



Qendra Kosovare për Studime Gjinore  
Kosovar Gender Studies Centre

## Impact of the Labor Law on Women in Kosovo

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Technical Editing, Design and Print: KGSC

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This publication is made possible through support provided by the U.S Agency for International Development Mission in Kosovo USAID and Institute for Sustainable Community through program for Strengthen Civil Society in Kosovo (K-CSSP) and Friedrich Ebert Stiftung. The opinions expressed herein are those of the author.

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## ACKNOWLEDGMENTS

First of all, I would like to express my gratitude and appreciation to all interviewees and focus group participants who were willing to share their time and participate in our research, giving their positions and making it possible for us to have the data for elaboration of issues included in this report.

Specifically, I would like to extend my thanks to the U.S Agency for International Development Mission in Kosovo USAID and Institute for Sustainable Community through program for Strengthen Civil Society in Kosovo (K-CSSP) and Friedrich Ebert Stiftung for the financial support.

I would like to thank the research leaders at KGSC: Sibel Halimi and Luljeta Demolli, as well as staff members, Ilir Miftari and Driton Parduzi, whose contribution has been extremely important for the preparation of this report.

Luljeta Vuniqi

Executive Director of the Kosovar Center of Gender Studies



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## METHODOLOGY

Kosovar Center for Gender Studies has used the information gathered to design the research methodology with the aim of measuring the "Impact on Women of the Labor Law in Kosovo".

The research was conducted through focus groups with women employed in the public and private sector and civil society in the period from July to August 2011. Criteria for selecting participants were drawn based on the level of employment of women in Kosovo and the participants were distinguished on this basis.

In addition, the research included interviews with relevant actors within institutions dealing directly or indirectly with the implementation of labor law.

KGSC has also used other sources of information to analyze possible problems of employees and employers in implementing the Labor Law in Kosovo.

Recommendations were finalized in cooperation with representatives of institutions and civil society during a work meeting with experts group.

The report was completed on August 31, 2011.



# Introduction

Women in Kosovo have historically been in a disadvantageous position compared with men. The position of women in decision-making (with minor variations) is almost the same in other countries in the Balkan region (Albania, Serbia, Macedonia, Montenegro, and Croatia). Currently in Kosovo, there are many mechanisms to ensure gender equality, the most important of them being the Law on Gender Equality, which has entered into force on June 7, 2004<sup>1</sup>. Its purpose is to: maintain, address and establish gender equality as a value that is vital to the democratic development of Kosovo society offering equal opportunities for participation of women and men in the development of political, economic, cultural and other fields of life.

Despite improvements related with equal representation of women and men after 1999 that came as a result of joint efforts of groups of women, activists and international institutions, achieving full equality and participation, in terms of political, economic and cultural empowerment, remains highly challenging. Poverty, unemployment, patriarchal mentality, gender violence remain major challenges that impede equal representation between men and women. Various pieces of research and analyses conducted by the Kosovo Center for Gender Studies and other organizations show that although local and international institutions have made some efforts to increase women's participation in the economy, due to understandably gender-sensitive interventions, women are still under-represented in all walks of life in Kosovo.

Women are in a disadvantaged position compared to men when it comes to representation at senior management levels in both the public and private sector. One explanation for this phenomenon may be that women in Kosovo have lower education levels than men, which is caused by fewer opportunities to attend school due to traditional mentalities and the role that women played in society in the past.

Women in Kosovo lack economic security, especially in rural areas, because of inferior social status, lower level of education and lack of employment opportunities for them. Some data available indicate that only 13 percent

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<sup>1</sup> For more information see: [kosovoassembly.org](http://kosovoassembly.org)

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of women in Kosovo live on their income (the same percentage for men is 41 percent), which means that 87 percent of them depend on others for making a living<sup>2</sup>. The participation of women in the labor market in Kosovo is estimated to be lowest in Europe. The unemployment rate among women is estimated to be about 68 percent compared with that of men believed to be about 36.9 percent<sup>3</sup>. Another indicator of this under-representation is the ownership of real estate and businesses in Kosovo (only 8 percent of real property and 6 percent of businesses are owned by women)<sup>4</sup>. Women rarely own property and often had to give up their right to property in inheritance cases. Thus, they are not able to achieve economic independence or to obtain financial loans to start businesses<sup>5</sup>.

Women are often subject to economic discrimination and the lack of access to income or capital. Only 2 percent of the total number of loans is granted to women<sup>6</sup>.

If the issue is analyzed more deeply, it is obvious that this is the result of the high rate of inactivity for women, which is about 59 percent. This high rate of inactivity for women is a consequence of inadequate working conditions in the labor market. Compared with men, women are generally less flexible in the labor market in terms of working hours and other conditions. On the other hand, employers are reluctant to hire women because, among other things, they are often regarded as "unstable workers" (due to maternity leave and because they cannot do heavy work).<sup>7</sup>

For the implementation of an appropriate gender policy, a sound institutional environment is required, in order to meet the different needs of men and women in this regard.

Viewed from a gender perspective, analyses shows that the public administration in Kosovo still reproduces gender stereotypes in the selection

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2 Valur Ingimundarson. Under patriarchy and peacekeeping: Women in Kosovo since the war. <http://www2.hi.is/page/RIKK-womeninkosovo>.

3 Zymbiri Fikrije. National Qualifications Framework of Kosovo and Young People's Employment, MEST, 2008.

4 International Development Department. Working table on a Review of Social Exclusion in Western Balkans. 28.07.06..

5 Valur Ingimundarson. Under patriarchy and peacekeeping: Women in Kosovo since the war. <http://www2.hi.is/page/RIKK-womeninkosovo>.

6 The challenge of social inclusion in Kosovo, White Paper Draft, Assembly of Kosovo, 2009.

7 Riinvest. Research Report "Labour market and unemployment in Kosovo" taken from

<http://www.riinvestinstitute.org/publikimet/pdf/13.pdf>

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of professions and there is a lack of career orientation, which prevents the advancement of women and leads to a selection of traditional occupations.

In general, women in Kosovo continue to have jobs that have traditionally been more focused on education, health, agriculture, etc.

These differences, or to put it more accurately, the segregation of jobs and positions, later brings about a differentiation of wages. The average monthly wage in Kosovo is estimated to be slightly higher than 200 euros, and is lower for women compared with men<sup>8</sup>.

Lack of gender sensitive policies and working conditions whereby maternity leave may become a problem, causes not only a decrease in the level of employment for women, but also reduces work for women in jobs that have traditionally been performed by women.

Aspirations for EU integration of Kosovo and other Balkan countries should be used to promote gender equality. More efforts should be made to harmonize policy priorities and objectives in the field of gender equality, especially for promoting women in decision-making positions. In particular, priority should be given to policy development in the context of the Lisbon Strategy to encourage a greater participation of women in employment, such as drafting policies to harmonize work and family life through flexible working hours, and taking steps to combat gender stereotypes that prevent women from leaving their mark in the highest levels of business and politics.

The recently approved Labor Law was developed to regulate labor relations in the country. One of the provisions of this law deals specifically with cash and other goods and services provided to women during pregnancy. The law envisages a period of six months to a year of maternity leave in cases when pregnancy begins while women are employed. While this is one of the most positive aspects of the law from a gender perspective, it can also be one of the biggest challenges to overcome in the efforts to increase employment of women. The current formula is 6+3+3, according to which during the first 6 months, compensation is provided by the employer. This provision is particularly problematic because small businesses can face challenges in providing salaries for staff on maternity leave, especially if the staff should be replaced during the postpartum period.

