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# From Laws to Action

Monitoring the Institutional Response  
to Gender-based Violence in Kosovo



# **From Laws to Action**

Monitoring the Institutional Response to  
Gender-based Violence in Kosovo

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Authors: Endrita Banjska, Besarta Breznica, David JJ Ryan, and Nicole Farnsworth

Editing: Lauren Hanna

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# ACRONYMS AND ABBREVIATIONS

AGE	Agency for Gender Equality
BIRN	Balkan Investigative Reporting Network
CCK	Criminal Code of Kosovo
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CM	Coordination Mechanism
CMIS	Case Management Information System
CSO	Civil Society Organisation
CSW	Centre for Social Work
DV	Domestic violence
DVIU	Domestic Violence Investigation Unit
ECtHR	European Court of Human Rights
EIGE	European Institute for Gender Equality
EO	Employment office
EPO	Emergency Protection Order
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
GEO	Gender Equality Officer
GREVIO	Group of Experts on Action Against Violence Against Women and Domestic Violence
IFM	Institute of Forensic Medicine
IC	Council of Europe Convention on preventing and combating violence against women and domestic violence (“Istanbul Convention”)
ICT	Information and communications technology
IO	International Organisations
KCPC	Kosovo Criminal Procedure Code
KCS	Kosovo Correctional Services
KIPA	Kosovo Institute for Public Administration
KIPRED	Kosovar Institute for Policy Research and Development
KJC	Kosovo Judicial Council
KP	Kosovo Police
KWN	Kosovo Women’s Network
LAO	Legal Aid Officers
LGBTQIA+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual, and other identifying
LPDV	Law on Protection against Domestic Violence
M&E	Monitoring and Evaluation
MED	Ministry of Economic Development
MEST	Ministry of Education, Science, and Technology
MF	Ministry of Finance
MGEO	Municipal Gender Equality Officer

MH	Ministry of Health
MIA	Ministry of Internal Affairs
MLGA	Ministry of Local Government Administration
MLSW	Ministry of Labour and Social Welfare
MOJ	Ministry of Justice
MTI	Ministry of Trade and Industry
NCDV	National Coordinator against Domestic Violence
NGO	Non-governmental organisation
No./Nr.	Number
NSPDV	National Strategy of the Republic of Kosovo on Protection from Domestic Violence and Action Plan
OIK	Ombudsperson Institution of Kosovo
OSCE	Organisation for Security and Co-operation in Europe
PO	Protection Order
RAE	Roma, Ashkali and Egyptian
REC	Regional Employment Centre
RROGRAEK	Roma, Ashkali and Egyptian Women's Organisations of Kosovo
SIT	Centre for Counselling, Social Services, and Research
SOPs	Standard Operating Procedures for Protection from Domestic Violence in Kosovo
TEPOs	Temporary emergency protection orders
UN	United Nations
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNMIK	United Nations Mission in Kosovo
UNODC	United Nations Office on Drugs and Crime
UNW	UN Women
VA	Victim Advocate
VAAO	Victims Advocacy and Assistance Office
VTC	Vocational Training Centre

# EXECUTIVE SUMMARY

Several changes have occurred in Kosovo since 2015 related to the legal framework for addressing gender-based violence: amending the Constitution of Kosovo to include the Istanbul Convention, including domestic violence and sexual harassment in the Criminal Code of Kosovo, and establishing the National Strategy on Protection from Domestic Violence and Action Plan (2016-2020) (NSPDV). Other relevant laws and policies are under review. In this context, the Kosovo Women's Network undertook this research to identify remaining gaps in Kosovo's legal framework towards implementing the Istanbul Convention and to inform ongoing processes with an assessment of the knowledge, attitudes, and performance of responsible institutions in implementing the relevant legal framework. This report summarises findings, drawing from the existing literature, interviews with 190 relevant actors, court monitoring, and data.

A gendered understanding of violence against women is not integrated fully into the legal framework of Kosovo. While several instruments address domestic violence, few policy interventions respond to other forms of gender-based violence. Adopting the Draft Criminal Procedure Code will bring Kosovo law closer to the Istanbul Convention in formality, but further legal and policy changes are needed to implement an integrated, effective, comprehensive, and coordinated framework for preventing and addressing all forms of gender-based violence. Progress and inter-institutional coordination have been hampered by the absence of legally mandated permanent civil servant positions responsible for implementation and monitoring and evaluation, respectively, at national and municipal levels.

