against the hydropower plants. This action also followed criticism voiced by Amnesty International, which viewed the lawsuits as a way to intimidate and silence the environmentalists.<sup>288</sup>

## 280. Recommendations:

- The GoK should take crucial action that includes the creation of an inventory of greenhouse gas emissions as a key instrument in identifying the major sources of emissions in order to take measures to reduce activity that directly contributes to climate change;
- 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;
- The GoK should keep in mind that government legitimacy is enhanced not by service delivery alone but by including people in the decision-making process. In a positive manner with the GoK, project partners aim to work towards and promote the inclusive engagement of people, women, youth, persons with limited abilities, and all other groups traditionally excluded from decision-making processes as a fundamental pillar of democracy.

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287 [Balkan Green Energy News](#) (2021).

288 Ibid.