Provisions for maternity leave may prove to be the main source of

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<sup>8</sup> Ibid.

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discrimination against women during the recruitment process. Within a short period during which this law is being implemented, the first signs of discrimination from employers against women are evident. Some of the most common forms of discrimination are related to questions about intentions to marry, have children or similar questions posed to young women.

Moreover, given the condition of Kosovo economy and low level of protection at work, it is expected that the law (especially the provisions and benefits of maternity leave), will not be implemented by a large number of private companies. It is expected that employed women, who get pregnant will be dismissed from work rather than be replaced temporarily by another worker (as required by law).

## **Gender Equality and Labor Law**

In August 2011 eight months will have passed since the entry into force of the Labor Law. This law regulates working relationships in the public and private sectors. Despite first positive effects, some articles of this law, such as that of maternity leave, have brought the first problems in terms of law enforcement. Until June, maternity leave for civil servants' category is not provided for in accordance with the labor law, but rather in accordance with the old system. In addition, the fund allocated by the Government for maternity leave is not sufficient at all. On the other hand Labor Inspectorate as the oversight body for labor law has an insufficient number of inspectors and a range of problems arising from the small budget available. Municipal courts continue to be overwhelmed with cases thus discouraging the parties, which terminate their employment to turn to them for assistance. Labor law is also seen as a mechanism for combating informal economy.

With the new Labor Law, employed women have benefited in time as well as in compensation, i.e. from 12 weeks of paid leave to 9 months of paid leave. The current leave formula is 6+3+3, and by all means it is encouraging for female employees. However, the implementation of employer payments for 6 months of pregnancy is expected to encounter problems for two reasons: first, for small businesses, salary compensation for employees for six months represents financial difficulties, especially in cases where during that period the worker must be replaced with new staff, and second, some businesses

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feel it is unfair that they pay 70 percent of salary while the government pays only 50 percent of the average wage. Currently the average salary in Kosovo is 345 Euros, which means that for three months a woman will have received 517.5 Euros in total. The mother can use the last three months of the yearly leave without pay. For large private businesses, paid leave reportedly does not represent any financial hardship and they will apply the law without any problem when necessary.

"Article 49 of the Labor Law regulates the issue of maternity leave and says: "An employed woman is entitled to **12 months** of maternity leave. For the first 6 months of maternity leave payments shall be made by the employer with compensation of 70 percent of base salary, and for the 3 following months of maternity leave payments will be made by the Government of Kosovo at the amount of 50 percent of the average salary in Kosovo. Women employees are entitled under this law to 3 months maternity leave without pay". Until entry into force of this law, under UNMIK Regulation, employed women were entitled to "at least **12 weeks** paid maternity leave after childbirth". This leave is recognized as an employment period and paid by the employer at a rate of **no less than 2/3** of the income of women employees"<sup>9</sup>.

Labor Law aims to regulate the rights and obligations between employer and employee, in the private sector as well as public sector in the Republic of Kosovo. In Kosovo, the regulation of employment does not begin with the Labor Law. In 2001, UNMIK had issued Regulation 2001/27 on Essential Labor Law, which largely encompassed most of the articles contained in today's Labor Law. However, the importance of the Labor Law is not just the fact that it is issued by the Kosovo Assembly, but rather in the regulation of certain rights of employees (especially those in the private sector) that are largely violated in Kosovo since the post war time, such as maternity leave, sick leave, working hours etc. The Law, which has a total of 100 articles, has considered a range of trade union requests providing for the following: employment contracts should only be in writing, the probation period lasts a maximum of 6 months, working hours should be 40 hours per week, staff are entitled to a 30 minute break, annual leave of 4 weeks, while women are guaranteed maternity leave of 12 months, 9 of which are paid.

"The Executive Body of Labor Inspectorate was established by the Ministry of Labor and Social Welfare, in accordance with the Convention Nr.81 of the International Labor Organization (ILO), Regulation no. 2001/27 on Essential

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<sup>9</sup> Article 48, Essential Labor Law.

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Labor Law in Kosovo and is responsible to the Ministry in relation to the coordination of executive actions regarding labor inspectorate in Kosovo"<sup>10</sup>.

Besides the chief inspector who has staff of 4 persons, a total of 52 inspectors are distributed in the municipalities of Kosovo. First, the number of inspectors is too small to cover all businesses operating in Kosovo. "The deployment of inspectors in municipalities is also not at the right level, because now, when Kosovo has 37 municipalities, some municipalities still do not have a single inspector, including two not so small municipalities such as Suhareka and Istog. Some municipalities coming out of the decentralization process also have a lack of inspectors. There are cases when municipalities such as Ferizaj and Lipjan are covered by one inspector only, and Prizren, the second largest municipality has only two inspectors. The municipality of Suhareka is also covered by inspectors from Prizren, which means that the two inspectors can hardly cover all registered businesses in these two municipalities"<sup>11</sup>.

Despite the gender sensitivity included in the Convention of International Labor Organization (ILO), gender structure in the Inspectorate appears to be extremely unbalanced. Of 52 people working in this institution, 47 are men and only 5 are women involved in Labor Law implementation inspection. In addition, the low gender sensitivity is noticed among the Chief Inspector's staff, which mainly consists of men.

The TEIP Organizational Structure is regulated by the Ministry of Labor and Social Welfare

1. Minister, 2. Chief Labor Inspector, 3. Three Deputy Chief Labor Inspectors, 4. Labor Inspectors and 5. Administration. Women's involvement in the decision-making positions is very low compared with men. Of all the levels there are a slightly higher number of women involved at the administrative level.

In terms of staff capacity in the inspectorate for monitoring Labor Law, most emphasis is placed on the small number of personnel for monitoring this law.

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10 From the Ministry of Labor and Social Welfare, 7 August 2011 <http://mpms.rks-gov.net/sq-al/departamentet/trupaekzekutiveeinspektoriatittepunës.aspx>.

[trupaekzekutiveeinspektoriatittepunës.aspx](http://mpms.rks-gov.net/sq-al/departamentet/trupaekzekutiveeinspektoriatittepunës.aspx).

11 The Institute for Advanced Studies GAP Research Report on Labour Law, page 7

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*The Inspectorate is well prepared and trained because it is not the first time we have this Labor Law, we have had the law since 2002 with UNMIK Regulation on Essential Labor Law and inspectors know this area. The biggest paradox is that they have sent some civil service employees to be trained in implementing labor law, which is just misuse of public money. The problem with labor inspectorate is lack of enough staf..*

*Agron Demi*<sup>12</sup>

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While the emphasis of the problem is placed on the insufficient number of inspectors involved to oversee the implementation of the law, no information is available on whether the organized training can include a gender perspective. Though Shqipe Krasniqi, Deputy Head of the Agency for Gender Equality within the Prime Minister's Office says that they are trained and have an obligation to fulfill their mission, which is envisaged under the law. "They are positioned exactly in accordance with what the law requires for implementation. These inspectors are sufficient for the implementation of this law"<sup>13</sup>.