Overall, this research found some improvements in the knowledge and attitudes of institutions responsible for addressing gender-based violence since the last monitoring exercise in 2017. Yet, insufficient understanding of gender-based violence, particularly sexual violence, existed. Blaming the victim persisted. Efforts to "reconcile" the couple "to preserve the family" and violations of confidentiality remained prevalent in domestic violence cases. The NSPDV was only partially implemented. Insufficient budget allocations hindered an appropriate response.

Regarding specific institutions, Kosovo Police tended to know the new offenses in the Criminal Code and their responsibilities. However, some officers still removed victims rather than perpetrators from homes. While police and prosecutors should pursue alleged crimes, even if victims withdraw testimony, this has not always happened. Increased trust in police led to increased reporting, but some vulnerable groups still fear approaching police.

While specialised prosecutors and judges were appointed, human resource shortages still slow the prioritisation of these cases, as well as hinder Victim Advocates' ability to support victims. Judges pressuring victims to reconcile with perpetrators continued, and sentencing has not always been effective, proportionate, and dissuasive, as per the Istanbul Convention. The Correctional Service and the Probation Service still do not have programs for the reintegration and rehabilitation of perpetrators of violence or tracking these cases.

Centres for Social Work have struggled to provide appropriate case management due to staff shortages. This undermined their ability to represent the rights of the child. Shelters continued to face

financial problems, though financing improved since 2019. Representatives of education and health institutions continued to lack awareness about gender-based violence and may not always report cases to police. Treatment programs are limited. Vocational Training Centre and Employment Office officials generally lacked awareness on their legal responsibilities and approach they should have in assisting persons who have suffered gender-based violence.

The report concludes with recommendations for legal changes and each relevant institution. An annex summarises findings from monitoring of the implementation of the NSPDV.



# INTRODUCTION

Gender-based violence is violence perpetrated against a person *because of* her or his gender, or violence that affects persons of a particular gender disproportionately. Given the unequal power relations that exist among women and men in most societies, gender-based violence tends to affect women significantly more than men.<sup>1</sup> Indeed, violence against women and girls is among the most prevalent human rights violations worldwide.<sup>2</sup> In Kosovo, a 2019 survey by the Organisation for Security and Co-operation in Europe (OSCE) found that 57% of women surveyed had suffered psychological, physical, or sexual violence since the age of 15.<sup>3</sup> More specifically, 53% of women had suffered psychological violence, 9% physical violence, and 4% sexual violence at the hands of an intimate partner. While the OSCE survey did not interview men, a 2015 survey by the Kosovo Women's Network (KWN) found that 56% of men and 68% of women had suffered some form of domestic violence in their lifetimes.<sup>4</sup> Due to existing power relations and intersecting inequalities, some people can be particularly vulnerable to gender-based violence, such as Lesbian, Gay, Bisexual, Transgender, Queer, Intersexual, Asexual, and other identifying (LGBTQIA+) persons and women with different physical or mental abilities.<sup>5</sup> The OSCE study found that women who had lower levels of education, were financially dependent, or were living in rural areas were more likely to state that they had experienced domestic violence.

More women have experienced gender-based violence than reported in these surveys. Given that many women in Kosovo (48%) still consider violence, particularly domestic violence, a private matter,<sup>6</sup> gender-based violence often continues to be hidden, without ever being reported. This hinders institutions' ability to address violence. Moreover, OSCE found a correlation between respondents experiencing violence and believing that domestic violence is a private matter, that women should be obedient, and that women should be submissive. Women who expressed these beliefs were more likely to indicate that they had suffered domestic violence.

General Recommendation 19 of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has recognised violence against women, in both private and public spheres, as a violation of human rights.<sup>7</sup> In 2014, the Council of Europe Convention on preventing and combating violence against women and domestic violence, known as the "Istanbul Convention" (hereafter, "IC"), introduced a set of comprehensive obligations for addressing gender-based violence within the legal framework of international human rights law, making it the first legally-binding

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<sup>1</sup> Council of Europe, [What causes gender-based violence?](#), ND.

<sup>2</sup> UNFPA, [Gender-based violence](#), 2017.

<sup>3</sup> OSCE, [Survey on well-being and safety of women in Kosovo](#), 2019.

