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**PROGRAM FOR PROTECTION AND PROMOTION OF HUMAN  
RIGHTS AND FUNDAMENTAL FREEDOMS  
(2021-2025)**

October 2021

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## List of abbreviations and acronyms

<b>AJ</b>	Academy of Justice
<b>AFLA</b>	Agency for Free Legal Aid
<b>AGE</b>	Agency for Gender Equality
<b>EU</b>	European Union
<b>OIK</b>	Ombudsperson Institution of Kosovo
<b>KIPA</b>	Kosovo Institution for Public Administration
<b>NIPHK</b>	National Institute of Public Health of Kosovo
<b>ECHR</b>	European Convention on Human Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ECtHR</b>	European Court of Human Rights
<b>NIHR</b>	National Institutions for Human Rights
<b>CoE</b>	Council of Europe
<b>EC</b>	European Commission
<b>KJC</b>	Kosovo Judicial Council
<b>KPC</b>	Kosovo Prosecutorial Council
<b>IOBK</b>	Independent Oversight Board of Kosovo
<b>LGBT</b>	Lesbian, Gay, Bisexual and Transsexual
<b>MLGA</b>	Ministry of Local Government Administration
<b>MCR</b>	Ministry of Communities and Return
<b>MESTI</b>	Ministry of Education, Science, Technology and Innovation
<b>MAFRD</b>	Ministry of Agriculture, Forestry and Rural Development
<b>MoJ</b>	Ministry of Justice
<b>MCYS</b>	Ministry of Culture, Youth and Sports
<b>MIAPA</b>	Ministry of Internal Affairs and Public Administration
<b>MFLT</b>	Ministry of Finance, Labour and Transfers
<b>MESPI</b>	Ministry of Environment, Spatial Planning and Infrastructure
<b>MoH</b>	Ministry of Health
<b>NPMAT</b>	National Preventive Mechanism against Torture
<b>KCS</b>	Kosovo Correctional Service
<b>SAPD</b>	Stabilization and Association Process Dialogue
<b>UN</b>	United Nations
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>KP</b>	Kosovo Police
<b>NPISAA</b>	National Plan for the Implementation of the Stabilization and Association Agreement
<b>KRCT</b>	Kosovo Rehabilitation Centre for Torture Victims
<b>OPM/OGG</b>	Office of the Prime Minister / Office for Good Governance
<b>LO/OPM</b>	Legal Office / Office of the Prime Minister
<b>SDG</b>	Sustainable Development Goals

## 1.0 Executive summary

Fundamental human rights and freedoms are the basis of a democratic society. Guaranteed freedom empowers the individual, increases the obligations of the state in creating an environment that ensures respect for fundamental freedoms and human rights, raises awareness on the preservation of personal dignity and integrity. As defined in the Constitution of the Republic of Kosovo and in international instruments applicable directly to the state of Kosovo, these rights must be implemented. Therefore, the Government of the Republic of Kosovo approves this Human Rights Program 2021-2025 (hereinafter referred to as: "Human Rights Program" or "Program") aiming at socio-economic development based on the removal of obstacles to the fulfilment of fundamental rights and freedoms, including economic ones, that will help the citizen to work, save, consume and live in dignity and peace. On the shoulders of the Republic lies a great responsibility: to ensure respect for fundamental human rights and freedoms, respecting the standards embodied in international conventions and those within the case law of the European Court of Human Rights. As long as it is in the hands of the Government to draft strategies and determine policies towards the fulfilment of constitutional norms, it is the obligation of the judiciary to ensure full observance of the same. Consequently, synergy between powers must provide what should already be treated as an axiom: respect for and implementation of fundamental human rights and freedoms.

Enjoying your guaranteed rights means enjoying social and economic freedoms that provide better access to information, openness to the wider market, improved living standards and finally - poverty reduction, the systemic problem in the Republic of Kosovo. And the latter represents the fundamental and ultimate goal of the United Nations which, through the Sustainable Development Goals ("SDGs"), seeks to achieve exactly this by 2030, globally.

In this regard, the Government has affirmed its full commitment to fulfilling the United Nations Agenda - 2030. With the drafting of this Human Rights Program, it has already voluntarily become part of the global effort to take over all the obligations needed to contribute to the implementation of Resolution 70/1 "Transforming our world: The 2030 Agenda for Sustainable Development."<sup>1</sup> Therefore, the targeted strategic objectives are closely linked to the SDGs.

The program for the protection and promotion of human rights envisages these strategic objectives:

- # **Improving governance, transparency, institutional coordination and accountability within public institutions to further realize human rights;**
- # **Protection and promotion of human rights;**
- # **Ensuring a healthy life and promoting well-being for all;**
- # **Facilitating Access to the Justice System.**

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<sup>1</sup> Transforming our world: the 2030 Agenda for Sustainable Development: <https://sustainabledevelopment.un.org/post2015/transformingourworld>

The uncompromising implementation of this Program for the protection and promotion of human rights, will expand the range of respect for fundamental rights and freedoms, and the latter will open the door to better access to ideas and information. Such an approach, in combination, empowers the individual, increases the quality of life and expands the possibilities of meeting social and economic needs.

The program aims to address current challenges, including the fight against pandemics. Considering the latter, among the main focuses is the help and at the same time, the impact on the increase of physical and mental health, related to the causes caused by the pandemic. Also, the Program is designed to meet the targets set by the SDGs and to provide favourable legislative and institutional conditions for the full realization of fundamental human rights and freedoms. Finally, it should be noted that the Program for the Protection and Promotion of Human Rights will be accompanied by the Action Plan 2021-2023 (hereinafter referred to as: Action Plan), and as such will serve as a roadmap and consensual guide to fulfilling the rights guaranteed by the Constitution.

## 2.0 Introduction

Drafting of the Program for the Protection and Promotion of Human Rights (2021-2025) is an obligation arising from the Law No. 05/L-021 on Protection from Discrimination, exactly Article 10, which obliges the Office for Good Governance to draft policies, strategies and action plans on issues of protection against discrimination;

This Program is built upon principles which clearly define that human rights are natural, indivisible, inalienable and universal. The Constitution of the Republic of Kosovo proclaims and guarantees the principle of creating a state that is equal for all citizens, which will guarantee the rights of every citizen, civil liberties and equality of all citizens before the law. Based on these principles, the Program for the Protection and Promotion of Human Rights aims to achieve:

- ✚ Equality before the law, inviolability of human rights by state institutions, and protection from human rights violations by others.
- ✚ Creation of a sustainable institutional system that will allow people to realize and exercise their rights in practice.
- ✚ Adequate information of the population about their rights guaranteed by the constitution, laws and international instruments.

Through the Program, the Government of Kosovo, will fulfil the positive obligations arising from the recognition of every universal human right in an equal manner without discrimination. Within this framework, all persons are given the opportunity to enjoy their rights, as long as this does not infringe the rights of others. In the protection of human rights, the recommendations of the Ombudsperson Institution as an independent mechanism for the protection and promotion of human rights, the European Commission, local NGOs and international and regional human rights mechanisms will be taken into account, and the same will be implemented by the competent institutions in accordance with the Constitution and applicable legislation.

Furthermore, the Government of Kosovo will fully respect its obligations in relation to the assessments of the bodies responsible for setting standards for the protection of fundamental human rights and freedoms and will consider as a priority, the adequate addressing of the assessments received.

**The Program for the Protection and Promotion of Human Rights (2021-2025)**, will serve the implementation of the Stabilization and Association Agreement with the EU, the implementation of the priorities foreseen in the Kosovo Government Work Program (2021-2025), achievement and implementation of the Sustainable Development Goals (SDGs), the Economic Reform Program (ERP), the European Reform Agenda (ERA)<sup>2</sup>, the National Development Strategy 2016-2021 (NDS), as well as other strategic documents in the field of recognition of rights. At the same time, this Program highlights the priorities of the governing program regarding the rule of law, human rights, gender equality and the promotion and protection of minority rights.

The Program for the Protection and Promotion of Human Rights is linked with to and complemented by other sectorial programs and strategies that address specific areas of human rights as;

**The Kosovo Program for the Implementation of the Stabilization and Association**, contains a series of activities that Kosovo institutions must undertake, including observance and protection of human rights within the democracy and the rule of law block as well as observance of fundamental human rights.

**The Economic Reform Program (ERP) 2020-2022** - aims, inter alia, to carry out activities related to the improvement of the legal framework for social services and social assistance, strengthening of the mechanisms of financing and decentralization of social services, through the creation of the Special Grant for Social Services, reform of the Social Assistance Scheme, support to the non-governmental sector licensed for social services, support to registered social enterprises and capacity building of social workers through the implementation of training programs.

**Kosovo Program for Gender Equality (2020-2024)** - which aims to ensure that gender equality is placed at the centre of the transformation processes in Kosovo, within all structures, institutions, policies, procedures, practices and programs of the Government, agencies, civil society, the private sector and the donors' community.

**Strategy for Inclusion of Roma and Egyptian Communities in Kosovo Society 2017-2021** which focuses on the effective provision of the rights of these communities, in particular access to education, employment, health services and housing.

**Sector Strategy of the Ministry of Labour and Social Welfare 2018-2022**, which, among other things, aims to increase employment and improve and enhance social welfare for vulnerable groups by expanding and increasing the quality of protection and social and family services, with a special focus on social categories.

**Kosovo National Strategy on Property Rights**, which aims to provide a strategic vision for securing the implementation of property rights. This strategy prioritizes and sequences interventions to clearly define property rights by law and to provide accessible, efficient and affordable mechanisms through which Kosovars can obtain legal recognition of their rights and then formalize their rights through registration in Kosovo's cadastre. Property rights formalized and registered in Kosovo's cadastre can then be more efficiently and consistently enforced by the courts and state agencies, thus providing greater security.

**The National Strategy for Protection from Domestic Violence 2016-2020**, which aims to create a society that provides all its citizens, adults and children, with the opportunity to live a life without fear or threat from domestic violence; a society that protects the victims, holds the perpetrators accountable, and reduces the tolerance of the public against violent acts in the family.

**Better Regulation Strategy 2017-2021**, which, among other things, aims to reform primary and secondary legislation and increase the efficiency of communication and public consultation. The Government of Kosovo remains committed to the principles of proper implementation of policies and legislation. In addition, with regards to the on-going promotion of the rule of law in Kosovo, laws need to be modernised and be fit for the purpose that they are designed for. Their implementation needs to be streamlined and made as efficient as possible because this benefits the enforcement and inspection agencies that need to make legislation work in practice.

### 3.0 Methodology

The Program for the Protection and Promotion of Human Rights (2021-2025) has been drafted based on a combined methodology in order to be comprehensive, to address the key priorities of the Government in terms of the respecting, protection and implementation of human rights, and ensure that the interventions identified will contribute to the achievement of strategic objectives. During the process of drafting the Program for the Protection and Promotion of Human Rights (2021-2025), individual workshops and meetings were organized with key local and international stakeholders, primarily consultations with representatives of non-governmental organizations that are active in the protection and promotion of human rights<sup>2</sup>. To ensure the involvement of all key stakeholders, a working group was established for the drafting this program, based on the Decision of the Secretary-General of the Office of the Prime Minister. After analysing the current situation in the field of human rights, strategic objectives, specific objectives, concrete activities and actions have been defined, and the same have been budgeted. In structural and substantive terms, the Program for the Protection and Promotion of Human Rights (2021-2025) and the Action Plan for the implementation of the Program for the Protection and Promotion of Human Rights (2021-2023) have been drafted in full compliance with Administrative Instruction (GRK) No. 07/2018 on Planning and Drafting Strategic Documents and Action Plans, Regulation No. 09/2011 of Rules and Procedure of the Government and Regulation (GRK) No. 05/2016 on Minimum Standards for the Public Consultation Process. The process of drafting the Program for the Protection and Promotion of Human Rights (2021-2025) was divided into three phases: 1) the first phase was characterized by the analysis of the general situation, as well as the development of a series of consultation meetings<sup>3</sup>, in which relevant officials and representatives from the local level of government were involved; 2) during the second phase, the team responsible for drafting the Program for the Protection and Promotion of Human Rights (2021-2025) has analysed the strategic documents in force<sup>4</sup>, reports and various local and international assessments dedicated to human rights, especially reference was made to the European Commission Annual Country Reports on Kosovo, the Ombudsperson's Reports, the conclusions drawn from the high-level meetings such as those of the Stabilization and Association Process Dialogue (SAPD) as well as the Meetings of the Subcommittee on Justice, Freedom and Security, Subcommittee on Innovation, Information Society and Social Policy, in the framework of the implementation of the SAA, Sustainable Development Goals (SDG)<sup>5</sup>, US Department of State Report on Kosovo 2018/2019, Legal Framework for Human Rights in general, with special focus on the package of human rights laws<sup>6</sup>, and many relevant and credible reports and research by local and international human rights organizations, analytical and assessment reports of local and international organizations, assessments of UN Special Rapporteurs in

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<sup>2</sup> On 01 April 2019, a meeting was held with the coalition of non-governmental organizations "ERAC".

<sup>3</sup> With the support of the OSCE, consultative meetings were held in 6 (six) regions of Kosovo, including the regions of Prizren, Ferizaj, Gjakova, Peja, Mitrovica, and Gjilan.

<sup>4</sup> [http://www.kryeministri-ks.net/repository/docs/Regjistri\\_i\\_dokumenteve\\_strategjike\\_ne\\_fuqi\\_.pdf](http://www.kryeministri-ks.net/repository/docs/Regjistri_i_dokumenteve_strategjike_ne_fuqi_.pdf).

<sup>5</sup> <https://www.un.org/sustainabledevelopment/>;

<sup>6</sup> Law on Protection from Discrimination, Law on Gender Equality and Law on Ombudsperson.



various fields of human rights. While, in the third phase, the document was subjected to the process of public consultations, the inter-institutional working team reviewed and incorporated the received comments and, in accordance with the procedures in force, the document was processed for approval.

#### 4.0 BACKGROUND

Human rights and fundamental freedoms in the Republic of Kosovo are protected and regulated according to the principles provided by the Constitution. The Constitution of Kosovo provides that the provisions of international and regional instruments on human rights are directly applicable and have precedence over national legislation<sup>7</sup>. The Assembly of Kosovo on September 25, 2020 approved the constitutional amendments which give direct effect to the protection and implementation of the rights enshrined in the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence ("Istanbul Convention"). Article 53 of the Constitution obliges the Kosovo Institutions to interpret the provisions related to human rights and freedoms in accordance with the jurisdiction of the European Court of Human Rights. The direct applicability of the provisions of international and regional human rights instruments by the regular courts and public administration as required by the Constitution, requires sufficient knowledge and expertise. Except for the Constitutional Court of Kosovo which has justified its decisions based on the jurisdiction (case law) of the European Court of Human Rights, other national institutions including courts and the regular administration were not able to directly interpret and apply the provisions of the international instruments applicable in Kosovo.<sup>8</sup>

However, the International Covenant on Economic, Social and Cultural Rights (ICESCR) continues to remain outside the list of legal instruments in the Constitution of the Republic of Kosovo that are directly applicable in Kosovo. Until an appropriate moment comes to initiate the inclusion of this Covenant in the Constitution of the Republic of Kosovo, efforts should be oriented towards the harmonization of legislation with the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Ombudsperson has also raised this issue in the previous annual reports, and the same is of particular importance, since it would further complete the list of international instruments directly applicable in Kosovo and at the same time would affect the advancement of the protection of economic, social and cultural rights in the country.

The establishment of the Kosovo Sustainable Development Council and the adoption of the 2030 Agenda and SDGs by the Assembly of Kosovo provide a strong entry point for promoting the implementation of the (ICCPR) in Kosovo (as well as civil and political rights).

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<sup>7</sup> Article 22 of the Constitution of Kosovo, "Direct Applicability of International Agreements and Instruments".

<sup>8</sup> Report, An underutilized system: State of Play of the Human Rights framework in Kosovo.