While regarding labor inspectorate visits to businesses, women employed in the private sector have stated that the only thing the Inspectorate has done is they handed over a form to women to complain within a period of 7 days. Participants stressed that the inspectorate should have maybe promoted the idea of anonymous submission of appeals to their office"<sup>14</sup>.

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<sup>12</sup> Interview with Agron Demi.

<sup>13</sup> Interview with Shqipe Krasniqi.

<sup>14</sup> Focus group organized with women employed in the private sector. F.G organized on August 2011.

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## Gender Equality Law

In Kosovo, a number of institutions were established for the protection and promotion of gender equality. With the issuance of the Law on Gender Equality, the main body is the Office for Gender Equality<sup>15</sup>.

Kosovo's legal framework includes the rights of women to keep their job and return after maternity leave. Article 13.13 of the Law on Gender Equality stipulates the prohibition of dismissal from work, temporary suspension from work, injustice regarding job security, working conditions or performance evaluation of the staff member as a consequence of his/her complaint for sexual harassment or discrimination based on gender. Furthermore, Article 12.8 of the Law on Gender Equality stipulates that "employers should ensure equal treatment for women and men in the labor sector and take steps to ensure that vacancies are not categorized as specifically for women or for men only". Despite the general provisions governing occupational safety and health, the legal framework of Kosovo has no specific rules that ensure workplace safety and health of pregnant and breastfeeding women. In Kosovo, maternity leave for women, in the public and private sector, lasts 12 weeks. While the public sector pays 100 percent of full salary, the private pays at least 2/3 of the full salary.

Article 12.2 of the LGE envisages: a vacancy shall be made available equally to men and women. Announcement or publication of a job vacancy cannot contain words or phrases that discriminate based on gender. This provision does not apply if the purpose of announcement or publication is made to achieve a gender balance within a professional sector, and this should be noted in the advertisement<sup>16</sup>.

Criteria and conditions for selection of candidates for jobs in every branch of activity, at all professional levels, in public and private sectors, are established on basis of gender equality<sup>17</sup>.

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<sup>15</sup> Gender Equality Office was established under Government Decision No. 5/31, dated 01.02.2005.

<sup>16</sup> Article 12.3. LGE.

<sup>17</sup> Article 12.4. LGE.

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*In the event of dismissal from work of an employee when he/she requests the implementation of LGE, or dismissal from work, temporary suspension from work, injustice regarding job security, working conditions or work performance as a consequence of his/her complaint for sexual harassment or discrimination based on gender, the employer shall be punished with a fine from 5.000 up to 10.000 Euro and the responsible person, shall be punished by fine from 1000 to 3000<sup>18</sup>.*

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"In carrying out tasks related to gender issues, the Gender Equality Agency coordinates its activities with the Advisory Office for Good Governance, Human Rights, Equal Opportunities and Gender Issues, and issues of discrimination directly related to gender are treated by the Gender Equality Unit within the Ombudsperson Institution established by UNMIK Regulation no. 2000/38, which also has the responsibility of reviewing draft laws, providing comments on the implementation of this law and existing legislation when dealing with gender issues. <sup>19</sup>"

The Law on Infants Breastfeeding incitement and Protection, under Article 14, stipulates that: "The employer cannot quit the contract of employee that breastfeeds the child and is on maternity leave. The employer cannot quit the contract of employee that breastfeeds the child and that is on maternity leave due to rights regulated based on this law. The employer is obliged in cases of contract termination of employee that breastfeeds a child to give the reason in writing based on Paragraph 2. In case of violation of provisions of this article, the employer is obliged to pay the employee adequate retribution with material compensation that the employee who breastfeeds a child is entitled to for the following 6 months. Under paragraph 2, an employees who breastfeeds her child, is entitled to continued payment from paragraph 4 to 6 more months from health insurance funds or in the lack of such funds, from social funds.

The Employer ensures that women and men have equal opportunities for continuing education and professional training and for attending courses, which are held to improve professional skills or prepare for other occupations.<sup>20</sup>

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<sup>18</sup> Article 16 (paragraph3) (Penalty provisions) LGE.

<sup>19</sup> See Article 5-LGE.

<sup>20</sup> Article 12.6.-LGE.

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The Employer or institution that provides professional training and each individual who participates in professional training shall not discriminate against any individual on grounds of gender.<sup>21</sup>

The Employer must provide equal treatment for men and women in the labor sector, and take measures to ensure that vacancies are not categorized specifically for women or men<sup>22</sup>.

Gender discrimination is prohibited by law in all spheres of social life in Kosovo, as defined under the LGE<sup>23</sup>.

Criteria and conditions for selection of candidates for jobs in every branch of activity, at all professional levels, in public and private sectors, are established on basis of gender equality<sup>24</sup>.

The public and private sectors as well as legislative and executive institutions in the labor and employment sector ensure equal rights and opportunities for women and men<sup>25</sup>. Law on Gender Equality under Section 12.5 states: "Employer shall pay an equal salary for women and men for equal work and for work of equal value, as well as provide equal employment and work conditions and all equal rights at work<sup>26</sup>".

## Maternity Leave in the Labor Law

According to the GAP institute Civil Service Law in Kosovo was adopted by the Kosovo Assembly in May of 2010, and aims to regulate the status of civil servants. The Independent Oversight Board (IOB) on Kosovo Civil Service is an independent body that reports to the Assembly of Kosovo and aims to review and decide upon appeals from civil servants related to employment, supervision of civil servants appointments and oversight of implementation of rules and provisions in the Civil Service Law. In the IOB

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<sup>21</sup> Article 12.7. LGE

<sup>22</sup> Article 12.8. LGE

<sup>23</sup> Article 18.2.- LGE.

<sup>24</sup> Article 12.4. LGE.

<sup>25</sup> Article 12.1. – LGE.

<sup>26</sup> Article 12.5- LGE

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annual report for 2010, it has been reported that the Council has received a total of 290 complaints from civil servants and parties interested in civil service employment in Kosovo. Complaints are classified by object of complaint, gender structure and national structure where the largest number of complaints is related to termination of employment contract (30 %), vacancy announcement disputes (28 %), material compensation (15 %); refusal to extend employment contract (9 %), demotion (8 %), change in position (1.8 %), and other disciplinary measures (8 %). Regarding gender structure, the largest number of complainants is men; with about 78 percent and 22 percent are women.

“Regarding maternity leave there is a legal misunderstanding since against women employed in the civil service, the KSF and the Kosovo Police double standards are used, at least at the time when this research has been conducted. Labor Law and Law on Civil Service of Kosovo are not properly harmonized even though Labor Law, Article 2, states that “the provisions of labor law apply to all employees and employers, whose employment is regulated by special law; if the special law does not provide solutions to specific issues of employment”.

So far the issue of maternity leave for civil servants is regulated by the Civil Service Law, which is supplemented with Administrative Instruction 05/2007 on the Regulation and Establishment of Procedures for Maternity Leave Payments to Kosovo Civil Service of year 2007, which states that the employees of the civil service of Kosovo are entitled to paid maternity leave for a period of 6 months, where the first 3 months are paid by the employer and the second 3 months are paid from a special fund established by the Government of Kosovo with 70 percent of the minimum wage in Kosovo. Such practice is confirmed by the Independent Oversight Board and has been implemented at least until the end of May 2011. This means that while a teacher is given maternity leave on basis of the 6+3 system, an administration employee is given maternity leave in accordance with the 3+3 system.