<sup>4</sup> Farnsworth, N., Qosaj-Mustafa, A., Banjska, I., Berisha, A., and Morina, D., for KWN, [No More Excuses: An Analysis of Attitudes, Incidence, and Institutional Responses to Domestic Violence in Kosovo](#), 2015.

<sup>5</sup> Berisha, A., Farnsworth, N., and Hoti, D. for KWN, [From Words to Action: Monitoring the Institutional Response to Gender-Based Violence in Kosovo](#), 2017.

<sup>6</sup> OSCE, [Survey on violence against women: Well-being and Safety of Women](#), 2019. This echoes KWN's 2015 survey findings that 31% of Kosovars considered domestic violence a private matter in that neighbours should not report it to the police (Farnsworth et al. for KWN, [No More Excuses](#), 2015).

<sup>7</sup> UN Committee on the Elimination of Discrimination Against Women, [CEDAW General Recommendation No. 19: Violence against women](#), 1992. [General Recommendation No. 35](#) has additionally recognised that the prohibition of gender-based violence against women has evolved into a binding principle of customary international law.

instrument of its kind.<sup>8</sup> The IC recognises that violence against women is part of a larger system of repression. Women experience structural gender-based violence, which differs from incidental violence perpetrated against men.<sup>9</sup> For example, in Kosovo, this broader system of repression includes lower employment rates, gender-based discrimination in hiring, women's underrepresentation in decision-making positions, and minimal property ownership.<sup>10</sup> These all place women in an unequal position within society and thus at greater risk of violence. Kosovo has committed to implementing CEDAW, and in 2020, Kosovo incorporated the IC into its Constitution, rendering it applicable as well.<sup>11</sup>

In addition to the principal need to address gender-based violence as a serious human rights violation, preventing violence also can contribute to decreasing substantially costs to the state, related to policing, justice, social services, and unemployment, among others.<sup>12</sup> In Kosovo, outdated estimates suggest that domestic violence alone cost the state more than €3.1 million in both 2011 and 2012 in direct costs, and substantially more in terms of days lost at work, health impacts, and educational or long-term employment outcomes for children, among other costs.<sup>13</sup> Thus, addressing and preventing violence, particularly recidivism, is in the state's interests.

Since 2008, Kosovo has adopted several laws and policies towards addressing and improving its institutional response to gender-based violence.<sup>14</sup> Most recently, in 2019, the Criminal Code of Kosovo (CCK) was amended to incorporate criminal offences in accordance with the IC, including: domestic violence, sexual harassment, and female genital mutilation.<sup>15</sup> The CCK now recognises domestic violence as physical, psychological, sexual, or economic violence or mistreatment within a domestic relationship. The pre-existing Law on Protection against Domestic Violence (LPDV) defines similarly these types of violence.<sup>16</sup> Meanwhile, in 2020 Kosovo began steps to amend the LPDV, among other relevant laws, to better meet identified needs and to harmonise them with the IC. Both the National Strategy of the Republic of Kosovo on Protection from Domestic Violence and Action Plan (NSPDV) for 2016-2020 and the Standard Operating Procedures for Protection from Domestic Violence in Kosovo (SOPs) also were set for revision by the Agency for Gender Equality and Ministry of Justice through the Office of the National Coordinator against Domestic Violence.<sup>17</sup> In this context, and following the aforementioned legal changes, the present research sought to monitor whether institutions know about these changes, how they have begun implementing them, and to collect evidence that

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<sup>8</sup> Council of Europe, [Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (the Istanbul Convention), 2011.

<sup>9</sup> Berisha et al. for KWN, [From Words to Action](#), 2017.

<sup>10</sup> For further details of existing structural inequalities, see Farnsworth, N., Morina, D., Ryan, D., Rrahmani, G., Robinson-Conlon, V., and Banjska, I. for KWN, [Kosovo Gender Analysis](#), 2018.

<sup>11</sup> The IC is now applicable under Article 22 [[Direct Applicability of International Agreements and Instruments](#)].

<sup>12</sup> For example, a case-study in the United Kingdom by the European Institute for Gender Equality (EIGE) estimated that gender-based violence costs the country more than €32.5 billion annually ([Estimating the costs of gender-based violence in the European Union: Report](#), 2014).

