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POLICY BRIEF

Recommendations
for harmonizing
Kosovo's legislation
with the EU
accession process
standards

January 2023



Advocacy Center
for Democratic Culture



Co-funded by
the European Union

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RECOMMENDATIONS FOR HARMONIZING KOSOVO'S¹ LEGISLATION WITH THE EU ACCESSION PROCESS STANDARDS

This policy brief was created as part of the project "Women for women - united in power", implemented by the Advocacy Center for Democratic Culture (ACDC), and supported by Reactor - Research in action and their partners through the action "Furthering Gender Equality through the EU Accession Process". This Action is funded by the European Union and co-funded by Sweden.

This publication was produced with the financial support of the European Union and co-funded by Sweden. Its contents are the sole responsibility of NGO ACDC and do not necessarily reflect the views of the European Union or Sweden.

¹ This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

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ABOUT THE PROJECT "WOMEN FOR WOMEN - UNITED IN POWER"

The overall objective of the project is to empower women coming from non-majority communities and living in North Kosovo to participate into decision making processes and raise awareness among men about the importance of their inclusion. More precisely, the long-term aim of the project is to promote and support inclusion of more women in judiciary, police and politics. By doing so the number of women will get higher which will improve the implementation of the overall quota (as per the Law on Gender Equality) and bring Kosovo closer to the European path.

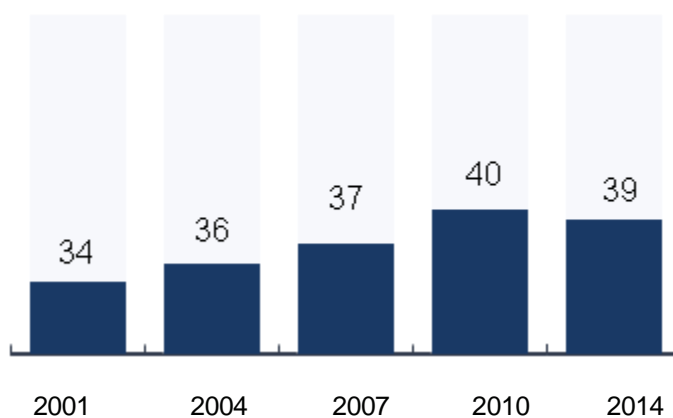
The goal of this paper is to underline that, despite significant progress in socioeconomic development, no country has achieved full gender equality. The policy brief aims to assess the current state of affairs regarding women's participation in decision-making at the central and local level in Kosovo, promote gender equality and provide policy recommendations to respective state bodies. The recommendations were developed based on the meetings of the established Women's Network that gathered women from different institutions in the North of Kosovo to increase connections and share views and attitudes on the position of women in the North.

INTRODUCTION

History shows that women have been fighting for their rights since ancient times. The initial struggle was related to the right to vote. Women have been undervalued and their rights to many things have been denied, including the right to property, the right to work, and the right to vote. It is inevitable to note the fact that although laws have clear pretensions to represent the interests of all human beings, through the adoption and formulation of laws and their application by men, women are sidelined, silenced, misinterpreted, underprivileged, subordinated, and inadequately protected from various forms of violence and discrimination.

Throughout history, women were never allowed to represent themselves during the legislative process and their practical implementation, except for a brief time in modern history beginning in the later decades of the twentieth century. Women were usually represented by men, which was not without bias. Legal dependency on a man was complete at times, and it never stopped aspiring to it. Women generally fought more for their rights because they faced more discrimination, although males were also discriminated against and denied certain rights. However, it is important to highlight that women were denied certain rights more frequently than men.

When it comes to strengthening the representation of women in political leadership, Kosovo has made significant progress. Despite the lack of women in senior management positions, the presence of powerful women is changing public perceptions of women and providing an impetus for future increases in female management. The establishment of the parliamentary gender quota has increased opportunities for women to participate in politics and helped them in overcoming obstacles to doing so.²



Number of MPs elected 2001 - 2014

Note: figures calculated from confirmed CEC election results

As can be concluded from the chart above, although the quota of 30% of the total seats for Political Entity in national and local assemblies, stipulated by the Law on General Elections³, has been largely complied with,