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## Kosovo Policies on Maternity Leave: a regional comparison

Even though in accordance with the 2010 law, Kosovo provisions on maternity leave are not the most unfavorable in the region, though they are below average policies in Eastern Europe when it comes to support for young mothers with respect to compensation, thus questioning the percentage of women who will be able to financially enjoy the leave granted to them. Total length of maternity leave a woman can take and maintain the workplace in Kosovo is 12 months. Thus, our country ranks among the countries that provide the longest general time period (compared to Albania, Bulgaria, Croatia, Montenegro and Serbia). The overall level of compensation or offered wage replacement however ranks Kosovo at the bottom of the group. All other countries, except Bosnia-Herzegovina (and only the Federation of Bosnia and Herzegovina within Bosnia), according to law provide higher compensation to young mothers during the post pregnancy period (although in practice this compensation is not always provided). Kosovo is also different from other countries in the region in terms of the method of financing compensation for maternity leave. In all other countries, payment of maternity leave for women is provided under the law entirely from public funds. In Kosovo, maternity compensation is paid to young mothers at different times and in different amounts, both from the government and from the employer.

Kosovo also differs greatly from other countries regarding the flexibility it provides. While some countries include a compulsory period of maternity leave, either before or after birth (or in both cases), Kosovo does not. The shortest period of such leave is one week before birth (Brcko District of Bosnia and Herzegovina)<sup>27</sup>. Croatia grants the longest mandatory leave period: mothers should take time off from work 28 days before the anticipated date of birth and cannot return to work before six months after birth<sup>28</sup>. The most common period of mandatory prenatal leave is 28 days<sup>29</sup>. In Kosovo, with a doctor's recommendation, a woman may begin her leave 45 days before the anticipated date of birth. However, the employer may require the woman waiting to give birth, to take mandatory leave 28 days before birth depending on the employer's perception of her ability to perform work in her

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27 Council of Europe: [http://www.coe.int/t/dg3/familypolicy/Source/3\\_3\\_1%20Maternity%20leave.pdf](http://www.coe.int/t/dg3/familypolicy/Source/3_3_1%20Maternity%20leave.pdf)

28 Mandatory leave before childbirth was shortened in 2009. Council of Europe: [http://www.coe.int/t/dg3/familypolicy/Source/3\\_3\\_1%20Maternity%20leave.pdf](http://www.coe.int/t/dg3/familypolicy/Source/3_3_1%20Maternity%20leave.pdf)

29 In Croatia, Slovenia, Macedonia and Serbia, maternity leave must start at least 28 days before childbirth. In Romania, maternity leave must start at least 42 days before childbirth.

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condition<sup>30</sup>. By law, a woman, apparently, has the right to refuse to take leave during this period if she wants, but the law does not say how the cases are to be solved when there are differences of opinion in this regard. This seems to present a concern for the employer, which is not evident in maternity leave provisions in other countries. The same provision is effective in Bulgaria only, where the woman's employer must approve her request for maternity leave after 135 and then 315 days after birth. Kosovo provisions appear to predict that women would not be very interested to take maternity leave in the circumstances of employment in Kosovo and it is implied that they may want to work even if they are unable to work. It is unclear whether this is contrary to the purpose of periods of mandatory leave before birth in other countries, but these provisions appear aimed at protecting the health of pregnant mothers and children rather than be interested in women's productivity.

Romania, rather than include such leave under the basic law, it has included provisions on "motherhood risk."<sup>31</sup> Under such provisions, a mother can apply for extended maternity leave if that is required due to her health or the baby's, or in some cases if the mother wishes to breastfeed. Her application must be supported by a doctor. No data were found to verify the difference between being granted this type of leave for "motherhood risk" and the use of longer periods of maternity leave when available without such additional approvals.

Kosovo, like other countries in the region, has provisions for the fathers to take over maternity leave benefits if the mother dies without exploiting them or if she is unable to care for the child. It also allows fathers to take leave instead of mothers after an initial period during which only the mother is entitled to maternity leave. In Kosovo, this period is 6 months. Croatia meanwhile, allows fathers to take leave after 42 days after birth. Unlike the laws of other countries, Kosovo law does not clearly allow other types of caregivers (grandmother, grandfather raising children, etc.), to take leave.

Recommendations for implementation of Kosovo legal provisions on maternity leave

Experience of other countries in the region can serve as an example to guide Kosovo in the path from creating adequate benefits for new

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30 Labor Law in Kosovo. <http://www.assembly-kosova.org/common/docs/ligjet/2010-212-eng.pdf>

31 Council of Europe: [http://www.coe.int/t/dg3/familypolicy/Source/3\\_3\\_1%20Maternity%20leave.pdf](http://www.coe.int/t/dg3/familypolicy/Source/3_3_1%20Maternity%20leave.pdf)

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(employed) mothers to the full and public implementation of the law. In 2004, UNICEF found that throughout Eastern Europe and the Commonwealth of Independent States, women face added gender discrimination in the workplace, especially in the private sector, since the prospects for financing the maternity benefits have faded the willingness of employers to hire women in full time jobs<sup>32</sup>. Unfortunately, although the legal provisions for job protection and compensation are necessary for women to have a stable job, to be economically independent and have children, they make women unattractive to employers. Therefore states must be vigilant to ensure that laws are implemented as written and that employers do not deviate from the law and do not exclude women from job opportunities. According to findings by the GAP Institute, although Kosovo has adopted provisions for maternity leave in line with other countries in the region, it will be difficult to ensure that employers respect the law and do not discriminate against mothers or potential mothers<sup>33</sup>.

In Slovenia, mothers have reported discrimination from their employers because they were or might become mothers. 14 percent of interviewed mothers under the age of 30 reported that their working relationship was terminated against their will after they had a baby. 10 percent of interviewed women said they could not get a promotion after childbirth. 28 percent of interviewed mothers (and 11 percent of interviewed fathers) reported that potential employers had asked them whether they had or planned to have children and that 22 percent of mothers and 3 percent of fathers said that having children or planning to have children had caused them problems in finding a job<sup>34</sup>. Gender discrimination does not necessarily affect taking maternity leave in Slovenia, since this is mandatory, but on the other hand the low rate of using maternity leave in Albania could be related to the ongoing problem of gender discrimination in the workplace against the law. In Albania, in year 2000, the average period of leave taken was less than 100 days (out of possible 365). According to a survey conducted in 2003, only 1.4 percent of interviewed families with children under the age of two reported that they received income from maternity leave benefits. This study has found through unverified evidence that employers in Albania sought to hire only unmarried women or women employed part-time or for limited period of time, apparently to avoid interruption of work caused by women

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32 UNICEF, 2004

33 The Institute for Advanced Studies GAP 2011, p. 3-4.

34 European Working Conditions Observatory "Combining work and family life": <http://www.eurofound.europa.eu/ewco/2006/03/SI0603019I.htm>

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taking maternity leave. This finding suggests that employers in Albania can be tough on women who take maternity leave. The low rate of using leave may also indicate that women do not feel that their job is safe, while they are on leave. They also face career hurdles due to maternity leave.