<sup>13</sup> Farnsworth, N., Qosaj-Mustafa, A., Ekonomi, M., Shima, A., and Dauti-Kadriu, D. for KWN, [At What Cost? Budgeting for the Implementation of the Legal Framework against Domestic Violence in Kosovo](#), 2012.

<sup>14</sup> For further information, see the [next chapter](#) and KWN's prior publications.

<sup>15</sup> The Assembly of the Republic of Kosovo, [The Criminal Code of Kosovo](#), 2019.

<sup>16</sup> Law No. 03/L-182, [Law on Protection and Against Domestic Violence](#), 2010.

<sup>17</sup> An evaluation of the implementation of SOPs was conducted to inform this. AGE, [Assessment of the level of implementation of the Standard Operating Procedures for Protection against Domestic Violence in Kosovo](#), 2019.

could inform further forthcoming legal and policy changes.

Improving Kosovo's response to gender-based violence as a human rights violation, including ensuring access to justice, is important for Kosovo's desired accession into the European Union (EU). The European Commission has observed shortcomings in the performance of institutions in addressing gender-based violence. In its *Kosovo 2018 Report*, the European Commission highlighted several issues, including: a lack of coordination among the police, prosecutors, judicial institutions, and other key actors that deal with gender-based violence; the need for sustainable funding for shelters; and the need for more effective reintegration of victims.<sup>18</sup> The European Commission's *Kosovo 2019 Report* observed that shelters still lacked sustainable financing and highlighted the challenge of minimal sentencing.<sup>19</sup> A study by the Council of Europe further found that there is still a lack of long-term housing and economic opportunities for victims of domestic violence and that legal support from victim advocates (VA) still depends on the capacities of the individual assigned to the case.<sup>20</sup> These are all issues that the NSPDV was supposed to address within its 2016-2020 timeframe.<sup>21</sup> To facilitate review of the implementation of the NSPDV, as well as continued monitoring of progress related to the EU accession process, the present research thus also sought to examine any changes in the institutional response to gender-based violence in Kosovo. Indeed, KWN's prior monitoring has supported the government of Kosovo and the EU by providing evidence of the current situation.

Meanwhile, the European Commission's *Kosovo 2019 Report* also identified improvements since 2018, noting that the appointment of the National Coordinator against Domestic Violence contributed to visible improvements in efforts to implement the NSPDV.<sup>22</sup> The report recognised that in 2019 seven municipalities created coordination mechanisms for addressing domestic violence, and institutions established a database for recording domestic violence cases. However, only approximately half of Kosovo's municipalities seem to have coordination mechanisms in place.<sup>23</sup> Moreover, in the past, their functioning has been mixed, depending on the location.<sup>24</sup> Given the important role that such mechanisms play in ensuring a timely, inter-institutional victim-centred approach (see Box 1) to protection, rehabilitation, and reintegration services, this research also has sought to examine their present functioning and whether there has been any improvement over time.

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<sup>18</sup> European Commission, *Commission Staff Working Document, Kosovo\* 2018 Report*, 2018.

<sup>19</sup> European Commission, *Commission Staff Working Document, Kosovo\* 2019 Report*, 2019.

<sup>20</sup> Krol, P., Kabashi, E., Ramizi Bala, A. for the Council of Europe, *Mapping support services for victims of violence against women in Kosovo*, 2017.

<sup>21</sup> Ministry of Justice, *National Strategy of the Republic of Kosovo on Protection from Domestic violence and Action Plan (2016-2020) [NSPDV]*, 2017.

<sup>22</sup> European Commission, *Commission Staff Working Document, Kosovo\* 2019 Report*, 2019.

<sup>23</sup> UN Women (UNW), progress report provided to KWN on 18 May 2020, unpublished, 2019.

<sup>24</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

### Box 1. Definition: A “Victim-centred Approach”

Using a “victim-centred approach” means that institutions should strive to always place the priorities and needs of persons who have suffered violence first.<sup>25</sup> As a basic principle, institutions must minimise harm and enhance the security of persons who have experienced violence. Empathy and confidentiality must be ensured and information shared with other institutions only following the affected person’s consent. Persons who have suffered violence must be informed fully about their legal rights and the support services available to them. Once they are safe and able, institutions should engage them in developing a plan that ensures their security and eventually support them with rehabilitation services tailored to their needs. Moreover, they should have the right to provide feedback on how institutions have treated them, including related to referrals; and institutions should use this feedback to improve services. All service providers should receive training on a victim-centred approach and ensure its application in practice. Using a victim-centred approach is in line with the IC.