² The International Foundation for Electoral Systems, IFES Conducts Comprehensive Gender Analysis in Kosovo, March 2014

the Law on Gender Equality's stipulation that they occupy 40% of appointed positions in government has not. Despite having notable portfolios, women held only 3 of the 19 ministerial and 5 deputy prime ministerial positions in the administration that was established in 2010. By the time the mandate expired in 2014, only one woman remained in a higher position. The situation was similar at the level of local administration. When it comes to the most recent municipal elections held in 2021⁴, 14 candidates (8%) were women, and only two were placed in the strongholds of their political party (in Gračanica/Graçanicë and Ranilug/Ranillug). A total of 1,937 women (37%) ran for municipal assemblies in respect of the minimum 30% gender quota, and 36 of them (12%) headed their lists. Only 364 women were elected (36%) – 221 elected through the votes received (61% of all women elected) and 143 due to the quota mechanism (39%). The adoption of internal party policies for politicians to encourage women's participation and integrate gender issues into party platforms would be among the most long-lasting solutions in terms of greater involvement of women in the electoral process and the decision-making process both at the local and central level.

According to the **Kosovo Law on Gender Equality**⁵ women must be equally represented at all aspects of social and economic life. The greatest obstacles to women's equal representation in Kosovo is gender discrimination in terms of legal protection and access to justice, discrimination in the labour market, discrimination in education, employment, advancement and payment, protection of reproductive rights and freedoms, protection from violence, rape, incest, sexual blackmail and marital abuse, prostitution, and pornography, patriarchal law, and law enforcement.

However, the socio-legal context in which gender legal theory works is not always the same because social circumstances change, as does the legal environment. The problem of gender equality remains one of the biggest problems of today and does not get enough attention. It is still widely represented in Kosovo, although there are countries where the situation is even worse. This is why it is critical to discuss gender equality and why equality should be a top priority in society. To begin with, gender equality implies equality between men and women in social life. More precisely, taking equal status in society by men and women. There is a certain level of gender equality in Kosovo, which is much higher than in other countries. Unfortunately, gender equality is a major issue in certain countries and nothing is spoken about it. Although Kosovo has yet to achieve full gender equality, things are improving, which should serve as encouragement in the future. Through its policy documents, the EU accession process can hasten the achievement of gender equality.

It is undeniable that the issue of gender equality will always exist, to varying degrees. It is also important to emphasize that while we are all equal, we are not all the same. What does it imply? To begin with, we are not all the same because we differ by gender, each of us has unique personal characteristics, and each of us has our own way of thinking. Nevertheless, we ARE equal. Despite our differences, we all need the same rights, the same status in society, and we all need to be equal in every way because only the synergy of all our individual and collective actions will lead to the application and respect of basic human rights, and thus to the reduction of gender discrimination.

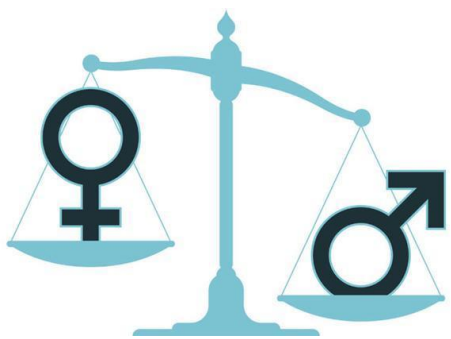
³ Law No. 03/L-073 ON GENERAL ELECTIONS IN THE REPUBLIC OF KOSOVO (Article 111.6)

⁴ Final Report 2021 EOM Kosovo municipal elections

⁵ Law No.05/L-020 on Gender Equality

BACKGROUND OF THE PROBLEM

In 2004, Kosovo adopted its first Law on Gender Equality. Since then, institutions have taken further steps to improve the legal and institutional framework of gender equality. In 2015, the Assembly of Kosovo adopted new legal regulations on gender equality, the prohibition of discrimination, and the new law on the Ombudsperson Institution. In the legislative branch, there is a parliamentary committee that deals with gender equality, while in the executive branch, there is an Agency for Gender Equality, which is affiliated to the Prime Minister's Office. All ministries have officers for gender equality. At the local level, there are also committees at municipal assemblies that deal with issues of gender equality, as well as municipal officers for gender equality. However, in the currently valid Kosovo National Development Strategy, only two of the 34 goals are related to gender issues. The first refers to increasing the enrollment rate of children in preschool institutions as a mechanism to facilitate the employment of women, while the second refers to the expansion of women's access to their property rights.