The legal framework broadly guarantees the protection of human and fundamental rights in line with European standards. However, the implementation of human rights legislation and strategies is often undermined by inadequate financial and other resources, particularly at local level, limited political prioritisation and lack of coordination<sup>9</sup>.

Based on the Progress Report<sup>10</sup>, Kosovo institutions shall give higher political priority to the protection of human and fundamental rights, and to ensure adequate capacities and budget resources for their enforcement and promotion, including main services and assistance to vulnerable groups<sup>11</sup>.

Based on the Kosovo Country Report from the previous paragraph, as regards fundamental rights, strategies and policies need to be streamlined and proper oversight provided. The government needs to take fundamental rights more seriously and include it higher on the political agenda. Existing human rights mechanisms need to be strengthened<sup>12</sup>. The government's coordination of human rights and minority protection mechanisms, both at the central and local levels, needs to improve and fundamental rights issues need to feature higher on the political agenda.<sup>13</sup>

Beyond law enforcement problems, there is also a lack of qualitative and statistical data on the status or state of human rights in Kosovo. The same is also concluded in the 2020 country report<sup>14</sup>. Furthermore, statistical data are often not disaggregated by gender, age, ethnicity, disability, etc. The lack of reliable and up-to-date statistics affects all sectors, and consequently this issue needs to be addressed urgently. However, the establishment of a human rights monitoring system at the national level will be necessary

Based on the findings of recent human rights reports, it is noted that full access to the realization of human rights is limited, on the one hand by the lack of awareness of citizens regarding the available means by which their rights are implemented and on the other hand by the inadequate fulfilment of duties and responsibilities by competent institutions regarding the implementation of laws.

In addition to not responding to citizens' requests, the relevant executive authorities have low responsibility for the requests and recommendations of the Ombudsperson Institution as an important and independent mechanism for the protection and promotion of human rights. An occurrence of concern is the implementation of the Ombudsperson's recommendations by the relevant authorities, which amounts

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<sup>9</sup> See Kosovo Country Report 2020, p. 6.

<sup>10</sup> See Kosovo Country Report 2018, p 14

<sup>11</sup> Vulnerable categories such as persons with disabilities, returnees, internally displaced persons, refugees, asylum seekers, stateless persons, members of the Roma, Ashkali and Egyptian communities, LGBT, single mothers, survivors of domestic violence and based on gender etc.

<sup>12</sup> See Kosovo Country Report 2020, p. 16.

<sup>13</sup> See Kosovo Country Report 2020, p. 28.

<sup>14</sup> "Some progress was made in improving the methodology for data collection following Eurostat recommendations and with the ratification of the amended law on statistics. Communication between statistical institutions improved slightly but coordination at technical level and the use of available administrative data sources need to be upgraded", See Kosovo Country Report, 2020, at: <https://www.mei-ks.net/sq/raporti-i-progresit-585>.

to 54%. Although the Law sets out an obligation to report on actions taken to address recommendations made by the Ombudsperson, many institutions fail to do so in a timely manner<sup>15</sup>.

Despite the constitutional and legal guarantees, there are many cases of discrimination caused either in the public or private sector. During the reporting year 2019<sup>16</sup>, the People's Advocate has received complaints from citizens regarding discrimination in labour relations. The nature of the complaints is related to the violation of the right to work in the procedures of competitions for elections and promotions, then also to sexual harassment in the workplace. In addition to complaints filed by citizens, the Ombudsperson has initiated 21 cases for *ex-officio* investigation. Also, the Ombudsperson has published 7 Reports with findings of discrimination and containing recommendations in the capacity of Friend of the Court (*Amicus Curiae*) with Legal Opinion, addressed the judiciary in 5 cases, and submitted Opinions in 2 cases.

During 2018 alone, the Labour Inspectorate received 515 formal complaints regarding the violation of workers' rights in the public and private sector. The competent institutions should arrange the received complaints according to the gender of the complainant, since this would contribute to the clarification and identification of the level of cases of gender-based discrimination, in the public sector and especially in the private sector. Also, the position of workers continues to be difficult, especially in the private sector, where there are generally no trade unions that would protect workers' rights. The level of safety at work, especially in the private sector remains worrying, often lacking basic protection, therefore it turns out that, due to the lack of and the failure to take appropriate measures for safety at work, there is a high number of fatalities and sever injuries of workers in their workplace with special emphasis on the construction sector<sup>17</sup>.

Currently, the legal infrastructure in various fields and sectors of human rights is generally in line with European and international standards; however, there is still a problem regarding its implementation in practice. This is due to the lack of human and financial resources; lack of necessary knowledge about new laws; cases identified by the Ombudsperson when the Assembly of the Republic of Kosovo has adopted laws, which, in terms of their content, are in conflict with other laws in force<sup>18</sup>; there is a lack of unique practice for the same cases, lack of will for the correct application of norms as a result of the influence of different interests of interest groups<sup>19</sup>; lack of professional expertise and administrative obstacles and sometimes also due to lack of political will.

Regarding the realization of human rights, the challenge remains to improve the implementation of the existing legal framework and the implementation of (**judicial and administrative**) decisions that regulate

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<sup>15</sup> An underutilized system: State of Play of the Human Rights framework in Kosovo.

<sup>16</sup> Annual Report of the People's Advocate for 2019, p.9

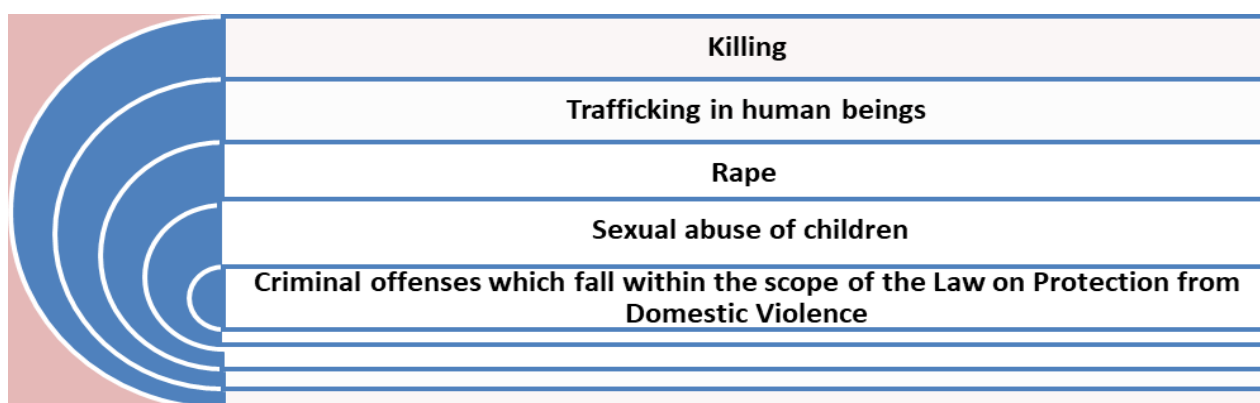
<sup>17</sup> Silent Deaths, December 2018, Kosovo Stability Initiative IKS, page 2, accessed on 28.01.2019, 20 deaths in the workplace happened in Kosovo from January to December, most of which due to the lack of safety measures in the workplace with particular emphasis in the construction sector.

<sup>18</sup> Annual Report of the Ombudsperson for 2019, p. 21.

<sup>19</sup> See commentary on the Law on Gender Equality (preface).

human rights violations. Realization of human rights in practice means the existence of opportunities and mechanisms for compensation in cases of violations of these rights<sup>20</sup>.

Kosovo has successfully established the first functional victim compensation program in the region. The Law on Compensation to Crime Victims was adopted in 2015, based on the same the Applications Review Commission was established in 2016. However, only in 2017 did the program become operational when the Ministry of Finance (MoF) allocated the first budget of EUR 100,000. The Commission reviews and decides on requests received from persons who claim to be victims of crime. Up until the end of 2019, the Commission approved 15 cases for compensation. According to the Law on Crime Victim Compensation, victims have the right to seek compensation for the category of criminal offenses listed in Fig.1.( presented below). Since there were legal shortcomings in this law, which made it difficult for victims to access the compensation program, and have also violated their dignity specifically due to the criteria for compensation, the Government of Kosovo has approved the concept document for compensation of victims of crime. The Concept Document proposes the amendment of the Law on Crime Victim Compensation, i.e., the provisions governing compensatory acts, formal and material conditions for compensation, immediate access to compensation, the obligation to seek compensation, types of compensation, legal deadlines, etc.



**Fig. 1. Law No. 05/L-036 on Crime Victim Compensation has listed five (5) primary categories of criminal offenses, the victims of which have the right to benefit from this law.**

The Crime Victims Compensation Fund<sup>21</sup> operating within the Ministry of Justice has not been promoted much in the public opinion. Citizens know very little about its existence, the procedures and conditions that apply to a right to compensation, and only a limited number turn to the Commission for the realization of this right. Institutions that come into contact with the victim (police, victims' advocates,

<sup>20</sup> KRCT recalls the fact that the amount requested in the Kosovo Judicial Council in the name of compensation for human rights violations in 2018 had reached 2 million Euros, while the KJC had only 0.5 million available for this purpose.

<sup>21</sup> The Kosovo Law No. 05/L-036 on Crime Victim Compensation regulates the right to compensation for victims of violent crimes and their dependents. The law was passed in 2015, listing violent crimes compensated by the Victims Compensation Fund. Crimes to be compensated include: trafficking in human beings, rape, child sexual abuse, murder, and crimes of domestic violence as defined in the Law on Protection against Domestic Violence.

The Ministry of Justice is currently in the process of supplementing/amending the existing policy. In this regard, the final draft of the concept document for compensation of victims of crime has been drafted, which has already been approved by the Government. Thereafter, according to the recommended option, the supplement/amendment of the current Law on Crime Victim Compensation will take place.

health and social institutions, courts and prosecutors) must notify the victim of the right to compensation in accordance with legal obligations.

Another feature that has characterized all the legislation adopted so far is the lack of linguistic and terminological consistency of laws. This phenomenon, in addition to difficulties in adequate implementation of laws, brings difficulties in interpretation during implementation and creates legal uncertainty for the implementer as well. It is therefore necessary to standardize legal terminology in the form of a legal dictionary and also to have a qualitative linguistic verification of laws before final approval by the Assembly<sup>22</sup>. Likewise, the Ombudsperson has identified cases of inconsistency of language versions of normative acts, which in practice may lead to uncertainty regarding their implementation<sup>23</sup>.

At the same time, the concept of good governance is characterized not only by making the necessary legal adjustments, but also by its proper implementation. In order to improve the human rights protection system in Kosovo, it is necessary to further develop the legal framework for areas and sectors where there is a need, whether in drafting, harmonizing or amending existing laws, providing in the same time the effectiveness of the implementation of existing provisions. Kosovo does not yet have a comprehensive law on people with disabilities. However, the main concern of the Government is to ensure the continuous and absolute compliance of legislation and policies with European and international standards of human rights protection and their implementation in order to effectively protect human rights.

**Although** there is a solid legal and institutional framework for the provision of social services, it needs to be supplemented with the necessary funds and resources. The central government should create parameters for a separate and **special financial formula** for social services to be allocated to municipalities. This formula can be part of the Law on Local Government Finance. The preparation of Directives and Instructions for municipalities regarding the implementation of the new grant formula for social services should also be considered<sup>24</sup>.

Also, public funding for the provision of social services and more by the civil society on behalf of the authorities is limited.

Cooperation between central and local authorities with civil society can be improved, especially with regard to the drafting and implementation of public policies.

The extent of implementation of essential legislation for the protection of human and community rights, including the package of human rights laws, and not limited only to (Law on Protection from Discrimination, Law on Gender Equality, Law on the Ombudsperson, and Law on Protection against Domestic Violence), is key to ensuring the protection of a wide range of human rights and civil liberties. Full protection in these areas can only be ensured if the relevant legal framework is implemented through

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<sup>22</sup> Annual Report of the Ombudsperson 2018, p. 31.

<sup>23</sup> Annual Report of the Ombudsperson 2019, p. 22.

<sup>24</sup> Legal and fiscal context and capacities of social service providers in Kosovo "Situation analysis", p. 6.

sub-legal acts, strategies and programs, as well as by establishing and functionalizing special mechanisms and bodies as defined by law<sup>25</sup>.

The Government of Kosovo, through the Program for the Protection and Promotion of Human Rights , which will be initially accompanied by the three-year action plan (2021-2023) for its implementation, will be in view of the implementation of the package of laws on human and community rights, international and regional human rights standards, better institutional interaction and coordination, will also give impetus to the solution of key problems that the institutions of the Republic of Kosovo are facing during the process of implementation of laws and human rights.

Effective implementation of laws and policies in all areas and sectors, including the central level (ministries) and the local level of government (municipalities), will undoubtedly have a positive impact and increase the welfare and degree of protection and implementation of human rights at a country level.

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<sup>25</sup> The Law on Gender Equality provides for the functioning of mechanisms for Gender Equality, while the Law on Protection from Discrimination defines the institutional obligation to establish institutional mechanisms for protection against discrimination in the Ministry and Municipalities, the Government of the Republic of Kosovo, on 05.04.2017, with Decision No. 02/140, has approved the Regulation GRK - No. 03/2017 on institutional mechanisms on protection against discrimination in Government and Municipalities.

#### 4.1 Efficiency of institutions in the implementation of human rights

**Legal/Policy Framework for Promoting realization of human rights** -Kosovo is not a member of the UN and, consequently, is not in a position to ratify international human rights instruments. Despite the direct recognition and applicability that the Constitution of Kosovo provides for some of the international human rights instruments<sup>26</sup>, the realization of the rights recognized by these instruments as well as the rights recognized by the Constitution itself remain "to be done" in the future, while this issue itself presents a major challenge given Kosovo's goals for EU integration. Despite the advancement and harmonization of the legal framework for human rights with international standards, as well as based on the findings of human rights monitoring reports, it turns out that the human rights situation in Kosovo continues to be hampered by a number of instabilities, contradictions, misinterpretations and non-implementation or misinterpretation of laws, making the protection of human rights deficient even in practice. Most of these shortcomings can be attributed to a lack of political will, without which it is impossible to ensure the proper functioning of the entire system<sup>27</sup>.

**Current implementation challenges to legal/policy framework** -As regards fundamental rights, implementation of the relevant laws and strategies is often undermined by inadequate financial and other resources, limited political prioritisation and lack of coordination<sup>28</sup>. Beyond problems related to the implementation of laws, there is also a lack of data related to the implementation of human rights at the national level, in all sectors as well as social and economic fields.

Also, in terms of transparency and accountability of institutions regarding the realization of the right of citizens to access public documents, the state of play is still not at the desired level. Although the right of access to public documents is a right guaranteed by the Constitution of the Republic of Kosovo, as well as the Law on Access to Public Documents<sup>29</sup>, the observance of this right as well as the implementation of this law continue to be challenging. Free access to public documents is not only a fundamental right in any democratic society, but also an instrument to guarantee public trust in institutions, fair decision-making processes and accountability of public officials. Most of the complaints received by the OI during 2018, regarding access to public documents, are mainly against public institutions at the central level (Figure 1).