## WHY THIS RESEARCH?

KWN’s mission is to support, protect, and promote the rights of women and girls. Towards this, one of KWN’s long-term strategic aims is for women and girls to live lives free from gender-based violence.<sup>26</sup> To make progress towards this vision, KWN regularly monitors the performance of institutions to assess their progress in implementing the legal framework. Through monitoring, KWN seeks to secure evidence that can be used in communication and advocacy with institutions, towards an improved response. KWN thus aims to provide useful information and constructive criticism that will lead to improved lives for persons most affected by violence, particularly women.

In 2008,<sup>27</sup> 2009,<sup>28</sup> 2015,<sup>29</sup> and 2017,<sup>30</sup> KWN conducted Kosovo-wide research that examined the institutional response to gender-based violence, focusing on domestic violence and, since 2015, on sexual harassment. Conducted in close cooperation with the Agency for Gender Equality in the Office of the Prime Minister of Kosovo (AGE), together with other relevant institutions, these studies have made significant contributions to informing the LPDV, the NSPDV,<sup>31</sup> and SOPs. Most recently, KWN’s 2017 report, *From Words to Action*, used findings from monitoring the institutional response to domestic violence to make recommendations for each responsible institution.<sup>32</sup> Since then, KWN

<sup>25</sup> This description draws from that of UNW, “[Victim/survivor-centred approach](#)”, 2019.

<sup>26</sup> KWN, [Strategy 2019-2022](#), 2018.

<sup>27</sup> Farnsworth, N. and Qosaj-Mustafa, A. for KWN in close cooperation with the Agency for Gender Equality (AGE), [Security Begins at Home: Research to inform the national strategy and action plan against domestic violence in Kosovo](#), AGE: 2008.

<sup>28</sup> Qosaj-Mustafa, A. and Farnsworth, N. for KWN, [More than “Words on Paper”? The Response of Justice Providers to Domestic Violence in Kosovo](#), UNDP, 2009.

<sup>29</sup> Farnsworth et al. for KWN, [No More Excuses](#), 2015.

<sup>30</sup> Berisha et al. for KWN, [From Words to Action](#), 2017.

<sup>31</sup> An estimated 70% of KWN’s recommendations resulting from its report [No More Excuses](#) were incorporated into the NSPDV.

<sup>32</sup> Berisha et al. for KWN, [From Words to Action](#), 2017.

has met with representatives of institutions to discuss these recommendations and to support their implementation. This present report thus also sought to assess whether institutions have implemented KWN's prior recommendations and the extent to which their performance has improved since the 2017 monitoring exercise. This research has aimed to measure changes in institutions' attitudes, awareness, and treatment of gender-based violence since 2017, as well as to monitor relevant institutions' implementation of the legal framework.

Since there have been several distinct changes in the legal framework since 2017, including the adoption of the IC into the Kosovo Constitution in 2020, this report analyses the extent to which these have been implemented and what steps remain outstanding in order to harmonise fully Kosovo's legal framework with the IC. Moreover, as the NSPDV expired in 2020, this monitoring exercise sought to assess the implementation of the NSPDV and to inform the process of drafting the new strategy and action plan in 2021. Overall, this research has sought to propose evidence-based recommendations for improving the institutional response to gender-based violence in Kosovo.

## METHODOLOGY

Towards the aforementioned aims, this research sought to respond to three interrelated research questions and accompanying sub-questions:

1. To what extent is the legal framework related to gender-based violence harmonised with the IC; to what extent is the framework being implemented; which parts need further revision; and how has this improved since 2017, if at all?
  - 1.1. To what extent has the NSPDV (2016-2020) been implemented?
  - 1.2. To what extent are the new provisions of the CCK pertaining to gender-based violence being implemented?
2. To what extent are representatives of relevant public institutions aware of their duties related to treating cases of gender-based violence, and how has this awareness changed since 2017, if at all?
  - 2.1. How aware are they of the different types of gender-based violence?
  - 2.2. How aware are they of their duties regarding domestic violence?
3. To what extent are relevant institutions implementing their responsibilities?
  - 3.1. To what extent are coordination mechanisms functioning?
  - 3.2. What challenges exist to their sustainability and appropriate functioning?