Despite the legal and practical policy framework for gender equality, gender-based violence persists. Apart from sexual violence, domestic violence and other forms of gender-based violence are still prevalent. Therefore, the legal framework exists and it largely guarantees the protection of human and fundamental rights in accordance with European standards. Kosovo has demonstrated commitment to solving gender inequality, but more has to be done to secure the rights of non-majority community members, particularly Roma and Ashkali, in

order to promote gender equality in practice and strengthen the protection of the rights of non-majority communities. Another critical topic while discussing Kosovo's accession to the European Union is the protection of children's rights. It is undeniable that a lack of administrative instructions is hindering future development in the field of protecting the rights of children, and hence of girls, in this respect.

As for women's representation in the electoral process, the legislative framework for elections has remained unchanged since 2010, with the non-fulfillment of almost all the recommendations previously given by the European Union. In that respect, Kosovo must resolve all the shortcomings and contradicting provisions. In this regard, political parties should carefully address the problem of gender equality in their policies and political agendas, removing the obstacles that prevent women from participating more effectively in Kosovo's political and public life.

Regarding equality between women and men in employment and social policy, gender-based discrimination is still widespread in employment, promotion, wages, and contract duration. In this sense, the key role in the employment and advancement of women in their careers is represented by barriers related to child care, and flexible work engagements, but the most decisive factor is certainly the length of maternity leave and non-compliance with legal regulations by employers, particularly in Kosovo's north. When discussing gender equality, it is inevitable to mention women in rural areas who are particularly affected by basic forms of discrimination such as limited access to property rights, gender-based violence, and lack of care for the elderly.

Accordingly, the legal framework exists and guarantees the protection of fundamental human rights and is harmonized with basic European standards. Kosovo has shown its commitment to solving the problem of gender equality by further implementing the Law on Gender Equality in the Employment Process in Public Administration and by improving inter-institutional cooperation in the fight against gender-based violence. Nonetheless, issues of basic rights should be placed higher on the political agenda, and efforts should be made to improve the position of women, which continues to have serious consequences not only for women who are directly affected, but also for the entire family, and finally - for the entire society.

National Program for the Stabilization and Association Agreement 2020-2025 (NPISAA)⁶ and European Reform Agenda (ERA)⁷ both state that Kosovo must strengthen the implementation of the Law on Gender Equality and take concrete action to provide a functional shelter for victims of gender-based violence to approximate national legislation with the European Union in terms of achieving gender equality and reducing gender discrimination. A fundamental step toward improving the status of women, particularly when discussing the north of Kosovo is the economic empowerment of women and girls through funding initiatives by CSOs and other activist that aim to achieve gender equality, as well as raising public awareness of the importance of preventing domestic violence and combating gender stereotypes. Hence, it is crucial to provide support for entrepreneurship to women from non-majority communities. The Kosovo Labor Law should be based on the continuing struggle against unregistered employment, which primarily affects women, with a focus on legal employment, working conditions, and preventive measures, as well as improving coordination between responsible institutions in preventing and suppressing "black labour". To increase the participation of women in decision-making at both the local and center levels, it is also necessary to harmonize the electoral reform law with the Law on Gender Equality. Additionally, the implementation of the Kosovo Program for Gender Equality and the establishment of a system for monitoring the implementation of the Law on Gender Equality is crucial. The non-compliance of [Law No. 03/L-073 on general elections](#) and [Law No. 03/L-072 on local elections](#) with [Law No. 05/L-020 on gender equality](#) should also be addressed as part of the electoral system reform, as this discrepancy was particularly evident in the most recent mayoral elections, held in 2021.

Even though Kosovo has progressed in terms of the content and structure of the legislative system and some modifications are evident, the NPISAA and the ERA remain the key national strategic documents for planning, implementing, and monitoring the implementation of all reforms necessary for the implementation of the ERA and upcoming phases of EU accession – particularly when we talk about political, economic, and rule of law reforms.

⁶ National Programme for Implementation of the Stabilisation and Association Agreement (NPISAA) 2021 – 2025

⁷ Second Phase of EU – Kosovo Political Priorities: European Reform Agenda (ERA) II

RECOMMENDATIONS

Improving women's positions and achieving gender equality is a matter of human rights and a condition for social justice thus it should not be seen in isolation, as a solely women's issue, as stated in the Beijing Declaration (1995)¹

Gender equality is one of the key preconditions for the establishment of democracy, respect for human rights, the accomplishment of social peace and justice, economic prosperity, sustainable development of society, and improvement of social relations.