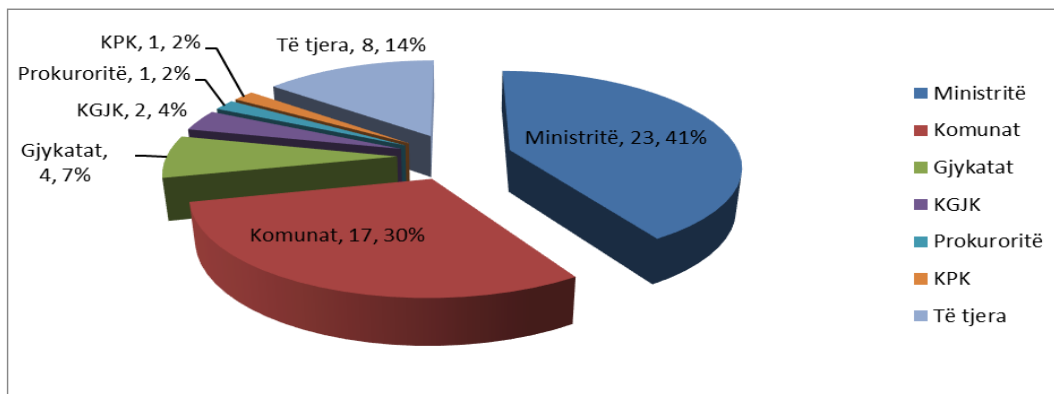
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<sup>26</sup> See, Article 22 of the Constitution of Kosovo - Direct Applicability of International Agreements and Instruments.

<sup>27</sup> An underutilized system: State of Play of the Human Rights framework in Kosovo, p. 14.

<sup>28</sup> See the 2018 Kosovo Country Report, p. 14.

<sup>29</sup> Law No.06/L-081 on Access to Public Documents.



While 61 complaints were submitted in 2018, of which 56 were initiated for investigation, 106 complaints were submitted in 2019, of which 99 were initiated for investigation<sup>30</sup>. Most of the complaints received by the Ombudsperson during the reporting year, regarding access to public documents, are against public institutions at the central level, reaching at 43%, in contrast to 2018 where the percentage was 23.41%. In raising the awareness of citizens regarding this right, the responsible institutions still have to work to do in order to promote this right, which would directly result in the improvement of transparency and accountability of state institutions and improve citizens' trust in their work<sup>31</sup>.

In order to overcome the identified challenges, the Government of Kosovo will give higher political priority to the protection of human and fundamental rights, as well as to provide adequate budgetary resources and capacities for their implementation and promotion, including key services and assistance to vulnerable groups. Increased attention will be paid to institutional cooperation and coordination, strengthening human rights mechanisms, advancing the human rights monitoring and reporting system at the national level, advancing gender equality through legal and institutional mechanisms, and promoting transparency and accountability of institutions to citizens' requests for access to public documents.

<sup>30</sup> Annual Report of the Ombudsperson 2019, p. 45.

<sup>31</sup> Annual Report of the Ombudsperson 2018, p. 40.



## 4.2 Access to the justice system

The Sustainable Development Goals (SDGs) call for promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels. The Government of Kosovo joins these aspirations by placing a special emphasis on these topics in the Governing Plan.

From the institutional point of view, in addition to the bodies of legislative and executive power, the judiciary has a significant role in guaranteeing the legal security of citizens. Observance of legal procedures and deadlines, observance of fair trial and within a reasonable time, the issuance of decisions that are complete and based on the law, the timely and correct implementation of decisions rendered by courts, etc., have a strong impact on gaining trust and creating legal certainty for citizens. The country's judiciary, despite legal and organizational reform, has failed to ensure the protection of human rights according to international standards<sup>32</sup>, in particular the European Convention on Human Rights (ECHR), and the case law of the European Court of Human Rights (ECtHR). Courts, when deciding cases, either refer to practices of the ECtHR rarely or do not refer to the same at all, and in cases where this happens, they are generalized, and not concrete in relation to the circumstances of the case at hand. It is worth reiterating that, according to Article 53 of the Constitution of the Republic of Kosovo, human rights are interpreted in accordance with the practice of the ECtHR<sup>33</sup>. Only 27% of all judges in Kosovo are women **(94 out of 352 judges in total)**<sup>34</sup>. Gender training has not yet been institutionalized for judges. Courts do not keep electronic records disaggregated by gender, which contributes to the challenges in monitoring any possible gender bias that may exist in the processing and sentencing of cases<sup>35</sup>. The lack of an inter-institutional information system for data and case management that would include gender-disaggregated data makes it difficult to track whether women and men have equal access to justice, including regarding gender-based violence.

*Delays in court proceedings* represent a problem - today in Kosovo the courts need a very long time to resolve cases. This increases the cost of proceedings and discourages citizens and businesses from filing cases to protect their rights and interests<sup>36</sup>. Delays of proceedings in deciding court cases, lack of effective legal remedies, low rate of execution of final decisions of the court, statute-barred cases, are issues that

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<sup>32</sup> Regarding the protection of human rights according to international standards, in particular the European Convention on Human Rights (ECHR) and the case law of the European Court of Human Rights (ECtHR), the Kosovo Judicial Council, on 30 August 2016, has approved Regulation 11/2016 on Judges' Performance Assessment, which refers to the assessment criteria, amended and supplemented by Regulation No. 01/2019, dated 24.01.2019. This regulation (No. 01/2019), in its Article 4 provides that the criterion defined in Article 12, par. 1, sub-par. 1.1, of the basic regulation, which among other things speaks regarding the capacity of judges for legal reasoning, is measured according to the following indicators:

1.3 implementation of international standards related to human rights during court proceedings and in the framework of court decisions, and 1.4 implementation of international legal standards (ECtHR and other international conventions).

<sup>33</sup> Annual Report of the Ombudsperson 2019, p. 21.

<sup>34</sup> KWN Correspondence with the Kosovo Forum of Judges and Prosecutors, 2017.

<sup>35</sup> Gender Analysis of the Kosovo Women's Network <https://womensnetwork.org/wp-content/uploads/2018/10/20181003170921410.pdf>

<sup>36</sup> See, National Development Strategy 2016-2021 (NDS), p. 7.

require adequate attention and addressing by the relevant authority<sup>37</sup>. However, delays in the processing of court cases violate the right to a fair trial, due process, within a reasonable time, the right to effective remedies and the right to judicial protection of the rights set forth in Article 54 of the Constitution of the Republic of Kosovo<sup>38</sup>. During 2017 alone, around 26% of complaints filed with the OIK relate to allegations of delays in court proceedings. Likewise, based on the number of complaints submitted to the OIK during the reporting year 2019, citizens continue to face delays in procedures for resolving their cases for years and non-execution of final court decisions, which result in the impossibility of realization of their rights<sup>39</sup>. The lack of an internal legal mechanism, through which citizens whose right to a timely trial within the meaning of Article 6 of the ECHR has been violated **could** seek compensation for the violation of this right, contributes to the serious situation regarding delayed court proceedings<sup>40</sup>.

There are civil remedies for human rights violations, but victims are unable to avail themselves of this recourse due to complicated bureaucratic procedures and a large backlog of judicial cases<sup>41</sup>.

*Kosovo Judicial Council*, in the statistical report of the courts during the first half of 2016, has reported that the number of cases remaining as unresolved is 417,733<sup>42</sup>. According to this report, the courts have handled a total of 664,465 court cases, while resolving 246,700.

In the last report published for the first 9 months of 2019, it turns out that there is progress in the number of unresolved cases, e.g., if we take the report of the General Department of Basic Courts of Kosovo, where the cases are placed according to the acts and cases referred to in the draft Program for Protection and Promotion of Human Rights and the action plan, it turns out that, until 01.01.2019, 40118 cases were transferred from the previous years, 14425 cases were received, 20927 cases were resolved and 33,605 cases were unresolved, which means that the efficiency of resolving cases by judges is 145%, i.e. more cases are resolved than received. Despite the progress made in recent years, the efforts of justice institutions should be oriented towards increasing the efficiency of resolving cases in courts and prosecution offices.

The **statutory limitation of cases in courts and prosecution offices** is a problem in itself - the number of statute-barred cases in courts and prosecution offices is worrying, which seriously damages the trust of citizens in the justice system and violates human rights. Statutory limitation may be a result of the courts being overburdened with cases and the inability to decide within the time limits, due to the insufficient

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<sup>37</sup> The Ombudsperson, in the 2018 work report, with regard to the judicial protection of citizens' rights, reiterates the request for implementation of the recommendation, Ex officio No. 129/2019, Report with recommendations for the Government of the Republic of Kosovo and the Ministry of Justice, regarding the need to establish an internal legal mechanism, within the meaning of Article 13 of the ECHR, which would guarantee citizens the right to effective remedies in cases of violation of the right to resolve cases within a reasonable time frame and non-execution of final court decisions, as these rights are defined by Article 6 of the ECHR and guaranteed by the Constitution of the Republic of Kosovo.

<sup>38</sup> Annual Report of the Ombudsperson 2019, p. 28.

<sup>39</sup> Annual Report of the Ombudsperson 2019, p. 25.

<sup>40</sup> In those specific cases in which, due to delays, there is a violation of the right to a trial within a reasonable time, the Committee of Ministers of the Council of Europe recommends: (a) that the proceedings be accelerated, or b) that compensation be granted to victims for any disadvantage they may have suffered or (c) to take both of these solutions. It is emphasized that the latter option is the most preferred (ibid. Recommendation No.7).

<sup>41</sup> See US Department of State Report on Kosovo 2017, p. 6.

<sup>42</sup> *Kosovo Judicial Council, Report of the first 6 months of 2016, Statistics of regular courts, www.kgjk-ks.org, page 3.*

number of judges. However, there are cases when statutory limitation as a result of negligence or misuse. Competent institutions<sup>43</sup>, in all cases of statutory limitation, must investigate in detail the causes of statutory limitation in each case, without exception, and initiate appropriate proceedings against those responsible for allowing the statutory limitation of cases<sup>44</sup>.

Likewise, the execution of court decisions at the national level remains low. The KJC 2016 Semi-Annual Report on Civil Cases shows that the courts were working on 3,179 cases, of which 880 were enforced, while 2,299 remained unenforced<sup>45</sup>.

In addition to the backlog of cases, there are a large number of unenforced court decisions (around 117,000 in September 2017). To make matters worse in this regard, there are other problems that are a direct consequence of the legal culture in Kosovo<sup>46</sup>.

Another issue, which hinders the full realization of the right to effective judicial protection, is related to the inadequate representation of the parties by defence attorneys in various court cases. Free legal aid is a constitutional category and is provided to citizens who do not have sufficient financial means, and if such assistance is necessary to ensure effective access to justice. Although the modalities for free legal aid have improved in recent years, more than 50% of the population in Kosovo is still unaware of the existence of the Agency for Free Legal Aid. However, the challenge for providing free legal aid in relation to the requests of citizens remains the lack of funds, which makes it impossible to provide legal aid to citizens throughout the territory of the Republic of Kosovo in accordance with the Law on Free Legal Aid<sup>47</sup>.

In order to ensure equal access to justice for all citizens, the Agency must ensure the extension of free legal aid throughout the territory of the Republic of Kosovo, since there are still 17 other municipalities with a total population of 481,797 without access to free legal aid and without equal access to justice. Furthermore, the Government should allocate sufficient resources to support the functioning of legal aid offices and support the development of policies that enable other vulnerable groups to access legal aid, including women who suffer gender-based violence and cannot have paid legal aid.

**The Victims Advocacy and Assistance Office (VAAO)**<sup>48</sup>, which operates within the Office of the Chief State Prosecutor, has a mandate to institutionalize the rights of victims of crime and provide them with representation, counselling and support to access the justice system. The section provides free legal aid to victims of all crimes, with a particular focus on victims of domestic violence, human trafficking, child

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<sup>43</sup> In January 2019, the Law on Disciplinary Liability of Judges and Prosecutors (hereinafter Law No. 06/L057) entered into force, which provides for a completely different procedure for disciplining Judges and Prosecutors. After the transition period, the Office of the Disciplinary Prosecutor was abolished and its staff transferred to the KJC and KPC.

<sup>44</sup> Annual Report of the Ombudsperson 2016, p. 21.

<sup>45</sup> Ibid., p. 24.

<sup>46</sup> An underutilized system: State of Play of the Human Rights framework in Kosovo, p. 12.

<sup>47</sup> 2015 Annual Report of the Agency for Free Legal Aid.

<sup>48</sup> The Victims Advocacy and Assistance Office (VAAO) operates as a central office in Prishtina, and has seven offices located within the Basic Prosecution Offices as a regional office.

abuse and violence<sup>49</sup>. Within the Victims Advocacy and Assistance Division there is also a Helpline for Crime Victims, which provides information on available services and related contacts, as well as referral, and serves as a tool for identifying potential crime victims. The category of permanent residents (unregistered births) who cannot prove Kosovo citizenship should be included in the free legal aid system (currently, UNHCR provides legal aid for citizenship).

**Functioning of the mediation system** - The mediation system is in function since 2008. Public awareness or information of alternative dispute resolution tools remains weak, but the number of cases referred and resolved has increased. Such a thing was especially emphasized during the spread of the Covid-19 pandemic in KOSOVO. In 2018, the new Law on Mediation was adopted, which aims to remove obstacles to the implementation of this mechanism and to introduce the mandatory mediation procedure. This innovation and other innovations brought by this Law are expected to serve the purpose of improving the provision of services to citizens in the field of justice. If mediation is functionalized in the mentioned legal areas, then this method of resolving disputes will surely have a significant contribution in easing the workload in the courts. Currently, the Ministry of Justice is nearing completion of drafting the necessary bylaws deriving from the new Law on Mediation.

**Prison conditions and prisoners' rights** - Prisons and detention centres' conditions generally fulfil international standards, but there are considerable problems in inadequate physical conditions<sup>50</sup> corruption<sup>51</sup> and substandard medical care<sup>52</sup>.

Additional attention should also be paid to the rights of detained persons who, in the absence of evidence or other witnesses are held, in detention for a long time. There are cases when the detainee has been held with this status for up to 6 years.

The Kosovo Rehabilitation Centre for Torture Victims (KRCT) considers that the facilities and treatment of prisoners with disabilities remain below international standards. Although the law requires that convicted persons with documented mental health problems to be held in facilities dedicated to mental health care, these prisoners are often placed in standard prisons due to overcrowding in mental health facilities<sup>53</sup>.

*There are no legal provisions or administrative instructions for the treatment of prisoners with disabilities, and such legislation is necessary to fulfil international standards for prisons and detention centres, in accordance with international conventions on the protection and rights of prisoners.*

Competent administration authorities do not always conduct proper investigations into ill-treatment.<sup>54</sup> Due to poor training and inadequate staffing, authorities did not always exercise control over the facilities

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<sup>49</sup> See US Department of State Report on Kosovo 2017, p. 11.

<sup>50</sup> With the opening of detention centres in Prishtina and Gjilan, spaces have been created for the systematization and classification of convicts and sufficient spaces have been created for all categories of adults.

<sup>51</sup> The Kosovo Correctional Service has also created new mechanisms for identifying, investigating and punishing this phenomenon.

<sup>52</sup> See, US Department of State Report on Kosovo 2017, p. 6.

<sup>53</sup> ([https://xk.usembassy.gov/wp-content/uploads/sites/133/HRRreportKosovo2018\\_Alb.pdf](https://xk.usembassy.gov/wp-content/uploads/sites/133/HRRreportKosovo2018_Alb.pdf))

<sup>54</sup> According to the KRCT findings, the Internal Complaints Mechanism provided by law was not functional, as prisoners often did not report abuse due to lack of confidentiality and fear of revenge. The KRCT also noted that the authorities did not provide

or inmates. The KRCT reported that illicit drugs were regularly smuggled into correctional facilities, with approximately 30 per cent of inmates estimated to be addicted to drugs. There were no drug treatment programs<sup>55</sup>. Similarly, there are only few trained professionals working with inmates (especially doctors, nurses, psychologists and psychiatrists).

**Access to justice for members of non-majority communities** - remains a concern, particularly for Kosovo Serbs and displaced persons. Poor or no translation in proceedings before the courts, a backlog of cases, the non-execution of decisions, a limited number of non-Albanian staff, inconsistency between Albanian and Serbian translations of legislation, and the lack of functional judiciary system in northern Kosovo hindered proper delivery of justice<sup>56</sup>. The Advisory Committee on the Framework Convention for the Protection of National Minorities, as well notes persisting obstacles in achieving equal access to justice between Albanian and non-Albanian communities due, amongst others, to lack of representation by a lawyer, partial implementation of the language legislation as regards judicial proceedings and availability of free legal aid which, in particular in the Serbian language, depends entirely on donor support and has become irregular<sup>57</sup>. Court summons for displaced persons, that never reach them, continue to be a problem due to the absence of mechanisms. Such a thing leads to unjust decisions, especially regarding property restitution<sup>58</sup>. As regards security issues, the overall security situation for non-majority communities remains relatively stable. However, incidents affecting returnees affect the perception of displaced persons, resulting in reluctance and less interest in returning.