GAP Institute has also identified that the Kosovo government is failing to properly fund maternity leave provisions<sup>35</sup>. This is consistent with the experiences of Croatia. Croatian state initially failed to pay full compensation of maternity leave guaranteed to mothers with the Labor Law of 1996. It should be pointed out that strong pressure from women's right groups and women's unions played a major role in that the government finally funded maternity leave under the mandate from 1997 onwards<sup>36</sup>. From that point on, the number of mothers taking maternity leave rose significantly. In 2003, the last year with available data, mothers took on average over 250 days off for the birth of live children<sup>37</sup>. Expenses for maternity leave are already the highest in the region, about 9% of GDP in 2000. Limited use of maternity leave among Albanian women may also reflect the level of compensation offered to new mothers: women receive 80% of their average salary for 150 days after birth and then 50 percent of their salaries for the remained period of leave. Expenses for maternity leave amount to only 14 percent of GDP in 2002, after having steadily fallen since the first data available for 1995<sup>38</sup>.

Tanaka suggests that longer maternity leave can have positive effects on child health and welfare because of increased parental care and mother's ability to access prenatal care. Longer maternity leave is especially associated with significantly increased number of young mothers that breastfeed their children for a sufficient period of time to reach the threshold where children reap health benefits of breastfeeding<sup>39</sup>. Research in Europe shows that longer periods of maternity leave are associated with increased rates of women returning to work after childbirth and prolonged time spent by mothers with children during their key years of development.<sup>40</sup>

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35 The Institute for Advanced Studies GAP Research Report on Labour Law, page 7

36 Shiffman, Jeremy. Pg. 27. "Reproductive right and the state in Serbia and Croatia"

37 Scribd

38 Scribd

39 Baker and Milligan, Employment of mothers, breastfeeding and health: Evidence from maternity leave terms. Note: This is a Canadian study, used here as evidence in lack of similar studies conducted in South Easter Europe.

40 Pronzato, Chiara Daniella. "Return to work after childbirth: pg. 358. "If the policy goal is to increase participation of women in the labor market, we found that longer periods of job preservation increase the likelihood that women return to work after childbirth. If the policy goal is to increase women's involvement in child development, women in countries with paid maternity leave are seen to spend more

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Tanaka has shown that extension of maternity leave reduces infant mortality<sup>41</sup> which should be a concern in Kosovo, given that it has the highest rate of infant mortality in Europe<sup>42</sup>. Essentially, this research has only observed the link between the mitigation of mortality rates of infants and paid maternity leave schemes and schemes of job protection, showing that mothers who are not entitled to maternity leave with pay and job security will not enjoy the full benefits from leave and thus will not transfer such benefits to their babies<sup>43</sup>. These studies suggest that it would be wise for Kosovo to ensure that its leave provisions are very generous to convince mothers to transfer such benefits to their children.

## **International Monetary Fund and the Development of Maternity Leave Policies in South Eastern Europe**

All countries included in the list are receiving funding from the International Monetary Fund (IMF), in one way or another or have been over the last ten years. In consultation with all concerned countries, the IMF has stressed the importance of structural reforms - including various forms of social rights such as maternity leave - and labor market flexibility as key factors for a healthy economy. The granting of rights should be checked on a regular basis to ensure that a certain country is within the parameters of debt and deficit set by the Fund.

IMF has not in its official documents requested any given reduction of benefits in either of the countries covered by this report. In some cases they point to maternity leave as an example of overly generous policies, the benefits of which could be slowed down to cut costs without having any extreme adverse impact on the society. In 2007, the IMF identified generous policies for maternity leave in Slovenia as restricting budget flexibility<sup>44</sup>. In 2006 an inspection by the IMF, pointed out that extended maternity benefits and free textbooks for children had further strained state finances, however

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time at home with their children during the first year of life.

41 Tanaka, F10

42 UNICEF: <http://www.unicef.org/kosovo/children.html>

43 Tanaka, 2005. Pg. F26

44 Slovenia, 2005.

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it did not advise that these services be cut<sup>45</sup>. Whether by direct pressure from the IMF, or not, some countries here are committed to reduce national maternity benefits in the Letters of Intent (LOI) and other documents submitted to the Fund through which to structure the terms of their loans<sup>46</sup>. Macedonia, in its 1998-2000 framework document pledges to reduce the amount of benefits in cash paid to young mothers to "encourage" shorter maternity leave (it is unclear what this "encouragement" would involve or if it has been implemented). In some cases, such a move seems right, as was the case with Serbia: in the LOI 2001 submitted to the Fund, they proposed a reduction of the period of maternity leave from five years to one year as under the current law<sup>47</sup> (Serbia has difficulty paying single year benefits to mothers who are entitled to them)<sup>48</sup>. Perhaps the most special case is that of Romania, where the IMF is widely believed to have influenced a movement to limit the benefits available to new mothers who are employed. Under the law before 2010, working mothers received, in addition to 18 weeks of paid leave before and after birth, an additional leave of two years with payment of 85 percent of their salaries. In December 2010, the government passed an emergency measure to reduce the paid leave by half, to one year plus another year during which period the mothers would not receive compensation, but they would keep their job<sup>49</sup>. At that time, Romania was under pressure from the IMF, to reduce expenditure under the terms of an aid package of 20 billion Euros by the Fund<sup>50</sup>. Public protests against the alleged influence of the IMF on the decision to cut benefits prompted the IMF Chief of Mission in Romania to emphasize that he supported this step to make the cost of maternity leave more "efficient". The Fund did not pressure the government to make specific cuts in its efforts to adjust social spending (as ordered by the terms of the loan package)<sup>51</sup>. IMF official documents reveal that the Fund had really not separated, as it did in other countries, maternity leave as ripe for reform. Instead, LOI's from the Romanian government indicate that the government identified maternity leave as a potential field to achieve structural reforms deemed necessary by the Fund.

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45 Croatia, Article IV Inspection, 2006.

46 In the region, IMF documents show that Bulgaria, Macedonia, Serbia and Romania have promised cuts in maternity benefits as part of expenditure reductions to achieve accordance with IMF loan terms.

47 <http://www.imf.org/external/np/loi/2001/yug/02/index.htm>

48 Southeast Times: [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2011/01/20/feature-03](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2011/01/20/feature-03)

49 Balkan Insight <http://www.balkaninsight.com/en/article/romania-to-reduce-maternal-leave>

50 Balkan Insight <http://www.balkaninsight.com/en/article/romania-to-reduce-maternal-leave>

51 IMF did not impose maternity leave cut as condition for financing <http://business-review.ro/news/franks-imf-did-not-impose-maternity-leave-cut-as-condition-for-financing/10628/>

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## **The position of women employed in the public, private and civil society sector related to the impact of labor law**

This section of the report presents the results derived from four focus groups conducted to study the impact of labor law on women working in the private sector, public sector and non-governmental organizations. These focus groups were conducted to learn the attitudes of women towards labor law since a basis of accurate data that would enable a meaningful discussion on this issue is lacking.

From focus group discussions it is noted however, that women who will take full maternity leave as far as the labor law envisages, may have different problems, such as promotion during pregnancy and after maternity leave cannot happen for a long time; some say that pregnant women are fired once the contract has expired under some pretext. Focus group participants pointed out that maternity leave of 12 months may terminate the career of Kosovo women. The common idea coming out of focus groups organized by KCGS was that the law was said to protect women during maternity leave but does not help her in family planning. Participants shared the view that the impact of labor law can be evaluated after two years, when it will be understood whether women were dismissed from work after taking maternity leave.