Gender equality implies equal position, treatment, and opportunities for women and men in the realization of human rights in all spheres of social and private life, and in order for Kosovo to achieve full gender equality, it is necessary to

undertake additional efforts for more effective implementation of fundamental human rights.

In this sense, to reach European legislative requirements in terms of gender non-discrimination, Kosovo should:



Encourage the government to actively work on harmonizing Kosovo's legislation with the EU's legal acquis in terms of gender equality, and to conduct continuous monitoring of its implementation.



Consult and engage civil society organizations, especially women's civil society organizations, in public consultations with a focus on decision-making processes at the local level.



Continue the search for mechanisms at the local level to implement more affirmative measures regarding the employment of women.



Strengthen the implementation of the already existing Law on Gender Equality.



Strengthen the application of already existing human rights protection instruments.



Adopt the Law on Domestic Violence and Violence against Women in order to minimize gender-based violence.



Increase efforts aimed at the proper functioning of the system of protection, prevention, and trial of all forms of gender-based violence.



Adoption of by-laws that would result from the Law on Child Protection and in that sense strengthen the protection of children.



Establish a sustainable Government mechanism that would enable the monitoring of respect for fundamental human rights and gender equality, both at the central and local levels.



Transfer the cost of paying for maternity leave from employers to the Government, in order to avoid abuse or non-compliance with legal provisions by employers. Simultaneously, stronger sanctions should be imposed on employers that fail to comply with the basic provisions of the Labor Law.



Harmonize the labor law with the EU Directive on work-life balance, in other words, reduce discrimination in the labor market, the percentage of low wages primarily for women, limited access to care for children and the elderly, and reduce the percentage of job vacancies suitable for women with families.



Strengthen the role of the Gender Equality Agency in promoting non-discrimination between the sexes, while also improving the coordination of gender equality officers in ministries and municipalities so that their roles are fully harmonized.



Guarantee greater compliance of the Criminal Code of Kosovo with the Istanbul Convention in order to reduce the percentage of domestic violence and other forms of gender-based violence, and provide all victims of violence with completely free legal aid.



Improve the functioning of municipal mechanisms for the prevention of domestic violence and provide standardized and coordinated shelters for victims of domestic violence and human trafficking.

CONCLUSION



Women and men in Kosovo are legally equal, which means they enjoy the same rights guaranteed by the Constitution and positive regulations. Kosovo has done a lot in recent years to improve the legislative and institutional framework for ensuring gender equality and discrimination protection. In doing so, it demonstrated a certain extent of political will and desire to address the issue of gender equality, which has been identified as a key issue in European Union policy. The broader context of European integration, as well as the obligations imposed on Kosovo in terms of harmonizing legislation and policies with European Union legal processes, undoubtedly contribute to favorable developments, among other things in the sphere of gender equality.

Gender equality between the sexes, however, has not been achieved de facto. Everything said thus far points to the need for wider advocacy for the implementation of existing solutions in practice, as well as the development of a clear methodology for monitoring the implementation of solutions in practice to assess the level of equality achieved and propose appropriate changes to regulations and policies, which would enable further development based on empirical evidence policies of equal opportunities. It is essential to keep enhancing knowledge and strengthening the capacities of all relevant actors, that is, competent authorities and institutions, in grasping the concept of gender equality and recognizing situations in which the gender equality principle is violated. In this regard, it seems especially important to inform and train employees in institutions that come into contact with cases of violence against women, particularly domestic violence and partner relationships, on how to deal in a way that ensures effective victim protection and prevents fatal consequences, as well as appropriate handling and treatment of abusers.

Despite the fact that the public recognizes and supports the concept of gender equality, and that the issue of gender equality has become more visible, it has been noted that as a society we adhere to some traditional attitudes, i.e. stereotypes about gender roles, which certainly contribute to the perpetuation of gender inequality. In addition, some believe that women and men are equal in our society and that no actions are necessary. This leads to the conclusion that it is necessary to continue working on raising the awareness of the general public about gender equality in order to deconstruct and disqualify entrenched attitudes about gender roles. In this regard, it is necessary to make the educational process, programs, and contents gender-sensitive, so that children learn from a young age to understand gender differences and respect diversity, as well as to respect equal opportunities and rights for everyone. Finally, it is crucial to work on improving gender-sensitive media reporting, because the media is an important means of creating a representation of women and gender equality.