**Property restitution and implementation of property rights** - A number of property-related issues have been identified in the Kosovo National Strategy on Property Rights (NSPR). The NSPR itself<sup>59</sup> notes *that lack of clarity in immovable property rights legislation, widespread informality in the property sector and inconsistent enforcement of property rights impacts human rights, disempowers the marginalized communities and impedes economic growth*<sup>60</sup>.

The Ombudsperson praised the approval of the NSPR and the commitment by the relevant authorities and ministries towards ensuring that deficiencies in property issues will be addressed, and that efforts will be

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written decisions justifying solitary confinement. Therefore, the functioning of internal complaints mechanisms and the adequate monitoring of ill-treatment should be a primary concern for the administration of prisons and detention centres.

<sup>55</sup> Country Reports on Human Rights Practices for 2018 United States Department of State • Bureau of Democracy, Human Rights and Labour, p. 4.

<sup>56</sup> See, US Department of State Report on Kosovo 2017, p. 28.

<sup>57</sup> See, the Fourth Opinion on Kosovo adopted on 8 March 2017 by the Advisory Committee on the Framework Convention for the Protection of National Minorities, p. 15.

<sup>58</sup> Comment by UNHCR.

<sup>59</sup> In order to provide property rights for all Kosovars, the NSPR considers the challenges faced by women, displaced persons and members of non-majority communities in the full realization of their property rights and, therefore, proposes specific recommendations that must be undertaken in order to address these challenges.

<sup>60</sup> Legal package (1. LAW No. 06/L-007 ON AMENDING AND SUPPLEMENTING THE LAW No. 03/L-007 ON OUT CONTENTIOUS PROCEDURE, OG No. 22 / 18 DECEMBER 2018; 2. LAW No. 06/L-008 ON AMENDING AND SUPPLEMENTING THE LAW No. 2004/26 ON INHERITANCE IN KOSOVO, OG, No. 22 / 18 DECEMBER 2018; and 3. LAW No. 06/L-010 ON NOTARY, OG. No. 23 / 26 DECEMBER 2018) has addressed the recommendations related to the NSPR, namely, these legal changes have strengthened the role of women in inheritance, ensuring that in the event of renunciation of inheritance, the decision-making body (court or notary) ensures that such renunciation is made in compliance with their free will.

made to strengthen and enhance legal certainty in property rights for all Kosovo citizens. The Kosovo Property Comparison and Verification Agency (KPCVA), a quasi-judicial body, had difficulty enforcing its decisions when evicting illegal occupants. As of August, the agency submitted 416 criminal charges to the Prosecutor's Office against illegal occupants who reoccupied properties after KPCVA evictions; 460 eviction warrants remained pending during this period. The area of the country with the highest proportion of pending evictions was Mitrovica, with 337, primarily affecting Kosovo Albanians<sup>61</sup>.

**Property rights of displaced persons and members of non-majority communities** - People displaced due to the war have the right of returning to their homes and immovable properties, which is a universally recognized right by the European Convention on Human Rights and its protocols. Following the adoption of the "Principles on Housing and Property Restitution for Refugees and Displaced Persons", also known as the "Pinheiro Principles", the concept of return, as defined by the international community, has meant "not only return to the home state of refugee or displaced person's city or region, but return and restoration of control over the original home, land or property; the process of restitution of housing and property. The final resolution of successful applications as decided by KPCVA is the primary intervention toward strengthening and guaranteeing property rights to non-majority communities in the country.

The Government of Kosovo's commitment to providing all displaced persons<sup>62</sup> with a final, fair and effective remedy that will enable them to re-assert control over their immovable properties is highlighted in the preamble and Article 4 of the Stabilization and Association Agreement Kosovo executed with the EU<sup>63</sup>. In accordance with the 2018 Country Report for Kosovo, failure to resolve property claims by displaced persons is an important factor explaining why there is no suitable environment for return. On property rights, although the legislative and institutional framework governing the resolution of conflict-related property claims is overall adequate, the reporting period marked no real progress in implementing the 2017 strategy on property right<sup>64</sup>.

The Government of Kosovo, in January 2018, adopted the Regulation on the Return of Displaced Persons and Sustainable Solutions. The Regulation represents an important step in the Government's commitment to this process and the consolidation of procedures between the various institutional mechanisms active in the return process, placing the Ministry of Communities and Return (MCR) clearly at the forefront of this coordination. The Regulation has abolished the old mechanisms based on the policy framework and, for the first time in 19 years, it has established a mandatory framework for the return process. Efforts are now needed to properly implement this regulation. Similarly, the Kosovo Property Comparison and Verification Agency and the Ministry for Communities and Return should improve their co-operation, in

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<sup>61</sup> See, US Department of State Report on Kosovo 2017, p. 12.

<sup>62</sup> UNHCR estimates that 423 internally displaced persons in Kosovo live in collective shelters in substandard conditions. See, Office of the Chief of Mission Pristina, Kosovo, Statistical Overview, January 2019.

<sup>63</sup> See, National Strategy on Property Rights, p. 31.

<sup>64</sup> See, European Commission Country Report 2020.

order to facilitate property restitution and the return process. Judicial decisions, including Constitutional Court decisions, on conflict-related property cases must be fully observed and swiftly implemented<sup>65</sup>.

### **4.3 Social and health protection**

The International Covenant on Economic, Social and Cultural Rights (**ICESCR**), still remains outside the list of legal instruments in the Constitution of the Republic of Kosovo, which are directly applicable in Kosovo. Kosovo remains one of the only countries in Europe that is not part of the International Covenant on Economic, Social and Cultural Rights<sup>66</sup>. This is one of the fundamental shortcomings of our constitutional system in the field of human rights, although the Constitution recognizes a number of economic, social and cultural rights. **Kosovo** is one of the poorest countries in Europe. According to the report “Consumer Poverty in the Republic of Kosovo” published in April 2017 by the World Bank and the Kosovo Agency of Statistics, 17.6 per cent of Kosovo's population lives below the poverty line, at less than 1.82 euros per day, while 5.2 per cent of the population lives below the extreme poverty line, at less than 1.30 euros a day. Compared to previous years there has been a decrease in the poverty level. The poverty rate remains high especially for groups such as: households living in rural areas, households with more members, where the highest poverty rate is found in households with seven or more members, households whose main source of income is social assistance, families whose main source of income are pensions, people with disabilities, the unemployed, female-headed households, individuals with low levels of education, and citizens of Roma, Ashkali and Egyptian communities.

Based on the complaints received by the OIK<sup>67</sup> and site visits, it results that **unemployment** is a key factor affecting the deteriorating economic and social life in Kosovo. Unemployment rate among women and young people (15-24 years) is particularly worrying.

Tab. 1: Key indicators of the labour market (%)

Key indicators of the labour market (%)	Men	Women	Total
Rate of participation in labour force	57,1	20,3	38,8
Inactivity rate	42,0	79,7	61,2
Employment to population ratio (employment rate)	44,0	14,1	29,1
Unemployment rate	23,0	30,6	25,0
Unemployment rate among young people (15-24 years of age)	42,9	53,6	46,4

<sup>65</sup> See, European Commission Country Report 2020.

<sup>66</sup> Health insurance in Kosovo: a belated right, p. 59.

<sup>67</sup> In the OIK, from the category of Health and Social Protection, a total of 374 complaints were received, of which 108 were initiated for investigation.

Percentage of young people NEET to youth population (15-24 years of age)	29,0	29,1	29,0
Percentage of unstable employment to total employment	18,1	11,2	16,5

Source: Labour Force Survey, Q1 2020

Out of all working-age population, 29.1% were employed. The employment rate by gender is another concern. The employment rate was higher among males than females: 44.0 % of working-age males were employed compared to 14.1 % of working-age females<sup>68</sup>. A key factor contributing to women’s low labour force participation is care responsibilities, primarily childcare; 32% of women state that this hinders their employment. Only 1% of men attribute inactivity to care responsibilities. Men tend to be inactive because they are attending school, education or training (37%). Parental leave provisions of the Law on Labour require amending, as current gender imbalances constitute a barrier to the hiring of women.<sup>69</sup>

Beyond problems in the field of employment, referring to the cases received at OIK, the socio-economic situation in the country remains a challenge and concern. These problems must be addressed with priority by the competent institutions. Moreover, the conditions laid down for social assistance by the applicable legal provisions have contributed to the deterioration of the economic situation of many families, thus causing obstacles and difficulties to the proper upbringing of children and families’ well-being in general.

**Social Wellbeing** - There has been a continuing lack of budget regarding the current funding allocated by the government and municipalities to ensure adequate quality of social and family services. Social assistance scheme indicators are considered not to be set based on the needs of reducing poverty. A thing such is best demonstrated by the criteria of benefiting from social assistance schemes which exclude families with children over 5 years old from benefiting social assistance. This also includes orphan children aged 15-18, although evidence indicates that poverty is higher among children, considering that as children grow and reach school age, their needs also increase in parallel<sup>70</sup>. The amendment of the Law on Social Assistance Schemes must be taken into consideration in order to eliminate and modify this requirement so that the right to assistance is directly based on need<sup>71</sup>. Also, a problem in itself is the lack of information to citizens on where to get services and what types of social and family services are provided by the competent institutions. Social assistance in Kosovo is chiefly aimed at providing monthly monetary assistance to poor families, people with disabilities, pensioners and categories of war invalids as well as families of KLA martyrs followed by victims of sexual violence during the war in Kosovo. Although social schemes account for about 6% of Kosovo's GDP, less than 0.5% goes to those in need.

<sup>68</sup> Kosovo Agency of Statistics - Labour Force Survey, Q1 - 2020.

<sup>69</sup> Kosovo Women’s Network, *Kosovo Gender Analysis*, 2018.

<sup>70</sup> Child Rights Reporting Charter, p. 37.

<sup>71</sup> Ibid, p. 63.



**Health protection** - The Constitution of Kosovo guarantees the right to social and health protection which is achieved through pensions and social assistance, while health insurance is not yet part of this protection. Consequently, 98% of the population in Kosovo does not have health insurance, excluding the 2% of people insured by private companies providing such services<sup>72</sup>.

Low spending in public health remains a concern. In 2016, it was estimated that the coverage of total annual public health needs stands at only 40%. Allocated funds are mainly spent to cover fixed costs (about 68%), leaving only about 32% for direct patient costs related to diagnosis, treatment and prevention.<sup>73</sup>

With regard to aspects of health protection, although Law Health Insurance, which aims to ensure universal access of citizens and residents of the Republic of Kosovo to quality basic healthcare services, was adopted in 2014, but its implementation is yet to commence. The “**Health Insurance Fund**”, which would start raising funds, has not been put into operation yet. Failure to implement this Law is directly affecting citizens with lack of adequate medical services. The Government of Kosovo should prioritize and take actions that would enable the implementation of the Law on Health Insurance.

Access to healthcare can vary for women and men, including differences based on ethnicity and geographical location. There are differences in the use of health services based on ethnicity and gender. Serbs and Gorani tend to use most of the services, while Albanians and Bosnians use them the least. Gorani men use more services than Gorani women. Albanian and Turkish women use more services than men of the same ethnicity. In this respect, there are no significant differences between Roma, Ashkali and Egyptian women and men. Some Roma, Ashkali and Egyptian mothers give birth at home, often in unsanitary conditions. As a result, many children are not registered with the state. This affects access to health care later in life, as unregistered persons cannot receive social assistance or access public health services<sup>74</sup>.

Kosovo still does not provide appropriate services to children who are victims of drug abuse and their families, however, the Ministry of Health has planned to establish a Centre for Addictive Diseases that will provide integrated services in cooperation with other Ministries.

Social services within the Centres for Social Work (CSWs) at the municipal level address this category by providing basic social services, including counselling, family relationship rehabilitation and referral to other relevant institutions.

Competent state institutions should draft prevention programs and provide quality services for the protection and assistance of children using drugs with regard to their rehabilitation and reintegration. Since 2012, the Ministry of Health has opened Methadone Maintenance Therapy Centres, where this program is currently implemented in 6 Regional Centres and 4 Centres in the Prison Health System. In Kosovo, there is a lack of specialized centres for treatment of drug users, with particular emphasis on the

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<sup>72</sup> Health Insurance in Kosovo: a belated right, p. 61.

<sup>73</sup> European Commission Report on Kosovo 2018, p. 62.

<sup>74</sup> KWN, Access to healthcare in Kosovo, 2016, at: <http://www.womensnetwork.org/documents/20170206150329907.pdf>.

youth. Appropriate treatment, rehabilitation and reintegration services for children using drugs are essential in addressing the problem at hand. In the wake of this, adequate youth awareness programs should also be established<sup>75</sup>.

**Domestic violence** - in relation to this, while some social workers in the Centres for Social Work are qualified, others lack the competencies and knowledge, including those about the NSPDV. Moreover, some social workers continue to advise the courts to give custody of children to perpetrators, estimating that fathers will provide more financially than mothers, and ignoring the potential for violence against children. Educators and health personnel have little knowledge of gender-based violence.<sup>76</sup> Correctional and Probation Service Officers have no expertise in drafting rehabilitation and reintegration plans, tailored specifically to perpetrators of violence. Although the curriculum is in place and some officials have attended trainings, VTC and employment officials are still not sufficiently informed about using a victim-centred approach when working with persons who have suffered gender-based violence. Victim rehabilitation services, including mental health services, are lacking.<sup>77</sup>

**Situation related to HIV and AIDS** -A positive development is that Kosovo continues to have a low number of people infected with HIV and AIDS. However, discrimination and the stigma are among the foremost barriers to access health, social and legal services. Therefore, it is important to establish a baseline and find out what undermines HIV prevention, treatment, and care efforts, what is the cause of fear to seek information and services to reduce the risk for infection, or enrolment into treatment and care. The results of the survey show that the stigma and therefore discrimination towards the key populations at risk for HIV exists and is quite high among the professionals in public sector. The professions that had the highest levels of stigma were the police investigators, social workers, or other health professionals, and nurses. On average, the members of these professions agreed with the negative statements about key populations at risk for HIV and PLHIV, more than the others<sup>78</sup>. Increased attention should also be paid to those affected by malignant diseases, tuberculosis (TB), and especially women and children affected by cancer.

During 2019, there are 1,586 new cases of cancer in Kosovo, where dominates the breast cancer. Otherwise, in Kosovo about 50 children a year are affected by cancer alone. Health experts say the number of children affected by cancer has increased within years, compared to 2008, when only seven children with cancer were diagnosed a year. Public health institutions in Kosovo continue to fail to provide some services for

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<sup>75</sup> Ombudsperson Report for 2018,p.71

<sup>76</sup> KWN, From Words to Action, 2017 , at: <https://womensnetwork.org/sq/publications/nga-fjalet-ne-vepra/>

<sup>77</sup> Ibid.

<sup>78</sup> Survey "Measuring Stigma and Discrimination Towards Key Populations at risk for HIV, and PLHIV in Kosovo"- October 2019, Prishtina, Kosovo.

which patients are forced to seek treatment abroad. According to research done, it is generally estimated that treating patients abroad costs citizens between from 150 to **200 million euros per year**<sup>79</sup>.

Sustainable Development Goals (SDGs) call for ensuring healthy lives and promoting well-being for all at all ages; surely, the Government of Kosovo joins the aspirations of modern countries around the world in achieving this goal.