For this research, gender-based violence was operationalised, that is defined, to include domestic violence, physical violence, psychological violence, forced marriage, forced abortion, forced sterilisation, technology-facilitated violence, sexual harassment, rape, sexual assault, female genital mutilation, stalking, and murder. The research team acknowledges that other forms of gender-based violence exist, most notably including human trafficking. Other forms are not examined in this research due to limitations in time and resources. KWN uses the term "victim" in this report because the IC,

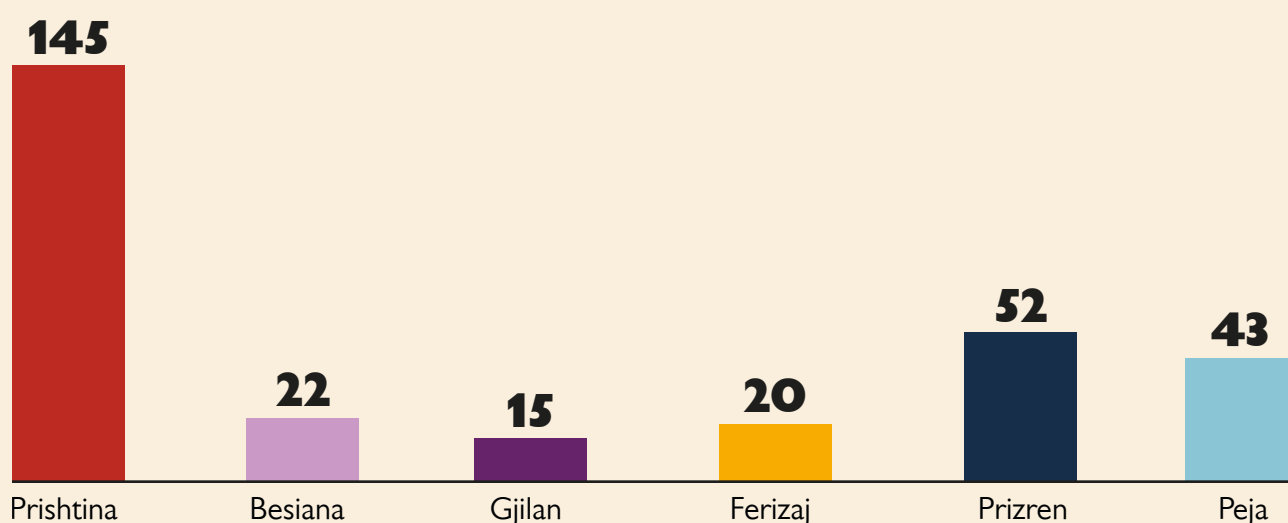


EU law, and Kosovo's legal framework use this term. Although this term is used, KWN also recognises the potential agency and autonomy of persons who have suffered violence.<sup>33</sup>

This research has used a methodology similar to that used for KWN's prior research on gender-based violence, towards comparison over time. The research involved mixed methods, including a review of the relevant legal framework, observation of the institutional response to gender-based violence, desk research, interviews, and a review of statistical data.

First, the review of the legal framework examined Kosovo law and policy in reference to the IC and relevant aspects of the EU gender equality *acquis*. It sought to identify any changes still needed to the applicable legal framework. The legal review informed the design of research questions for interviews.

**Graph 1.** Total cases monitored in courts per municipality



Second, KWN's six trained court monitors monitored the work of responsible institutions in addressing 297 different gender-based violence cases between January and June 2020 (six months) in six regions where courts are located: Pristina, Besiana, Gjilan, Ferizaj, Prizren, and Peja (see Graph 1). Substantially more cases were monitored in Pristina because there are more courts in Pristina and more cases were reported there. Monitors selected cases using convenience sampling, attempting to follow *all* cases reported to relevant institutions. In some instances, KWN staff members or monitors also followed cases when people approached KWN and requested that KWN monitor their case. Monitors used an established monitoring protocol to observe cases, which included assessing the work of all institutions engaged in a given court hearing. They also attended hearings at Centres for Social Work (CSWs), when relevant. Monitors entered observations into a secure, online software (Kobo Tool Box), which contained a standardized set of questions for each institution, based on their legal responsibilities.