"There were many warnings in the media on the labor law and regarding employers, that maternity leave should be paid, stating that labor law could bring harmful consequences for women who wish to become employed in the future. The media have highlighted obligations of private sector employers, while attempting to learn what the employers will do with young women who wish to become mothers. However some feel that those who do not pay women during maternity leave cause gender discrimination. Part of the focus group expressed the conviction that laws that protect women's rights are not implemented. One of the focus group participants, employed in the Kosovo Police said that this institution has not yet started to implement the law on pregnant women. Members of the Police are currently treated in accordance with the regulation on civil servants. In other words, the emphasis on implementation of the labor law was placed only on the private sector without doing an analysis as to what will the maternity leave be for public sector workers. The rule applies in the public sector according to which mothers are only entitled to 6 months leave."

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According to an employee in the private sector, "the reason why women in the fertile age will be unemployed in the future is the cost of business especially small businesses due to very long period of maternity leave, which will be 12 months. Employers in the private sector feel extremely burdened by the labor law. We have heard that all employers and their representatives have been against the labor law because of maternity leave clauses," said some of the participants from the private sector.

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*We only had one staff member requesting maternity leave so far. For six months, we paid 70 percent of salary, according to the law. Once the first 6-month period was over, the company issued a certificate and other documents required to apply for the next three months with the government. The form from government is ready. It states what the employer must submit. During the last six months, we have employed women. Maternity leave is not introduced so that we can discriminate. However, we should find a formula to ease the burden for the company because as the situation is, this represents quite a burden, says a participant from the private sector.*

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Some private sector participants have claimed that the changes were small. They had more of an impact on leave. The contract of employment had some specific requirements. The contracts were revised, as well as leave forms. Employees were already informed that the new labor law is in force. The manual of procedures was also revised. Salaries for each position are approximately known, but in the end this depends on employer-employee negotiations.

Participants from civil society, regarding harmonization of their labor policies with the law, have indicated that annual leave has changed, which now has 18 days, and sick leave has become 20 days.

Working hours have changed from 8 up to 16 with half-hour break. Contracts have been amended to adapt to the labor law since January this year. Organizations have their rules of procedure, based on the labor law. Contracts of employment are adapted to the labor law and to the needs of the organization. In cases where there are no funds to properly cover annual leave, medical leave, and other things, some articles were added to regulations to suit the needs of the organization. The regulation has been recently established, with the new labor law. Maternity leave, in the organization I worked with before, was implemented even though it had not

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been regulated by law. We paid 6 months maternity leave.

As far as concerns access and equal opportunities for men and women in focus groups conducted with participants from the public sector, different opinions were given. There are disparities and access to benefits on basis of connections, but not by gender. There are women who have lots of benefits from work. "There is no gender or age discrimination but everything depends on interests and connections with officials established during employment. There were cases where unqualified people were hired for a given position. In general, it is easier for men to get a job. Looking at the criteria to be met, then a man has priority, especially after entry into force of the labor law. It is very difficult for a woman over 35 years old to get a job. Preference is given to young people and men.

As for the attitudes of civil society participants in the focus group on gender and age discrimination in employment, they have expressed confidence that they have preferences for women, and it is an organization oriented towards women's rights. In terms of age, we think that people with experience can contribute more. I think that in Kosovo, this generation of 45-55 years old is in a difficult position to find work and to keep it. There are many people with experience who have worked hard and were left without jobs. Workers of an older age are more knowledgeable for the reason that they have grown children and have no burden thus concentration at work and contribution is higher.

Concerning discrimination against pregnant employees and nursing mothers, public sector participants mentioned the case of a pregnant colleague of them, who is beginning to worry, because of the risk of losing her job.

"We have two pregnant coworkers who want to take maternity leave soon, but no one can explain to them how much time off they can take. Before three months, there was another coworker who returned after maternity leave and was told that the employer only pays the first three months of maternity leave, while the rest was without pay."

For big businesses which employ many women there are rumors that contracts were not extended for women who are young and married. In order to get a job in such businesses age and marital status play an important role. In the interviews you may hear different questions such as, are you married, how many children do you have, are you engaged, are you in a relationship,

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do you plan a family?

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*"Last year, my sister applied for the position of auditor in a national bank and after a while, an email was returned with the content: "because we have not seen any adequate men, we are willing to look at CVs of women ". However, there are cases of prejudice by companies against the applicant's gender and age. In a large telecommunications company, from entry into force of the new law the number of pregnant women has increased enormously. This company has problems since some management positions are difficult to replace. In addition, discrimination against women is evident in the shorter term contracts offered to them. In this case the employer does not need to pay two salaries for the same position since one goes and the other comes".*

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As for the complaints system participants of the focus group organized with staff from the private sector say that unless someone is willing to deal with the director, otherwise there is no complaints sector and they consider this as a major deficiency. Another participant from the private sector says: "We have a system for problems of staff at work and in their life outside work. Last year, all staff submitted a procedure for appeals against harassment. Besides the direct supervisor, and human resources department, they can go directly to speak about complaints. All that was mentioned above brings to light a lack of government strategy for labor law problems. Gender perspective should be an integral part of government strategy and policies relating to employment. It is necessary to collect data disaggregated by gender.

### **Positions of main stakeholders on the labor law from the gender perspective<sup>52</sup>**

*"In past vacancy announcements opened in the public sector, we have to admit that sometimes we hesitated whether to accept a woman or a man. The problem is not that a woman may be on leave for a year, but we will have problems with substituting her - we cannot find an adequate substitute for such a short time"<sup>53</sup>.*

In August 2011, eight months will have passed since entry into force of the Labor Law. This law regulates labor relations in public and private sectors. Despite the short duration of its implementation, the stakeholders interviewed

<sup>52</sup> Main stakeholders mean inclusion of relevant persons from public and private institutions dealing directly and indirectly with the enforcement of labor law, for more information see Annex 1 list of interviewees.

<sup>53</sup> Agim Krasniqi, Director of Budget within the Ministry of Finance. From <http://kosova.info/2011/06/perkujdesi-per-lehonat/>

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expressed varying positions regarding difficulties that this law entails now and may in the future. However, most of the stakeholders interviewed identified the main problems which may hinder law implementation. Agron Demi, Director of GAP Institute thinks the biggest problem in enforcing the law is the enforcing institutions, namely the labor inspectorate and the courts. Inspectorate is understaffed, there are some 49-51 inspectors, and the staff cannot be hired because there was no budget review. Another problem is that because of IMF pressure the government is willing to interfere with cuts in budget lines of the labor inspectorate as well as other sectors. Another problem is the work of courts, there are cases when a labor inspector has done his/her job in limited cases but the courts have not yet given their verdict. In addition, a problem with specific emphasis is Article 49 that of maternity leave, which cannot be implemented due to limited budget. While representatives of the main institutions that will monitor implementation of the law, stated that during the period since the law took effect no barriers to implementation were observed. "I do not think there will be implementation problems, considering the oversight by the Ministry of Labor. I am not sure about provisions and articles that are problematic but there are women who are registered as unemployed and are exploiting the social scheme."<sup>54</sup> However, most stakeholders agree that implementation of Article 49 on maternity leave which directly affects the welfare of women in Kosovo is ranked as one of the problematic articles. High budgetary cost, lack of staff of the Inspectorate and IMF pressure are just some of the main difficulties associated with implementation of Article 49. Even according to Valdet Hajdini, a legal officer in AITUK<sup>55</sup> "Mutual interpretation of provisions of this law and confusion caused among civil servants with Article 49 is one of the key problems." According to him there are problems in implementation of those sanctioning provisions for employers in the context of maternity leave. We have remarks even on the weekly holidays, on conclusion of employment contracts, especially on contracts concluded for a period of less than one year.