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<sup>79</sup> <https://www.evropaelire.org/a/sherimi-jashte-vendit-/29463211.html>

#### **4.4 Environmental protection**

The European Union gives high priority to environmental protection. On 10 November 2020, the Sofia Summit was held, which is a continuation of the Berlin process, whereby the countries of the Western Balkans, of which Kosovo is part under the patronage of the European Union, signed the "Green Agenda", an agreement that aims to improve environmental protection and transition to a green economy for the countries of the region. This agreement, accompanied by an implementation guide, is considered as a catalyst towards sustainable economic development of the region and strengthening environmental protection. Kosovo should draft a national plan for the implementation of the Green Agenda and form an intergovernmental body that would coordinate the processes related to the implementation of the agenda. Environmental legislation which is in line with European norms and standards is considered as a cornerstone in the road to the EU.

Kosovo is not yet a party to any of the Conventions and Treaties that regulate the field of environmental protection, yet environmental legislation is advanced and incorporates the spirit of the Conventions and is aligned with the EU Acquis on the Environment.

As a result of the failure to effectively implement this legislation and sector policies, the possibility of violating citizens' rights to live in a healthy environment is not excluded.

In recent years, there has been increased attention to the environment in general, and in particular the conservation of biodiversity, through policies and action plans. Increasing the number of protected areas knowing that about 11.53% of the territory of Kosovo is under the regime of natural protected areas, and measures have been taken to improve waste management through licensing of companies dealing with municipal waste management. Further, control of the import of waste as raw material. The establishment of an air quality monitoring system has also had a positive impact on improving environmental conditions. There are tangible results in the field of water resources protection through the promulgation of Protected Water Areas and the issuance of consents and permits for this natural resource.

Implementation of environmental legislation such as: Law on Environmental Protection, Law on Environmental Impact Assessment and Law on Strategic Environmental Assessment have significantly influenced economic operators to undergo procedures for obtaining consents and then environmental permits and operators to be under control.

At the Kosovo level, the coverage with water services in the areas of operation of public companies is 94%, while the coverage with sewerage service is 74 %.

The total coverage of waste service at national level includes 71.9%<sup>80</sup>.

Regarding the quality of drinking water provided by public companies, 99.4% of the samples were in compliance with local water quality standards. In the bacteriological aspect 99.3% while in the physical-chemical quality aspect 99.5% of the samples are in compliance with the allowed values<sup>81</sup>.

In order to protect biodiversity, Kosovo has so far declared 210 nature protected areas of different categories with an area of 125804.1 ha. or 11.53% of the total territory of Kosovo<sup>82</sup>. Despite the increased

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<sup>80</sup> Annual Report on the State of the Environment 2019, KEPA.

<sup>81</sup> Annual Performance Report for Water Service Providers in Kosovo in 2018, Water Services Regulatory Authority (WRA).

attention to environmental protection, cases of violation of the right of citizens to a safe and healthy environment have been identified. The realization of a clean and sustainable environment presents a major challenge due to economic growth, population growth and the tendency to move from rural areas to urban centres. Kosovo needs to take many steps to improve the environment, still facing significant challenges related to air pollution, water pollution, energy efficiency and waste management. Lakes and beautiful forests are polluted with waste; school children are not able to play outside due to polluted air.

The current state of waste management poses serious threats for the public health and the environment. Kosovo still has much room for improvement, regarding the collection, separation, recycling, the treatment systems and the infrastructure of waste management<sup>83</sup>.

The fact that only 60%<sup>84</sup> of waste is disposed in the regional landfill is a sufficient indication that 40% of the waste is dumped into land and rivers. According to information, there are around 1572 illegal landfills within the boundaries of the country<sup>85</sup>.

The actions taken with the aim of raising awareness and educating the public on environmental protection are ineffective. The competent authorities have failed to meet the legal obligations in terms of planning activities in the form of preventive measures for protection against air pollution. The Ministry of Environment and Spatial Planning (MESP) has rarely conducted genuine gender analyses to inform policies, programs and activities, an obligation deriving directly from the Law on Gender Equality<sup>86</sup>. The MESP and responsible municipal authorities have rarely organized public consultations, and even on these rare occasions, women were underrepresented among the participants. Women as well are underrepresented in the waste management sector.<sup>87</sup> The National Institute of Public Health of Kosovo (NIPHK), despite alarming air, water and soil pollution, has again failed to meet its legal obligation of coming up with a research based on the relevant data (Health Information System-HIS is not yet operational), which would elaborate the impact of environmental pollution on the life and health of citizens and on the diseases resulting from pollution, and at the same time would propose preventive measures regarding the elimination of the deficiencies.<sup>88</sup>

State institutions must take serious action in joining the global initiative on Sustainable Development Goals, such as: access to clean water and sanitation, ensure access to affordable, reliable, sustainable and modern energy for all; make cities and human settlements inclusive, safe, resilient, and sustainable; take urgent action to combat climate change and its impacts; protect water; protect, restore and promote

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<sup>82</sup> Kosovo Environmental Protection Agency, 2019.

<sup>83</sup> <https://eeas.europa.eu/delegations/kosovo/54339/node/54339>.

<sup>84</sup> Kosovo Environmental Protection Agency, Annual Report on the State of the Environment, 2017, "Waste", p. 71.

<sup>85</sup> Kosovo Environmental Protection Agency "Municipal Waste Management in Kosovo, Status Report", p. 85.

<sup>86</sup> Law on Gender Equality, Article 5, General measures to prevent gender discrimination and ensure gender equality, at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923>

<sup>87</sup> Kosovo Gender Analysis, KWN, 2018: <https://womensnetwork.org/wp-content/uploads/2018/10/20181003170921410.pdf>

<sup>88</sup> Ombudsperson Report for 2018, p. 70.

sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss<sup>89</sup>.

Environmental protection will be a priority for the Government of Kosovo, for the improvement of living standards of Kosovo's citizens.

### **Human rights in terms of food safety**

The EU's integrated food safety approach that Kosovo aims to pursue is aimed at ensuring a high level of food safety through coherent measures and adequate monitoring from producer to consumer, ensuring effective functioning of the internal market and export of Kosovo food products to the European market and beyond. The strategic objective of the Government of Kosovo is to guarantee the highest level of citizens' health and strengthen the system of supervising and guaranteeing food safety. This system will serve to better protect the health of consumers from diseases/damages as a consequence of the consumption of food products of plant or animal origin. The vision, priorities and strategic goals aim to strengthen a fully functioning food safety and consumer protection system covering the whole country as well as modern monitoring and control in line with EU standards. The importance of setting food and nutrition policy as a key goal of development policy is a strategic objective and reflects global and local trends.

Every single link of the chain must be very strong if the consumer's health is to be fully protected. This is a valid principle regardless of whether foods are produced in Kosovo or imported from other countries. For this reason, the Government will focus on strengthening the control and monitoring of foods marketed in Kosovo for human consumption and animal feed. The Government of Kosovo considers food safety and consumer protection policies to be an important priority. These policies are under the responsibility of MAFRD which is in turn responsible for drafting food safety policies and strategies, as well as for creating the legal framework and coordinating the harmonization of domestic legislation with the EU legal framework.

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<sup>89</sup> Ombudsperson Report for 2018, p. 56.

#### **4.5 Equality and protection against discrimination**

The Constitution of the Republic of Kosovo, in special chapters, guarantees fundamental human rights and equality before the law. The Law on Protection from Discrimination, in the normative sense, sets out the basis of legal principles and rules for ensuring equal opportunities, equal treatment and protection against discrimination in Kosovo.

Despite the constitutional and legal guarantees, discrimination cases in the **public or private sector** are not rare. According to the data presented in the annual report of the Ombudsperson Institution, in the period from 1<sup>st</sup> of January 2018 until 31<sup>st</sup> of December 2018, the Ombudsperson Institution received 189 complaints related to discrimination. Investigations have commenced in 98 of these, while 70 have been deemed unacceptable. In addition to complaints filed by citizens, the Ombudsperson has, in an *ex-officio* manner, initiated 21 cases for investigation.

**Gender equality and protection against discrimination** - The Constitution of the Republic of Kosovo, considers gender equality as a fundamental value in a society that aims to promote democracy and protect the equal rights of women and men. The legal framework for protection of human rights has marked significant advance with the adoption of the package of laws on human rights<sup>90</sup>. Moreover, a number of laws and bylaws have been drafted and adopted by Kosovo institutions with the aim of protecting and promoting human rights standards in Kosovo, thus covering cases of discrimination<sup>91</sup> and gender equality and empowering bodies that deal with the human rights and mandate of the Ombudsperson Institution in Kosovo.

There are little results when it comes to implementation. The institutional capacity to enforce these laws is not yet adequate. The Law on Gender Equality has not been adequately implemented in practice. AGE needs to address its on-going constraints and challenges, with a particular focus on implementing the relevant legal framework and promoting evidence-based gender policy-making<sup>92</sup>. In order to implement the Law on Gender Equality, the Government of Kosovo has drafted and approved the Kosovo Program for Gender Equality (2020-2024), led by the Agency for Gender Equality. It is therefore up to the legislature, judiciary and executive to act with regard to law enforcement and ensure that the principle of equality remains not only *de jure*, but also a *de facto* guaranteed right.

Likewise, the number of cases related to discrimination before regular courts and public institutions remains low. Regular courts rarely utilize the package of laws on human rights based on international human rights principles set out in the Kosovo Constitution or even referring to ECtHR case law.

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<sup>90</sup> (The package of laws on human rights includes: Law on Protection from Discrimination, Law on Gender Equality and Law on the Ombudsperson).

<sup>91</sup> The term "discrimination" means differences existing in the treatment of individuals or in the denial of rights guaranteed in all areas of life, on the grounds of nationality or affiliation with any community, social or national origin, race, ethnicity, colour, birth, sex, gender, gender identity, sexual orientation, language, citizenship, religion and belief, political affiliation, political or other opinion, social or personal status, age, family or marital status, pregnancy, maternity, financial status, health status, disability, genetic inheritance or any other grounds.

<sup>92</sup> LAW ON GENDER EQUALITY 2015 EX-POST REGULATORY IMPACT ASSESSMENT.

Discrimination cases are also scarce in the case law of Kosovo, which represents another problem that hampers the process of raising the awareness among judges, law students, or victims in assessing the judgments of courts on discrimination cases<sup>93</sup>. Individuals rarely file anti-discrimination cases in courts and when cases are handled, laws are not implemented correctly.

Further barriers to implementation are the continued lack of the assembly and development of an investigative mechanism to monitor cases of discrimination among public institutions. In accordance with the **Law on Gender Equality**, all institutions should collect and submit gender-disaggregated data to the Kosovo Agency of Statistics for regular reporting and monitoring purposes. There is a lack of collection, analysis and reporting on discrimination-related cases, including **gender-based discrimination cases and sexual harassment cases**, in line with the requirements of the Law on Protection from Discrimination and those of the Law on Gender Equality. This includes maintaining and reporting gender-disaggregated statistics with regard to cases, procedures and rulings in discrimination and (sexual) harassment cases, as well as information on compensation distributed and fines collected<sup>94</sup>. **Statistics of judicial decisions in cases of discrimination are not available to the public**. They are apparently unavailable due to the lack of proper system/database for the collection of data from courts. In Kosovo, there is still no systematic manner of distributing judicial decisions on discrimination cases in relevant institutions. Judicial decisions must be published in accordance with the Law on Courts. However, access to decisions for the public is difficult, especially in cases of discrimination, due to the lack of a filter<sup>95</sup>.

Based on proven practice, registered cases remain low in courts and law enforcement agencies, Kosovo lags behind in effectively enforcing the package of laws on human rights<sup>96</sup>.

Law on Protection from Discrimination is a transversal norm that aims to establish a general framework for public action to combat discrimination in all of its forms, in accordance with the principles set out in various European directives.

According to Law on Protection from Discrimination, institutions at the central and local level of government should create public policies aimed at improving the situation of marginalized communities (groups) through affirmative action-measures, in compliance with the Law on Gender Equality<sup>97</sup>. The

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<sup>93</sup> There are no discrimination-specific manuals available to judges with legislation, conventions and court cases to raise awareness of participants with regard to existing legislation and case law for protection against discrimination and identification of discrimination.

<sup>94</sup> See the report Sexual Harassment in Kosovo (Kosovo Women's Network - Prishtina, Kosovo 2016).

<sup>95</sup> See the report - Regional Study - Legal Protection Against Discrimination in South East Europe.

<sup>96</sup> "An underutilized system: State of Play of the Human Rights framework in Kosovo", 28.08.2017.

<sup>97</sup> There are some good examples of affirmative action taken by the authorities to address inequality between vulnerable categories of the population of Kosovo. For example, in the process of preventing statelessness among the population of Kosovo, the Roma, Ashkali and Egyptian (RAE) communities appear to be more vulnerable in terms of lack of civil registration and civil status. To support the UNHCR and CRP/K-assisted civil registration process, the Government of Kosovo has issued a circular letter whereby members of the Roma, Ashkali and Egyptian communities have been exempted from paying administrative fees and penalties provided by law for delayed registration. Choosing Roma, Ashkali and Egyptian communities was based on the overall assessment that these communities are the most vulnerable in all aspects of their lives.



implementation of good practices in terms of initiating and implementing affirmative measures and special measures in accordance with applicable law<sup>98</sup> should be encouraged and continued.

**Discrimination at work and in the labour market** - Constitutional guarantees regarding the right to work and the right to freely choose professions vest the state with the obligation to protect these rights in an equal manner and to ensure full compliance with and implementation of the relevant legislation.

Provisions of the Law on Protection from Discrimination are directly applicable with regard to employment relationship between the employee and the employer, both in the private and public sectors. Despite the constitutional and legal guarantees, the Labour Inspectorate, during 2018 alone, has received 515 formal complaints regarding violations of employees' rights in the public and private sectors. The main institutions entrusted with the implementation and oversight of the labour legislation are the Ministry of Labour and Social Welfare and the Labour Inspectorate.

Despite legal guarantees, violations of legal rights to pregnancy and maternity leave are among the most common forms of gender-based discrimination at work. The use of short-term contracts to avoid paying maternity leave is also present. It was disturbing to find that 62% of respondents who had received maternity leave while employed in the private sector were neither paid nor received any government compensation<sup>99</sup>.

It is worrying not to report cases of gender-based discrimination by those who had experienced gender-based discrimination at work, as most women (76%) and men (83%) did not report it to any institution<sup>100</sup>.

Also, the Labour Inspectorate does not have an **electronic data system** that would enable the classification of cases based on specific violations. Thus, there is no consolidated information on cases reported to the Labour Inspectorate, including **gender-based** discrimination.

The Ombudsperson Institution has an electronic database where the received complaints are registered. However, gender-based discrimination does not appear as a category or filter. For this reason, it is difficult to estimate the number of cases of gender-based discrimination at work, addressed by the Ombudsperson<sup>101</sup> but also by the Labour Inspectorate.

There is also evidence suggesting that young women are discriminated against in the recruitment process.<sup>102</sup> Women are required to share information about their family plans in job interviews, and consequently some women report that they do not receive job offers if they plan to become pregnant.

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<sup>98</sup> In 2016, the Government of Kosovo approved Administrative Instruction (GRK) No. 08/2018 on amending and supplementing Administrative Instruction (GRK) No. 03/2016 on Special Measures for Registration of Joint Immovable Property on Behalf of Both Spouses, and has been going on for four consecutive years.

<sup>99</sup> See, Research - GENDER-BASED DISCRIMINATION AND LABOUR IN KOSOVO, p. 47.

<sup>100</sup> See, Research - GENDER-BASED DISCRIMINATION AND LABOUR IN KOSOVO, p. 32.

<sup>101</sup> See, Research - GENDER-BASED DISCRIMINATION AND LABOUR IN KOSOVO, p. 57.

<sup>102</sup> Kosovo Women's Network, Gender-Based Discrimination and Labour in Kosovo, 2019, at: [https://womensnetwork.org/wp-content/uploads/2019/05/RrGK\\_Diskriminimi-me-baze-gjinore-dhe-punesimi-ne-Kosove\\_REV\\_FIN.pdf](https://womensnetwork.org/wp-content/uploads/2019/05/RrGK_Diskriminimi-me-baze-gjinore-dhe-punesimi-ne-Kosove_REV_FIN.pdf)

Others have had their employment contracts cancelled after announcing they were pregnant. In one survey, when asked about the selection of candidates for employment, 55% of employers said that they do not take into account the family plans of the candidate for work during the recruitment process, while 45% said that they do. This suggests that some employers are discriminating against women in recruitment process based on their family plans. In another survey, 28% of employed women surveyed claim to have been discriminated against at work.<sup>103</sup> Moreover, up to one third had experienced gender bias at work, although they themselves did not necessarily consider this to be discrimination. This suggests that women may not always know what constitutes discrimination. No similar data are available from employed men to enable comparison.<sup>104</sup>

Parental leave continues to be discriminatory and unequal. The current law is drafted on an unequal distribution of parental responsibility between mothers and fathers, which reinforces the traditional division of responsibilities, where the mother is assumed to be the primary caregiver; in trying to protect the special relationship between mother and child, the law denies the father the opportunity to establish such a relationship with his child during the period immediately after birth<sup>105</sup>. In practice, there is considerable evidence suggesting that these legal provisions have led employers to avoid employing women who become pregnant, thus indirectly contributing to gender-based discrimination in the recruitment process.<sup>106</sup> In the 2020 Country Report on Kosovo, the European Commission confirmed that there is a need to reform the maternity leave system in line with EU legislation, as it currently poses an obstacle to women's employment, especially in the private sector<sup>107</sup>. The current draft law is equally discriminatory, as it excludes maternity leave, paternity leave and parental leave from the regulatory provisions, placing them in another separate draft law, and not treating women as an equal force in the labour market. At the same time, this law does not provide paid leave for fathers, nor does it provide a sustainable model that would reduce the burden on employers, specifically the private sector - by not contributing at all to increasing the rate of employment of women.

**Sexual harassment in the workplace** - The legal and institutional framework in the Republic of Kosovo is complete and in line with that of the European Union. The same provides sufficient legal guarantees and the necessary protection from sexual harassment in public administration. The Government of Kosovo has

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<sup>103</sup> "Riinvest" Institute, *Women in the workforce: An analysis of the workforce conditions for women in Kosovo*, Prishtina: 2017, p. 9, available at: <https://riinvestinstitute.org/Al/publications/249/grate-ne-tregun-e-punes/>.

<sup>104</sup> Kosovo Women's Network, *Kosovo Gender Analysis*, 2018.

<sup>105</sup> Craig, P. Dhe Gráinne de Búrca, *EU Law: Text, Cases and Materials* (5th). [EU Law: Texts, cases and materials], 2011, p. 877, where the same thing is noted as in the ECJ case No. 184/83 Hofmann, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61983CJ0184>.

<sup>106</sup> KWN, "Kosovo's Progress in Aligning Its Laws with the European Union Gender Equality Acquis", reconfirmed by respondents in various institutions (KWN interviews, 2018).

<sup>107</sup> "Kosovo should amend and enforce the Law on labour in line with relevant EU acquis, in particular in relation to non-discrimination in employment and parental leave", Kosovo Country Report 2020, at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/kosovo\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/kosovo_report_2020.pdf)

already approved the Policy against Sexual Harassment in the Public Administration Bodies in Kosovo. The purpose of the Policy against Sexual Harassment in the Public Administration Bodies in Kosovo is to serve as a guide for the prevention of all forms of sexual harassment in the workplace with instructions for providing a working environment without discrimination and sexual harassment in all public administration bodies. This policy protects gender equality and equal treatment as fundamental values of the democratic development of Kosovo society, through the prohibition of any act/behaviour that violates the personal dignity of each employee in public administration bodies.

Public administration bodies in the Republic of Kosovo should promote and disseminate this policy as well as take concrete steps to raise awareness of all employees in public administration bodies about sexual harassment in the workplace and the mechanisms where it should be reported. Public administration bodies should take steps to ensure that cases of reporting sexual harassment and other forms of harassment are dealt with promptly, fairly and reliably, respecting the confidentiality of reporters and that concrete punitive actions and measures should be taken, in accordance with the circumstances, when the harassment was determined to have occurred. The Office for Good Governance is obliged to take measures and actions for implementation of this policy as follows: conduct national awareness campaigns at central and local level of government; monitor the process of functioning of disciplinary commissions at the level of administration in accordance with applicable laws; work closely with civil society organizations and institutions in capacity building of institutions at central and local level for the implementation of this policy.

However, despite the constitutional and legal guarantees, cases of sexual harassment are occurring. During the reporting year 2019, the Ombudsperson received complaints from citizens regarding discrimination in employment. The nature of the complaints is related to the violation of the right to work in the procedures of vacancies for selections and promotions, then also to sexual harassment in the workplace. The Ombudsperson has received three other complaints regarding sexual harassment in the workplace<sup>108</sup>.

**Age- and gender-based discrimination** - Quite often, discriminatory and exclusionary elements are encountered in the announcements of vacancies in the public and private sector on the basis of age and gender. *The criterion set in the vacancies related to three years of work experience, as well as the declaration of gender and marital status of applicants, is also considered discriminatory*<sup>109</sup>.

There is quite a number of cases where the language used in vacancies in both the public and private sectors results in gender inequality. Despite the fact that the Law on Gender Equality obliges employers to avoid discriminatory **gender**-based elements when announcing a vacancy, the law is almost not enforced at all in the private sector, where women or men are specifically required for certain positions. Out of the 562 vacancy announcements analysed by GAP Institute, it can be seen that vacancy announcements by

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<sup>108</sup> Annual Report of the People's Advocate for 2019, p.80

<sup>109</sup> This concern was raised at the consultative meeting organized in April 2019 with the network of 26 non-governmental organizations working under the umbrella of a four-year European Union-funded project "Equal Rights for All" or "Equal Rights for all Coalition – (ERAC)".

private businesses for the positions of assistant, salesperson, receptionist, cleaner mainly require women, whereas positions such as manager, director, and engineer mainly require men. On the other hand, in the public sector, women are underrepresented in senior management positions, as vacancies for such positions contain codified masculine language thus discouraging women from applying.

According to official data<sup>110</sup>, the civil service of the Republic of Kosovo consists of 18,712 civil servants, of whom 60 per cent are male and 40 per cent are female. This data needs to be improved in order to ensure gender equality in the civil service. The central level has 12,314 civil servants, while the local level has 6,398. The total number of civil servants in 2018 was 18,712, of whom 11,236 were male and 7,476 were female. At the central level, there are a total of 12,314 civil servants of whom 6,942 are male and 5,372 are female. At the local level there are a total of 6,398 civil servants, of whom 4,294 are male and 2,104 are female. These data indicate that the public administration institutions of the Republic of Kosovo have not complied with the legal requirements regarding gender representation in the civil service. However, it is important to note that 2018 shows a slight improvement. In view of promoting gender equality and raising the awareness of officials at the local level regarding the respect for and achievement of gender equality, the Ministry of Local Government Administration has included **gender equality with a total of 11 indicators** in the municipal performance management system. The degree of fulfilment of these indicators will be one of the prerequisites for municipalities to benefit from the performance grant. In 2019, 200,000 Euros were allocated to municipalities that have shown performance in the field of gender equality when awarding performance awards to municipalities. Further efforts are needed in recruiting civil servants in the framework of the Public Administration Reform, taking into account the provisions of the Law on Gender Equality.

As part of public finance reform and public administration reform programming, the Government should institutionalize mandatory training for all civil servants at all levels on gender equality, gender mainstreaming in public policy, GRB and the strategies for improvement of public participation, using existing curricula and qualified trainers of the Kosovo Institute for Public Administration (KIPA).

At the same time, in the framework of the Public Administration Reform, the implementation of gender impact assessment, as a policy information tool, still needs to be applied in accordance with the Better Regulation Strategy for Kosovo 2017-2021.

***Discrimination against workers in the public and private sectors*** - The Ombudsperson considers that there has been no significant progress and improvement in the situation regarding the respect for workers' rights and working conditions. Violation of workers' rights continues to be present. The position of workers continues to be particularly difficult in the private sector, where there are generally no trade unions that would protect workers' rights.

In the private sector, most of the violations are related to non-implementation of the Law on Labour and other legal acts that regulate the issue of payment, working hours, leaves, overtime, minimum salary, pension contribution payment, etc.<sup>111</sup>

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<sup>110</sup> REPORT ON THE SITUATION IN THE CIVIL SERVICE OF THE REPUBLIC OF KOSOVO FOR 2018.

<sup>111</sup> Kosovo Democratic Institute, "The Rights on Paper" report, p. 21.

Discrimination against workers is most pronounced in the construction, trade, hospitality and industry sectors. The problem of informal work, without a contract, is still pronounced, which leads to the exclusion of legal certainty for persons working without a contract.<sup>112</sup> As of September the Labour Inspectorate received 204 formal complaints of violations of workers' rights in the public and private sectors. Women's rights organizations reported that sexual abuse and harassment occurred on the job but went unreported due to fear of dismissal or retaliation.<sup>113</sup> Specific groups of society, particularly those marginalized, are obliged to work in the informal sector where except other things they do not enjoy any protection – legal, health, physical safety, etc. High level of informality in employment is caused by the poor implementation of legislation on workers' rights, especially by the labour inspection. The latter suffers from lack of capacities including human, technological, such as information management systems and lack of legal knowledge to deal with forms of discrimination, especially discrimination at workplace. Another particular issue is the lack of awareness among workers on benefits deriving from formalizing their work<sup>114</sup>. Little is known about the informal economy, especially from a gender perspective. There is no compiled gender analysis nor planned analysis, which could inform policies of intervention in the informal economy, gender implications or the participation of men and women in this type of economy. Such an analysis could be compiled in the framework of the Labour Force Survey by the Kosovo Agency of Statistics, in cooperation with women's organizations that possess expertise in this field. According to the Gender Action Plan (GAP), policy-oriented research on the informal economy and the gender pay gap should be supported to better understand gender inequalities and specific policy solutions and actions to address them.

Official data are weak due to under-reporting of work for tax evasion purposes, and the fact that there are multiple meanings of this expression. Women employed in the private sector often belong to the informal sector. This makes this category of women very sensitive to financial, emotional and physical risk. In Kosovo there are **36** administrative bodies overlooking the implementation of more than **140 laws** and are responsible for conducting inspections. However, the effectiveness of these inspectorates is very low. This makes businesses operate free of any necessary legal restrictions (e.g. those related to environment, workers, etc.) and produces inequalities in the market due to favouritism during inspections. This aggravates the climate of doing business and is detrimental to the citizens' wellbeing.<sup>115</sup>

The alarming level of 29 per cent of women working in the private sector without an employment contract is a multidimensional problem. In addition to the lack of contract benefits, working without an employment contract exposes workers to the risks of the lack of legal protection provided by a contract. Workers without employment contracts are more at risk in their working conditions, more likely to accept

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<sup>112</sup> According to the representatives of the Union of Independent Trade Unions of Kosovo, it is estimated that more than 60% of workers work without employment contracts in the labour market. Also, in the first six months of 2019 only, the Labour Inspectorate has encountered over 900 cases of workers without employment contracts.

<sup>113</sup> US Department of State Report on Kosovo 2017, p. 34.

<sup>114</sup> See , National Development Strategy 2016-2021 (NDS), p. 18.

<sup>115</sup> See, National Development Strategy 2016-2021 (NDS).

changes in working hours and longer working hours, due to the risk that they may be dismissed without warning or reprimand<sup>116</sup>.

The Law on Labour prohibits discrimination in employment. This relates to employment recruitment, training, employment promotion, employment conditions, disciplinary measures, termination of employment contract or other matters of employment relationship.

**Safety of workers at the workplace** - The level of safety at work, especially in the private sector, remains worrying, often without basic protection, and therefore it turns out that, due to the lack of and failure to take appropriate workplace safety measures, we have a large number of deaths and serious injuries of workers in the workplace. Uncertainty, long working hours, delays in receiving salaries, non-compensation of annual leave, use of the minimum salary to pay workers, abuse of contracts and lack of legal protection of workers have been identified as factors that have influenced the increase, from year to year, in the number of workers who were injured and those who died the workplace. 2018 has not been a good year in terms of workers' rights but also in terms of safety at work. Moreover, 20 workplace deaths occurred in Kosovo from January to December, most of them due to a lack of workplace safety measures, especially in the construction sector. In the same year, there were 80 injuries at work in all sectors. In the last five years, according to reports of local organizations dealing with the sector of safety at work, 99 workers have lost their lives in various workplaces<sup>117</sup>. This situation raises the immediate need to increase the number of inspectors, to rigorously monitor the implementation of the Law on Labour and the Law on Safety and Health at Work or to amend-supplement the laws that ensure protection and safety at work.

**Discrimination against people with disabilities** - Although the Constitution and the law prohibit discrimination against persons with physical, sensory, intellectual or mental disabilities, the Government did not effectively implement these provisions and persons with disabilities were discriminated against. According to HANDIKOS, an organization for the rights of persons with disabilities, health, social assistance, rehabilitation and assistive devices for persons with disabilities, the insufficient physical access to public institutions remained difficult even after the implementation of bylaws for construction and administrative support.

In a recent research, it results that less than one third (30.72%) of the assessed international disability obligations and standards have been fully translated into Kosovo legislation. The remaining 70% of obligations belong to the assessment categories of partially addressed (50%) and those missing (19.28%) The access remains the most challenging category with only 6.77% of the standards fully included in the legislation<sup>118</sup>.

**Even in the employment sector**, people with disabilities are being discriminated against. Public and private institutions are not fulfilling the legal obligation which predicts, that every 50th employee shall be a person with special needs.

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<sup>116</sup> See, Research - Women in the labour market "Analysis of working conditions for women in Kosovo", 2017.

<sup>117</sup> Silent Deaths, December 2018, Kosovar Stability Initiative IKS, page 2, accessed on 28.01.2019.

<sup>118</sup> Research Report, International Disability Standards - Where does Kosovo stand?

The work report of the Ombudsperson Institution emphasizes that some municipalities do not agree to exempt from paying property tax the blind persons who, according to Law No. 04/L-192 for Blind Persons (Article 6), are exempted from the obligation to pay property tax, based only on the Law on Immovable Property Tax.<sup>119</sup> Specifically, Article 6 of the Law for Blind Persons deals with only a certain category in terms of taxation, while the Law on Immovable Property Tax deals with all taxpayers, including blind persons. This concern was emphasized and raised during the consultative meetings with the municipalities while discussing the draft Program on Human Rights.

Therefore, applying the *lex specialis* principle, the exemption set out in the Law for Blind Persons should take precedence over the general rule set out in the Law on Immovable Property Tax.

**Discrimination in the field of education** - The Non-Governmental Organization Youth Initiative for Human Rights – Kosovo (YIHR), in the published report "Discriminatory language in textbooks", notes that, during the analysis of textbooks, they found parts where there are nuances and elements of discrimination on the basis of gender, race, ethnicity and sexual orientation. There are other researches from the Kosovo Pedagogical Institute, Kosovo Education Centre, coordinated with MESTI, but also other researches sponsored by MESTI, which address the requests for quality and non-discriminatory texts. Also, the Ombudsperson, in cooperation with several organizations and the Down Syndrome Kosova Association, has asked for urgent revision of textbooks that violate the dignity of people with Down syndrome, because not only there is direct discrimination, but even the dignity of children affected by this syndrome is violated in these textbooks<sup>120</sup>.