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*There are many complaints from employees, but I believe that such challenges will be overcome with time.*

*Valdet Hajdini, legal officer at AITUK*

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<sup>54</sup> Interview with Dëfrim Rifaj, Director of Employment Department. Ministry of Labor and Social Welfare. Interview was conducted on 09 August 2011, Prishtina.

<sup>55</sup> Interview with Valdet Hajdini, Legal Officer. AITUK. Interview conducted on 08 August 2011, Prishtina.

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Harmonization of labor law with other laws in Kosovo as well as with European Union Directives also plays an important role in its functioning. Despite some antagonism expressed about the problems and difficulties that law enforcement entails, stakeholders have expressed a skeptical attitude regarding implementation of the Article on maternity leave. "Precisely because the lack of harmonization of the law with the age of admission of children in care centers before month 12, the medium-term expenditure framework still provides a budget quota that is less than the real costs for the labor law budget"<sup>56</sup>.

"Social Security Law, which is a basic law, same like the Labor Law. Without these two laws we cannot seek enforcement of the Labor Law and, of course, care towards employees and care towards employers as well. We should by no means burden one side and then the other side is not satisfied in the implementation of this law"<sup>57</sup>.

In addition, the law requires a period of six months up to a year for maternity leave in cases when pregnancy begins while the woman is employed. This is one of the most positive aspects of the law from a gender perspective; it can also be one of the biggest challenges to face in efforts to increase women's employment. "Unfortunately, discrimination is happening, labor law was not supposed to be an obstacle, specifically maternity leave, especially for unmarried women or those who are married, but there are obvious cases where employers are discriminating against women in employment"<sup>58</sup>.

Attitudes of civil society representatives from various government institutions differ in terms of discrimination against women and girls during the recruitment process for vacancies. Furthermore, according to Shqipe Krasniqi there is no gender-based discrimination in public institutions in terms of recruitment, it all depends on qualifications, work experience etc. "But all the people who complete their studies are unlikely to be recruited when each institution requires 3 years work experience"<sup>59</sup>. While, according to Agron Demi, because the state has not provided subsidies to businesses that grant maternity leave which should be paid for 6 months "businesses are

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56 Interview with Agron Demi, Executive Director of GAP Institute. Interview conducted on 05 August 2011, Prishtina.

57 Opinion expressed by Flora Brovina, Parliamentary Committee on Health, Labor and Social Welfare in the article "GAP: Labor Law is not being implemented". From the portal "New Prishtina" on 22 August 2011.

58 Interview with Valdet Hajdini.

59 Interview with Shqipe Krasniqi, Deputy Head, Agency of Gender Equality within the Prime Minister's Office. Interview conducted on 16 August 2011, Prishtina.

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afraid of hiring women and girls who are in the childbearing age". Furthermore, according to research conducted by the GAP Institute, Demi says that there is a decrease of female employment in banking, supermarkets and in all these sectors, which can avoid the responsibility for signing contracts between them and employees"<sup>60</sup>.

The most significant problem which is preventing implementation of labor law is the unwillingness of businesses to pay maternity leave for the first 6 months of leave with 70 percent of base salary, while they need to hire another employee for the period while the mother is on maternity leave. It is known that most private businesses are small businesses, these businesses are getting a financial burden in this case. In addition, businesses consider that labor law is unfair for them because they have to pay 6 months and the Government of Kosovo pays the remaining three months.

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*"According to research by the labor inspectorate, Bexhet Gaxhiqi, advisor to the Minister of Labor and Social Welfare, Gaxhiqi announced that most common violations of labor law are related to lack of signed contracts between employers and employees."<sup>61</sup>*

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Harmonization of labor law with other current applicable laws, problems that may be encountered during implementation of this law, the budgetary cost, insufficient capacity of the inspectorate for supervision of law enforcement, poor system of public kindergartens in admission of children under the age of 12 months, and prejudice about the negative impact of labor law in the lives of women in Kosovo are among the main issues highlighted by the key stakeholders interviewed and who give different perspectives depending on their institutional position.

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<sup>60</sup> Interview with Agron Demi.

<sup>61</sup> From the portal "In Prishtina" on 22 August 2011.

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## Reporting to the media on Labor Law

The media have generally played an important role in terms of reporting on the labor law. This law has been discussed a lot before it was approved by the Assembly. For printed media as well as electronic media, the law has been among the important topics of discussion, and is among the laws that had the greatest media coverage.

In order to properly inform the media in Kosovo they have been present in many debates and discussions that were organized on the labor law and they themselves have initiated some discussions. In this context, the role of the media had a special weight in terms of promoting the law. By all means, attention was paid to maternity leave in particular, perceived as one of the most challenging provisions for implementation. In many small and medium-sized businesses law enforcement becomes particularly difficult when it comes to maternity leave. During the interviews we conducted with relevant stakeholders from civil society and the institutions<sup>62</sup> it was pointed out that labor law is one of the laws that had the most media coverage, also due to the fact that it was once withdrawn from the Assembly by the Government for the reason that it carries a high financial cost.

During our research we noted that the law has difficulty in implementation. There continue to be problems with public sector workers, especially in the private sector. Employees still do not know an exact address where to address their complaints if their right to work is violated. Ministry of Labor should do a campaign to inform citizens of their rights and it should have a clear system of complaints. If a worker has no employment contract, he still does not know where to complain<sup>63</sup>.

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*"The issue of labor law, from the moment it came into force, is of particular importance to the media, whether written or visual, thus I think that there was higher publicity compared to other laws, which however is not enough, so it is necessary to further promote this law"<sup>64</sup>*

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But despite the media's role for accurate information, citizens are still not informed about their rights as provided by law.

"Obviously, this is the most important weakness of labor law

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62 See interviewee list.

63 Interview with the Director of GAP Institute, Mr. Agron Demi, on 05.08.2011

64 Interview with the Chief Inspector, Mr. Basri Ibrahim, on 03.08.2011

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implementation. Many employers know that there is a labor law, many employees know that there is a labor law but did not hear that they have rights by law, so there should be awareness campaigns for implementation"<sup>65</sup>. It seems that the Ministry of Labor and Social Welfare should organize more awareness campaigns. "I think that the Labor Inspectorate should lay out an action plan in its development strategy, it should build such policies, which involve developing an awareness program for citizens"<sup>66</sup>.