MESTI, based on the annual evaluations of students' results with external tests and based on the on-going research, has identified the problem of textbooks and teaching methodology and therefore has worked intensively in developing and advancing the package of curricular documents and is already in the process of developing textbooks, based on the new curricula and Standards for textbooks (drafted in 2011). According to them, textbooks should take into account the following elements: scientific authenticity/scientific basis/content against contemporary achievements in the certain field; adapting the book to the age of the students (cognitive, emotional and perceptual development); the psychological aspect; methodological and didactic aspect; linguistic and visual aspect/illustrations; links to the aspects of education for maturity, education for democracy, peaceful education; reflection of gender equality and supplementary standards by subjects (these things are defined in the Standards for textbooks and the law on textbooks).

The Council of Textbook Programs Experts (established in the last 2-3 years), within the MESTI, has already developed its activities by creating the document base for the process of drafting new textbooks.

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<sup>119</sup> The Ombudsperson, among other things, has expressed his position on this in the Ex Officio Report with Recommendations No. 441/2018 regarding the three general principles for the interpretation of normative acts and the application of these principles in the protection of human rights, concluding that the *lex specialis* principle gives priority to the provision of the Law for Blind Persons over the provision of the Law on Immovable Property Tax.

<sup>120</sup> In the book "Biology" for the 10th grade in Linguistic Gymnasium, as well as in the book "Biology" of 11th grade in General Gymnasium, Down syndrome is described as Mongolian idiocy, a term which according to the World Health Organization (WHO) has not been used for years and is considered an offensive term. These books of Biology also note that people with Down syndrome live mostly 10 to 15 years, which is not true. Bear in mind that textbooks currently in use have been designed after the war, long before the development of standards for textbooks.

This implies that old textbooks will not be used anymore. It remains for this Council and the responsible mechanism in the MESTI to ensure the implementation of textbook standards, so that the textbooks are of good quality and do not contain discriminatory elements.

The Council of Textbook Programs Experts, within the MESTI, should address the identified concerns of the Ombudsperson, Agency for Gender Equality, as well as non-governmental organizations on the content and the elimination of discriminatory elements (language) identified in textbooks<sup>121</sup>.

**Discrimination against persons belonging to the LGBTI community** - LGBTI communities, as part of Kosovo society, are considered to be a marginalized category despite the fact that there is a legal framework that protects their rights. LGBTI people still live in fear of expressing their sexual orientation, due to society's approach and homophobia towards them, and this is why they are discriminated against in everyday life. Regarding the legislation regulating the rights of LGBTI people, it is evident that there are no gaps in the existing legislation, which would require supplement in relation to the further protection of human rights based on sexual orientation and gender identity, but the problem lies in the fact that the relevant legislation in this area is not adequately implemented. Law No. 05/L-021 on Protection from Discrimination, within the meaning of Article 1, provides for prevention and combating of discrimination, including gender identity and sexual orientation. Family Law defines marriage as a legally registered union between two persons of different sexes, according to legislation in force. While the Law on Civil Status does not prevent change of gender/sex in official documents, procedures to do so does not exist. However, today there is no legal basis which would enable citizens to have the opportunity to ask for changing their gender markers on the basis of the right to gender identity guaranteed by the Law on Protection from Discrimination.

**Discrimination against members of non-majority communities**, including the Serb, Roma, Ashkali, Egyptian, Turkish, Bosnian, Gorani, Croatian and Montenegrin communities, as they face varying levels of institutional and social discrimination in employment, education, social services, language use, freedom of movement, to return to their homes (for displaced persons)<sup>122</sup> and other fundamental rights.

Office for Community Affairs within the Office of the Prime Minister has highlighted discrimination in employment in the public sector in almost all local institutions. Although the law stipulates that 10% of employees in local and national government should be members of minorities, their representation remains limited and generally limited to low-level positions. Smaller communities, such as Gorani, Roma,

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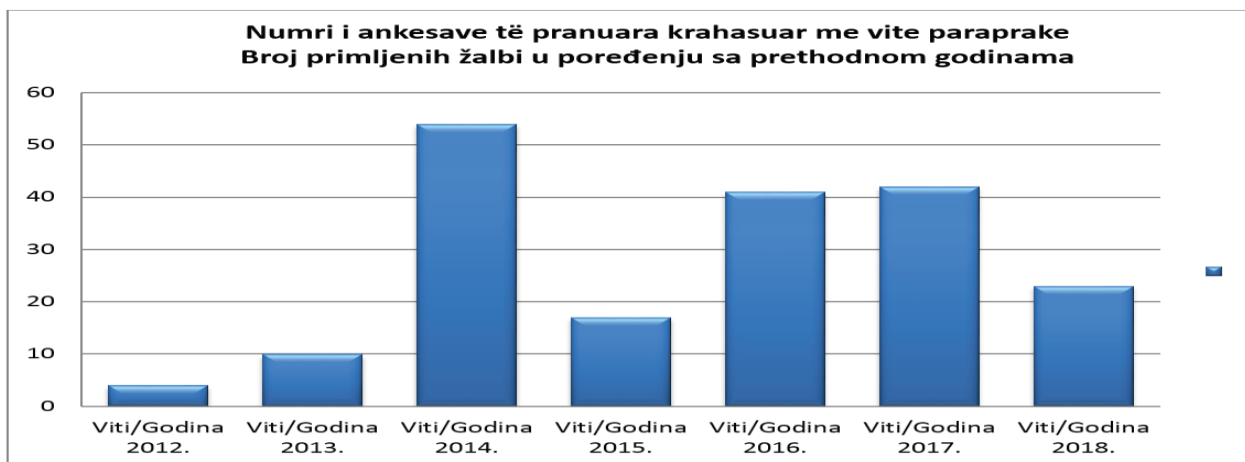
<sup>121</sup> AGE with MES have drafted a manual for the inclusion of gender perspective in textbooks. The Office for Good Governance has developed a Guide for identifying discrimination in textbooks based on gender and sexual orientation.

<sup>122</sup> To get stable solutions in the country of origin, the preferred location of return or to be integrated in their countries of displacement, Line Ministries should support the MCR in the potential donor mobilization strategy for a regional project on durable solutions under the scope of the Inter-Institutional Initiative on Permanent Solutions for Displaced Persons from Kosovo ("Skopje Process"). Some basics for existing needs have already been described in the two reports "Situation and Needs of Internally Displaced Persons" and "Displaced People from Kosovo\* in the Region – A Re-assessment of Interest to Return". In addition, the "Skopje Process" mechanism is part of the Government's Plan for the implementation of Article 12 of the Washington Agreement.



Ashkalis and Egyptians, are particularly underrepresented. There were no remedies to address these concerns. Members of non-majority communities remain underrepresented in the central public institutions <sup>123</sup>.

**Discrimination in terms of language use** - The Office of the Language Commissioner, an institution mandated for the protection, preservation and promotion of language rights, during 2018 has received twenty-three (23) complaints, regarding allegations of violation of the Law by institutions<sup>124</sup>.



**Number of complaints received, compared to previous years;**

Also, the Advisory Committee of the FCPNM emphasizes that non-compliance with legislation does not occur only as a result of lack of financial, technical and human resources, but there are other deeper reasons, such as the authorities' limited awareness of the legal obligation and their unwillingness to include the language aspect in all policies, the lack of opportunity to learn both official languages simultaneously during primary and secondary education as well as to study them at the university level, lack of departments in university education in the field of translation and training of civil servants. The Advisory Committee recalls the cross-cutting relevance of language learning and proficiency to achieve an inclusive society and avoid the risk of different communities functioning in parallel<sup>125</sup>, lack of inscriptions inside and outside municipal buildings, not naming streets in both official languages, the municipal web pages not translated into the official languages and languages in official use.

**Property and inheritance rights of women** - Use and the right to own property remains an important factor in women's economic empowerment. The rule of law in Kosovo is characterized by poorly defined and enforced property rights, especially the property rights of women and minority groups. Insufficient implementation of existing laws, the main laws governing the purchase, transfer and alienation of private property, such as: Law on ownership and other real rights, the Family Law of Kosovo (as amended and supplemented by Law No. 06/L-077 on amending and supplementing the Family Law of Kosovo No. 2004/3213), Law on Inheritance (as amended and supplemented by Law No. 06/L-008 on amending and

<sup>123</sup> See European Commission Country Report on Kosovo 2018.

<sup>124</sup> [http://www.komisioneri-ks.org/repository/docs/Raporti\\_Vjetor\\_2018.pdf](http://www.komisioneri-ks.org/repository/docs/Raporti_Vjetor_2018.pdf).

<sup>125</sup> See Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on Kosovo - adopted on 8 March 2017, p. 29.

supplementing the Law No. 2004/26 on Inheritance in Kosovo). Factors leading to poor enforcement of these laws may include (i) insufficient knowledge of remedies, (ii) poor functionality of institutional mechanisms regarding the enjoyment of property rights, and (iii) the persistence of certain cultural barriers that prevent women from full and equal enjoyment of their property rights. In 2016, women owned only 18% of real estate in Kosovo, including land<sup>126</sup>.

Based on complaints filed with OI, the phenomenon is expressed mostly in rural areas, but the situation does not change much in urban areas. In most cases only men are subject to the right to inheritance, while women in most cases waive this right. An estimated 19% of women renounce their property or inheritance rights. Factors contributing to women renouncing their right to property or inheritance include: fear of transferring their birth family's property to their husband's family (12%); and other reasons (18%), such as: "I don't want any property from my parents"; "I want to create wealth with my family/with my husband's family"; "personal wish"; and "there is potential to generate hostility in the family"<sup>127</sup>. This situation dictates the need to work even more in the awareness of women, as well as men, regarding their inheritance rights. Improving the social and institutional climate for supporting women in this legal and social challenge is considered as the starting point of positive developments for the realization of property and inheritance rights<sup>128</sup>. The low rate of ownership of property creates various economic and social problems for women, such as lack of sufficient collateral for a loan, or lack of opportunity to realize the rights after divorce or death of spouse. Without property rights, women can stay in difficult marriages, fearing that divorce can make them homeless<sup>129</sup>.

It is worth mentioning that the approval of the Administrative Instruction for the registration of joint property on behalf of both spouses had positive effects.

While based on the 2015 census the level of registration was low, according to the cadastral data in 2015, in 28 municipalities of the country, 156 properties were registered on behalf of both spouses, and two years later, in 2017, the number increased to 1907 properties registered on behalf of women or both spouses.

### **Discrimination against victims of sexual violence during the war**

For more than a decade victims of sexual violence during war have been discriminated against and institutionally ignored. In November 2017, the Government established the Government Commission on

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<sup>126</sup> Research on Women's Property and Inheritance Rights, from the CLARD Centre, Prishtina, March-2017.

<sup>127</sup> Kosovo Women's Network, Kosovo Gender Analysis, 2018.

<sup>128</sup> Legal package (1. LAW No. 06/L-007 ON AMENDING AND SUPPLEMENTING LAW NO. 03/L-007 ON OUT CONTENTIOUS PROCEDURE, OG No. 22 / 18 DECEMBER 2018; 2. LAW No. 06/L-008 ON AMENDING AND SUPPLEMENTING LAW NO. 2004/26 ON INHERITANCE IN KOSOVO, OG, No. 22 / 18 DECEMBER 2018; and 3. LAW No. 06/L-010 ON NOTARY, OG. No. 23 / 26 DECEMBER 2018) has addressed the recommendations related to the NSPR, namely these legal changes have strengthened the role of women in inheritance, ensuring that in the event of renunciation of inheritance, the decision-making body (court or notary) ensures that this renunciation is made in accordance with their free will. Also, the National Strategy on Property Rights provides for several measures that aim to address and regulate the inheritance rights of women. Measure 3.1 requires consistent recognition of 'factual' marriages in order to ensure women's right to inheritance. Measure 3.2 envisages the development of safeguards in cases of renunciation and exclusion from inheritance. This measure aims to inform anyone who renounces the inheritance and to avoid the obligation to do so.

<sup>129</sup> Women for Women, "Kosovo joins National Property Rights Coalition", at: <https://www.womenforwomen.org/blog/kosovo-joins-national-property-rights-coalition>, accessed on 30 May 2018.

Recognition and Verification of the Status of Victims of Sexual Violence during the War and allocated the budgetary resources for the victims' pensions. Since February 2018, victims can apply for recognition and verification, to obtain individual benefits. The period of the said law excludes those who have suffered conflict-related sexual violence after 20 June 1999<sup>130</sup>.

Despite these important developments, Council of Europe Commissioner for Human Rights encourages the authorities to take further steps to ensure that these victims can completely rebuild their lives and overcome stigma, starting with including them in developing policies and measures that affect them. Relevant recommendations<sup>131</sup> by UN Women<sup>132</sup>, which are supported by the Commissioner, provide useful guidance in this regard.

Only by recognizing the status of persons raped during the war and guaranteeing their right to personal pension we cannot say that we have completed our mission, rather we must commit further that this category be offered insurance and proper health care, be offered employment and vocational training, quality education and rehabilitation. Finally, advancing the enhancement of domestic laws, policies and plans, which aim to meet the needs of survivors of sexual violence related to the period of the war in Kosovo, should be a priority for the Government of Kosovo.

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<sup>130</sup> See, European Commission Country Report on Kosovo 2018, p. 18.

<sup>131</sup> Technical Report - The conflict did not bring us flowers, p. 49, UN WOMEN.

<sup>132</sup> See, Memorandum following the Commissioner's mission to Kosovo from 5 to 9 February 2017, p. 6.

## 5.0 STRATEGIC OBJECTIVES AND SPECIFIC OBJECTIVES

The Program for the Protection and Promotion of Human rights, sets strategic and specific objectives, which are intended to be achieved within a five-year period. The selected priority areas are based on the fulfilment of the recommendations and requests identified continuously by the European Commission in the Country Reports over the years, the Ombudsperson and other national and international relevant institutions to improve the interagency cooperation and coordination, effective implementation of laws, policies and international and regional standards on human rights.

To achieve the aim of the Program for the Protection and Promotion of Human Rights, certain strategic objectives with specific objectives have been set, including:

### 5.1 Strategic objective #1:

#### **Improvement of governance, transparency, institutional coordination and accountability within public institutions to further the realization of human rights;**

Good governance, institutional transparency and accountability are key factors for effective and efficient protection of human rights and law enforcement. Human rights cannot be fully realized without effective implementation of legislation, policies, international and regional standards on human rights, without genuine interagency coordination, without governance mechanisms that are effective, transparent and accountable. Therefore, achieving the first strategic objective is considered essential to the realization of human rights, effective achievement of a wide range of sustainable development goals, as well as the functionalization and strengthening of the monitoring system and institutional mechanisms for protection of human rights, in the context of advancing the monitoring, evaluation and implementation of policies and of the legal framework.

In order to achieve this objective, the Government will, in addition to the efforts for the advancement of institutional cooperation and coordination, mobilize the necessary human and budgetary resources to strengthen institutional mechanisms for the protection of human rights<sup>133</sup>; implementation of laws and policies within the public service sector, *advancing of human rights implementation monitoring system with measurable indicators, with relevant, qualitative, accessible, and reliable data disaggregated by: income, sex, age, disability, race, ethnicity, geographic location*<sup>134</sup> and other important features, which would serve as a reference mechanism for all policy-making institutions during the process for assessing the needs for orientation and drafting of policies in various areas and sectors of human rights, and as a reference system during the process for preparation of reports for international mechanisms monitoring the implementation

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<sup>133</sup> The European Commission Indicative Strategy Paper for (2014-2020) underlines that “structures dealing with the protection, promotion and reporting on human rights need to be streamlined, both at central and local level, while by 2020, the legal framework for the protection of human and minority rights must be effectively implemented”.

<sup>134</sup> UN 2915, Sustainable Development Goals (SDGs) - 2030 Agenda.

of international instruments on human rights. The Inter-Ministerial Coordination Group for Human Rights in the Republic of Kosovo, led by the country's Prime Minister, will play a very important role in this whole process that requires dedication and genuine institutional coordination.

#	Strategic objective	Specific objectives	
1	Improvement of governance, transparency, institutional coordination and accountability within public institutions to further the realization of human rights	1.1	Develop effective, responsive, inclusive, participatory, and accountable institutional mechanisms at all levels for the protection and promotion of human rights;
		1.2	Advancing human rights data collection, monitoring, and reporting;
		1.3	Increase transparency and facilitate access to public information and documents
		1.4	Effective implementation of human rights as guaranteed by Kosovo's constitutional and legislative framework and directly applicable international and regional human rights instruments

## 5.2 Strategic objective #2: Protect and promote human rights;

One of the basic conditions for the development of a functioning system of the rule of law is the observance of the standards for human rights by state institutions. Any public officer, in accordance with the Constitution and legislation, is obliged to adhere to, implement and promote international standards for human rights during the exercise of functions. Those standards are relevant to both the quality of laws and policies, and their implementation. The Government of Kosovo, through this objective, aims to promote and implement a human rights-based approach, establish an administrative institutional culture in all government departments, where the observance, protection, promotion and enforcement of human rights become part of the daily work culture of any official who exercises public functions and provides public services to the citizen.

In order to achieve this objective, Kosovo Government will give priority to implementing the recommendations addressed by international and regional mechanisms for human rights, organizations and local mechanisms, implementing the recommendations of the Ombudsperson; strengthening the national system for the protection and promotion of human rights (NSPPHR), providing equal opportunities and equal treatment, preventing and protecting against discrimination by creating opportunity for the Administration to create public policies which aim to improve the situation of marginalized communities through (affirmative measures), establishing and strengthening a human rights training system, human rights education and awareness campaigns. The strategic objective is in line with 2030 Agenda, that called for the eradication of poverty in all its forms and elimination of inequalities (SDGs) 6 and 10 (in particular 10.2 and 10.3).

#	Strategic objective	Specific objectives	
2	Protect and promote human rights;	2.1	Strengthen the National System for Protection and Promotion of Human Rights (NSPPHR)
		2.2	Prevent, protect from and fight against discrimination
		2.3	Establish and strengthen training system for human rights standards

### 5.3 Strategic objective #3: Ensure healthy lives and promote well-being for all;

Global efforts to build an equitable world have become a key priority of the United Nations agenda, within which is defined a dedicated goal of reducing inequalities (SDG 10)<sup>135</sup>. The strategic objective is in line with and will contribute to the main goal of the 2030 Agenda calling for the eradication of poverty in all its forms and the elimination of inequalities (SDG 1<sup>136</sup>, and SDG 10<sup>137</sup>), quality health and social services (SDG 2<sup>138</sup> and SDG 3<sup>139</sup>), healthy environment and food security (SDG 15<sup>140</sup>, and SDG 12<sup>141</sup>). The Government will adopt new laws aiming to supplement the legislation for the protection of human rights in the areas needed.

The reforms, advancement and implementation of the legal and policy framework in the field of social and family services will significantly advance the well-being of Kosovo citizens. This objective will be in view of the improvement of social, family and health services, which aims to strengthen the social protection system and ensure access to quality social and family services through the completion of reforms in the social assistance scheme, harmonization and advancement of the legal framework in the field of social and health care services through the definition of a sustainable financing system for social services and poverty alleviation, creating a health insurance fund, providing services and programs for key populations dependent on alcohol and drugs, people with HIV-AIDS, people affected by Tuberculosis (TB), etc., as well as protecting the environment and ensuring food security. Also, this objective will have a specific impact in guaranteeing the implementation of workers' rights in accordance with applicable law and international standards.

<sup>135</sup> UN. 2015. Sustainable Development Goals (SDGs) – 2030 Agenda.

<sup>136</sup> End poverty in all its forms everywhere.

<sup>137</sup> Reduce inequality within and among countries.

<sup>138</sup> End hunger, achieve food security and improved nutrition and promote sustainable agriculture.

<sup>139</sup> Ensure healthy lives and promote well-being for all at all ages.

<sup>140</sup> Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, halt and reverse land degradation and halt biodiversity loss.

<sup>141</sup> Ensure sustainable consumption and production patterns.

To achieve/fulfil the strategic objective, the following specific objectives have been foreseen:

#	Strategic objective	Specific objectives	
3	Ensure healthy lives and promote well-being for all;	3.1	Harmonize the legal framework with the Covenant on Economic, Social and Cultural Rights (CESCR);
		3.2	Build capacity and raise social and institutional awareness on environmental protection
		3.3	Guarantee and enforce of workers' rights in accordance with applicable law and international standards
		3.4	Develop rehabilitation and treatment programs for key populations

#### 5.4 Strategic objective #4: Facilitate access to the justice system

The Government of Kosovo joins the aspirations of all states parties within the UN, which is also the 16th sustainable development goal, to be mobilized to promote peaceful and inclusive societies, provide access to justice for all and build effective, accountable and inclusive institutions at all levels of government<sup>142</sup>.

Despite progress in resolving and reducing old cases, more than 200,000 old cases continue to burden the judiciary, preventing citizens from gaining access to justice. Regarding the total number of court cases, the only problem remains the issue of cases transferred from previous years, with a total of 245,559 such cases as of 01.01.2019, while in terms of new cases resolved, it turns out that 82,521 new cases were received in the first 9 months of 2019, with 108,004 cases being resolved, while 219,922 cases remain to be resolved, which means that there is a 10.44% increase in the reduction of cases. Through the promotion of mediation, an attempt will be made to influence the reduction of the number of cases in the courts. Through the inclusion of free legal professions, including mediators, notaries and private enforcement agents, the goal of reducing and resolving old cases will be achieved. Also, the Government will allocate sufficient budget to ensure access to justice for victims of crime, to provide free legal aid to all groups in need in accordance with applicable law, including displaced persons, as well as the category of permanent residents (unregistered births) who cannot prove Kosovo citizenship should be included in the system of free legal aid (currently, UNHCR provides legal aid for obtaining citizenship). All planned steps will be in line with the adopted Rule of Law Strategy.

<sup>142</sup> UN. 2015. Sustainable Development Goals (SDGs) – 2030 Agenda.

Further, public information campaigns on access to justice will be supported through the realization of the right to compensation for victims of crime, mediation, free legal aid, to inform individuals about their rights and to facilitate the search for assistance, particularly targeting people in rural areas and non-majority communities in a way that takes gender into account.

**To achieve/fulfil the strategic objective, the following specific objectives have been foreseen:**

#	Strategic objectives	Specific Objectives	
4	Facilitate access to the justice system	4.1	Increase case handling efficiency in courts and prosecution offices
		4.2	Functioning of the Mediation System
		4.3	Improve the implementation of the right to free legal aid
		4.4	Mitigate obstacles to the protection of victims of crime, in particular for survivors of gender-based violence, including domestic violence
		4.5	Ensure implementation of women's property and inheritance rights, and of property rights of communities and IDPs



## **6.0 MONITORING AND REPORTING MECHANISM FOR THE IMPLEMENTATION OF THE PROGRAM FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS (2021-2025)**

The Program for the Protection and Promotion of Human Rights, constitutes the basic document of policies for the promotion and protection of human rights.

In accordance with specific goals and objectives set out in the Program for the Protection and Promotion of Human Rights (2021-2025), the Action Plan reflects and defines specific and concrete measures for each responsible institution, along with measurable success indicators, including "gender-sensitive indicators", and a clear timeline, as well as an estimated budget to cover the activities.

Office of the Prime Minister-Office for Good Governance is the responsible authority which, in cooperation and coordination with other institutions, will coordinate the implementation process and will report on and monitor the implementation of Program for the Protection and Promotion of Human Rights. Furthermore, the Office for Good Governance is responsible for monitoring the implementation of the measures set out in the Action Plan (2021-2023) for the implementation of the Program for the Protection and Promotion of Human rights. Institutions responsible for implementation of activities under the action plan will report to the Office of the Prime Minister of the Republic of Kosovo- Office for Good Governance and Human Rights every 6 months and regardless of the needs and requirements directed by the Office of Good Governance.

### **6.1 Implementing mechanisms**

All government institutions, central and local, are obliged to take all necessary measures to fulfil the obligations set out in the Program for the Protection and Promotion of Human Rights (2021-2025) and the Action Plan for the implementation of the program over the years, in accordance with their responsibilities and legal mandate.

### **6.2 Monitoring mechanisms**

The monitoring and evaluation system will be extended to all institutions responsible and supportive of the implementation of the objectives set out in Program for the Protection and Promotion of Human Rights as well as the activities foreseen in the action plan.

Two main mechanisms responsible for monitoring, assessing and reporting on the implementation of Program for the protection and promotion of human rights are the Inter-Ministerial Coordination Group for Human Rights and the Office for Good Governance. The role of the Office for Good Governance/Office of the Prime Minister is to proactively coordinate, monitor and evaluate the fulfilment of activities and objectives of the Program for the Protection and Promotion of Human Rights, and to determine whether developments, results and plans are fulfilled in order to be able to undertake preventive actions to correct deficiencies. Responsibility for coordinating monitoring and reporting lies with the OGG/OPM, while the continued involvement of civil society, the Ombudsperson and international organizations in this process will be ensured through monitoring and advisory work within the Inter-Ministerial Coordination Group

for Human Rights, or in a completely independent manner. OPM/OGG should report on progress in implementing the Program for the Protection and Promotion of Human Rights and its Action Plan on an annual and semi-annual basis in accordance with applicable legal procedures. The annual progress report will be prepared by the end of the first quarter of the following year. Matrix for Monitoring and Reporting will be used to monitor and evaluate progress in the implementation of Program for the Protection and Promotion of Human Rights. This system will consist of "performance-based" indicators that are designed to measure the results and the level of impact that the Program for the Protection and Promotion of Human Rights will have in practice.

## 7.0 Financial impacts on the implementation of the Program for the Protection and Promotion of Human Rights (2021-2025)

The Action Plan for the implementation of the Program for the Protection and Promotion of Human Rights has a total cost of implementation of **1,241,275** Euros for the three years of implementation (2021-2023). Most of the cost (about 95% of the budget) will be used for current costs related to capacity building, regulation of monitoring and reporting system that have to do with human rights.

**Table 1.** gives a summary budget for the implementation of the Plan by years, while it is based on detailed calculations of costs for each of the planned objectives, while Table 2 provides a summary of the budget for the implementation of the Plan by the funding sources.

The implementation of the action plan for the first 3 years will require funds as shown in the table below in millions of Euros (GB- General Budget for Action Plan, CC- current costs, C - capital, SG - subsidies and grants).

**Table 1.** Budget summary by objectives and years

Strategic Objectives	2021				2022				2023			
	GB	CC	C	SG	GB	CC	C	SG	GB	CC	C	SG
Improvement of governance, transparency, institutional coordination and accountability within public institutions to further the realization of human rights;	44,700	44,700	0	23,000	111,900	11,900	0	59,000	41,900	41,900	0	19,000
Protect and promote human rights;	114,425	114,425	0	60,970	117,925	11,7925	0	61,470	74,425	74,425	0	28,470
Ensure healthy lives	108,	108,	0	56,	204,0	20	50,	10	10	10	0	41,000

and promote well-being for all;	500	500		50 0	00	4,0 00	00 0	7,0 00	7,0 00	7,0 00		
Facilitate access to the justice system	101, 000	101, 000	0	54, 00 0	114,5 00	11 4,5 00	0	63, 50 0	10 1,0 00	10 1,0 00	0	55,000
<b>Total:</b>	<b>368,625</b>			<b>548,325</b>				<b>324,325</b>				
<b>Sub-total 2021-2023:</b>	<b>1,241,275 Euro</b>											

**Table 2. The structure of costs by years planned in the action plan and funding source**

Years	Total costs		
	BRK	Donors	Total:
2021	234,155	134,470	<b>368,625</b>
2022	307,355	240,970	<b>548,325</b>
2023	180,855	143,470	<b>324,325</b>
<b>Total:</b>	<b>722,365</b>	<b>518,910</b>	<b>1, 241, 275</b>

**Table 3. The structure of costs for the last two years of the program and funding source**

Years	Total costs		
	BRK	Donors	Total:
2024	190,313	90,000	<b>280,313</b>
2025	100,122	104,700	<b>204,822</b>
<b>Total:</b>	<b>290,435</b>	<b>194,700</b>	<b>485,135</b>

**8.0 Linking the Program for the Protection and Promotion of Human Rights (2021-2025) with SDGs (Sustainable Development Goals)**

#	Strategic objective	Specific objectives		SDG (Sustainable Development Goals)
1	Improvement of governance, transparency, institutional coordination and accountability within public institutions to further the realization of human rights	1.1	Develop effective, responsive, inclusive, participatory, and accountable institutional mechanisms at all levels for the protection and promotion of human rights;	<p>SDG 1. End poverty in all its forms everywhere.</p> <p>SDG 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture.</p> <p>SDG 3. Ensure healthy lives and promote well-being for all at all ages.</p> <p>SDG 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.</p> <p>SDG 5. Achieve gender equality and empower all women and girls.</p> <p>SDG 6. Ensure availability and sustainable management of water and sanitation for all.</p> <p>SDG 11. Make cities and human settlements inclusive, safe, resilient and sustainable.</p> <p>SDGs 8. Decent work for all and economic growth</p> <p>SDG 10. Reducing inequalities</p> <p>SDG 16. Promote peaceful and inclusive societies for sustainable development</p> <p>SDG 17. (partnerships), which are also important for this objective</p>
		1.2	Advancing human rights data collection, monitoring, and reporting;	
		1.3	Increase transparency and facilitate access to public information and documents	
		1.4	Effective implementation of human rights as guaranteed by Kosovo's constitutional and legislative framework and directly applicable international and regional human rights instruments	
#	Strategic objective	Specific objectives		SDGs
2	Protect and promote human rights;	2.1	Strengthen the National System for Protection and Promotion of Human Rights (NSPPHR)	<p>SDG 1. End poverty in all its forms everywhere.</p> <p>SDG 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture.</p> <p>SDG 5. Achieve gender equality and empower all women and girls.</p> <p>SDG 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.</p> <p>SDG 10. Reducing inequalities</p> <p>SDG 16. Promote peaceful and inclusive societies for sustainable development</p> <p>SDG 17. (partnerships), which are also important for this objective</p> <p>SDG 8. Promote sustainable, inclusive and sustainable economic growth, full and productive employment and decent work for all</p>
		2.2	Prevent, protect from and fight against discrimination	
		2.3	Establish and strengthen training system for human rights standards	

#	Strategic objective	Specific objectives		SDGs
3	Ensure healthy lives and promote well-being for all;	3.1	Harmonize the legal framework with the Covenant on Economic, Social and Cultural Rights (CESCR);	<p>SDG 1. The end of poverty, in all its forms, everywhere.</p> <p>SDG 2. End hunger, achieve food security and improve food, and promote sustainable agriculture.</p> <p>SDG 3. Ensure healthy lives and promote well-being for all at all ages.</p> <p>SDG 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.</p> <p>SDG 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all</p> <p>SDG 10. Reducing inequalities</p> <p>SDG 13. Climatic action</p> <p>SDG 16. Promote peaceful and inclusive societies for sustainable development</p>
		3.2	Build capacity and raise social and institutional awareness on environmental protection	
		3.3	Guarantee and enforce of workers' rights in accordance with applicable law and international standards	
		3.4	Develop rehabilitation and treatment programs for key populations	
#	Strategic objective	Specific objectives		SDGs
4	Facilitate access to the justice system	4.1	Increase case handling efficiency in courts and prosecution offices	<p>SDG 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all</p> <p>SDG 10. Reducing inequalities</p> <p>SDG 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.</p>
		4.2	Functioning of the Mediation System	
		4.3	Improve the implementation of the right to free legal aid;	
		4.4	Mitigate obstacles to the protection of victims of crime, in particular for survivors of gender-based violence, including domestic violence;	
		4.5	Ensure implementation of women's property and inheritance rights, and of property rights of communities and IDPs	