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<sup>65</sup> Interview with the Director of Kosovo Business Alliance, Mr. Agim Shahini, on 09.08.2011

<sup>66</sup> Interview with the Head of Division of Labor and Employment, Mr. Hafiz Leka, on 05.08.2011

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## Summary of main conclusions

- In general, women in Kosovo continue to practice professions that have traditionally been more focused on the field of education, health, agriculture, etc.
- These differences, or more accurately, the segregation of professions and positions had led to differentiation of wages. The average monthly wage in Kosovo is estimated to be slightly higher than 200 euro, and is lower for women compared to men.
- Provisions for maternity leave may prove to be the main source of discrimination against women during the recruitment process. Within a short period during which this law is being implemented, the first signs of employers discriminating against women are noticed. Some of the most common forms of discrimination are related around questions about intentions to marry, have children or similar questions that are posed to young women/girls.
- Despite the gender sensitivity covered by the Convention of the International Labour Organisation (ILO), the gender composition in the Inspectorate appears to be extremely unbalanced. Of 52 people working in this institution, 47 are men and only 5 women are involved in law enforcement inspection at work. In addition, the low sensitivity to gender is noted on the staff of head-inspectorate, which mainly consists of men.
- As for maternity leave, there is a legal ambiguity in that at least until the time when this research was conducted, double standards have been applied for employed women in the civil service, the KSF and the Kosovo Police. The Law on Labour and the Law on Civil Service of Kosovo are not properly harmonized, even though in the Law on Labour, Article 2, states that 'the provisions of the Law on Labour shall apply to all employees and employers, whose employment is regulated by a special law, if the special law does not provide solutions for specific employment issues.
- However, focus group discussions is noted that women who will utilize the full maternity leave, as entitled in the Law on Labour, may have different problems, such as: promotion cannot happen during pregnancy and also for a long time after maternity leave; some have

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stated that once pregnant women employment contract expires any pretext might be found in order to dismiss them from the job. Focus group participants pointed out that the 12 months maternity leave may terminate the career of Kosovo women. From the focus groups organized by KCGS (Kosovo Centre for Gender Studies), there was a common understanding that the law protects women during maternity leave but does not help her in family planning. Participants shared the view that the effect of the Law on Labour can be evaluated only after two years, when it can be understood if women are removed from their jobs after taking maternity leave.

- According to a worker in the private sector, "the reason why women in fertile age in the future will be unemployed is the cost of the business, and especially of small businesses due to the very long period of maternity leave, which will be 12 months. Employers in the private sector feel extremely pressurized from the Law on Labour. We have heard that all employers and their representatives have been against the Law on Labour due to maternity leave", some female participants from the private sector noted.
- Harmonization of the Law on Labour with the other laws in Kosovo as well as with the European Union directives plays an important role in its functioning. Despite some antagonism expressed about the problems and difficulties that the law has in practice, the actors interviewed expressed a sceptical attitude regarding the implementation of the Article on maternity leave. "Precisely because of the non-harmonization of the law with the age of admission of children in nurseries before the 12th month, the mid-term expenditure framework which still provides a smaller budget less than the real costs for the Law on Labour budget.
- The media in general have played an important role in terms of reporting on the Law on Labour. This law has been greatly discussed prior to being adopted by the Assembly of Kosovo. Both for print media and electronic media, the law has been among the important topics of discussion, and is among the laws that had the most media coverage.

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## Recommendations

- The Government of Kosovo to accurately implement the Labor Law.
- The Government of Kosovo to organize public awareness campaigns on the existence of the Labor Law.
- Kosovo Government and the Ministry of Labor and Social Welfare to ensure Labor Law implementation in two sectors of labor with particular emphasis on provision 49 of maternity leave.
- Amend legislation regarding maternity leave, from 6 months to 12 months for civil servants as well.
- Harmonize Kosovo legislation with European Union directives regarding assistance to women in employment.
- MLSW to ensure implementation of Labor Law and Gender Equality Law, with particular emphasis on the provisions relating to women's employment without discrimination, in the public as well as private sector.
- Ensure care for children under the age of one by the relevant public and private institutions, so as to increase accessibility of women in vocational training and employment.
- Integrate gender perspectives in MLSW policies and apply existing policies that advance the position of women in employment.
- Unions to monitor the level of implementation of labor law by employers and employees in small and medium businesses, in order to protect the rights of women workers.
- To granted parental leave upon birth of a child, and men are encouraged to take more family responsibilities in raising children.
- To increase participation of women inspectors in the Labor Inspectorate and include a gender perspective in informing workers of their right to

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file complaints in case of violations of the law by employers.

- To organize training for inspectors from a gender perspective.
- Labor Inspectorate to inform employers in detail about their obligations to women workers by making it clear that failure to abide by the Articles relating to workers will be sanctioned with fines as provided for in the law.
- MPMS and other relevant institutions to organize vocational training for women in those professional fields for which there is greater demand in the labor market.
- To organize awareness campaigns by the MPMS on programs and employment opportunities for women, with special attention to women in rural areas and minority women.
- Ministry of Agriculture to provide affirmative action and favorable conditions for women in agribusiness.
- Ministry of Economy and Finance, in cooperation with banks in Kosovo, to enable women to obtain affordable loans and start their businesses, helping them with affirmative economic policies in various forms of co-financing and micro-credit with low interest rates.
- Employers in the public and the private sector to ensure adequate and regular breaks during working hours so that working mothers could breastfeed their babies.
- Victims of alleged discrimination should be encouraged to file complaints conditional upon keeping confidentiality.
- Gender budget should be introduced in the Government budget. Gender budgets are adequate means to check whether the policies are being implemented and also to see the impact of gender policies.
- Donors and the private sector should create a "Fund for Women" to provide essential resources to empower women in Kosovo.
- Ministry of Labor and Social Welfare should establish special programs to identify women in the informal sector and to direct them to the formal sector.

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## List of respondents

Nr	Mbiemri	Emri	Pozita	Institucioni	Data	Vendi
1.	Ibrahimi	Basri	Chief inspector	Ministry of Labour and Social Welfare	03.08.2011	Prishtina
2.	Leka	Hafiz	Head of Division of Labor and Employment	Ministry of Labour and Social Welfare	05.08.2011	Prishtina
3.	Demi	Agron	Executive Director	Institute for Advanced Studies	05.08.2011	Prishtina
4.	Hajdini	Valdet	Legal officer	BSPK	08.08.2011	Prishtina
5.	Rifaj	Defrim	Director of Employment Department	Ministry of Labour and Social Welfare	09.08.2011	Prishtina
6.	Shahini	Agim	Executive Director	Alliance of Kosovar Business	09.08.2011	Prishtina
7.	Krasniqi	Shqipe	U.d	Gender Equality Agency of the Government of Kosovo	16.08.2011	Prishtina

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## List of Abbreviations

ADL	Anti-Discrimination Law
CEDAW	Committee on the Elimination of Discrimination Against Women
DCSA	Department of Civil Service Administration
GCKK	General Collective Contract in Kosovo
GEA	Gender Equality Agency
GEL	Gender Equality Law
GEO	Gender Equality Office
ILO	International Labor Organization
IMF	International Monetary Fund
ISC	Independent Supervisory Council
KP	Kosovo Police
KPC	Kosovo Protection Corps
KSF	Kosovo Security Force
MEF	Ministry of Economy and Finance
MLSW	Ministry of Labor and Social Welfare
MPS	Ministry of Public Services
MTI	Ministry of Trade and Industry
OSL	Occupational Safety Law
PD	Purpose Documents
PPE	Personal Protection Equipment
PST	Pension Savings Trust
SOK	Statistical Office of Kosovo
SRSG	Special Representative of Secretary General
SWC	Social Work Center