<sup>33</sup> [Definition of Victim](#), EIGE, 2012.

Third, KWN's seven-member research team conducted 190 semi-structured interviews with institutions and actors responsible for implementing the legal framework pertaining to gender-based violence (55.5% women, 45.5% men). Respondents were selected according to their legal responsibilities and using variation sampling from the following institutions: the Kosovo Police, Victim Advocates, CSWs, civil courts, criminal courts, the prosecution, the Ombudsperson Institution, correctional services, probation services, educational institutions, health institutions, employment centres, Vocational Training Centres, the Institute of Forensic Medicine, and shelters for persons who have suffered violence. KWN also interviewed diverse civil society organisations (CSOs) working to address gender-based violence.<sup>34</sup> This included drawing from the experiences and expertise of KWN member organisations, primarily shelters. Interviews took place in rural and urban areas of Prizren, Suhareka, Rahovec, Peja, Klina, Malisheva, Gjakova, Gjilan, South Mitrovica, North Mitrovica, Pristina, Vushtrri, Drenas, and Ferizaj. Interview guides tailored to each institution included questions relating to the institution's legal responsibilities, knowledge of these responsibilities, attitudes, and experiences treating gender-based violence cases since 2017. They also were asked to reflect on changes that have occurred in their institution since 2017.

Given the isolation and precautionary measures taken in Kosovo to prevent the spread of the COVID-19 virus, researchers conducted 130 interviews online (69%). To facilitate interpretation, researchers insisted that interviews be conducted using computer cameras so that they could observe the body language and expressions of interviewees. Towards triangulation of researchers and enhanced validity, two researchers participated in most interviews: an interviewer and a note-taker.<sup>35</sup> Researchers also used reflexivity, reflecting in notes after each interview how researchers may have influenced interview responses, given their age, gender, and position in society. To reduce any potential, hypothesized, gender-related effects that researchers' positions within society might have on interviews, the team sought to ensure that men researchers interviewed men respondents, and women interviewed women respondents. However, this was not always feasible given scheduling issues. The possibility exists that research participants' responses may have differed based on the gender of the person who interviewed them.

Fourth, KWN submitted data requests and reviewed all available statistical data related to gender-based violence, as maintained by relevant institutions, including the police, prosecution, courts, shelters, and Ministry of Labour and Social Welfare.<sup>36</sup> KWN also examined the new centralized database for domestic violence cases. Data analysis aimed to examine trends over time related to the reporting of gender-based violence cases.

The research team coded research findings in a database established in line with the research questions. During the coding process, at least two team members analysed every interview, using triangulation of researchers, towards enhanced validity. Also, towards validity, the authors have distributed the final draft report for participant checks and peer review. Revisions were made based on the

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<sup>34</sup> Annex 1 contains a list of all interview respondents.

<sup>35</sup> In a few instances, a note-taker could not participate due to scheduling challenges. To ensure that no information was lost, these interviews were recorded and later transcribed.

<sup>36</sup> For all data received, see [Annex 2](#).

received feedback prior to the publishing the report.

## **ABOUT THIS REPORT**

The first chapter analyses Kosovo's current legal framework in reference to the IC, towards identifying remaining revisions required to adequately address gender-based violence in law as part of the ongoing review and amendment of Kosovo's legal framework. The second chapter examines the institutional response to addressing gender-based violence, with sections focusing on each responsible institution, as well as inter-institutional coordination. The final chapter includes recommendations targeting each relevant institution. Annexes include a list of interview respondents (1); statistics on the prevalence of various forms of gender-based violence received from institutions (2); and a summary of KWN's independent evaluation of the implementation of the NSPDV (3).

# LEGAL ANALYSIS

This chapter analyses the legal and policy framework related to gender-based violence in Kosovo. It first outlines the relevant international legal framework and then examines thematic issues related to the IC. The next section analyses the extent to which Kosovo law has been harmonised with the substantive provisions of the IC, including various gender-based violence offences and victim compensation. Then, an examination follows of the extent to which Kosovo's legal framework is aligned with IC provisions relating to investigation, prosecution, procedural law, and protective measures. The last sections outline measures in the IC for preventing violence and data collection, respectively, and their applicability in Kosovo.

## THE INTERNATIONAL LEGAL FRAMEWORK

This section provides an overview the applicable international legal framework relevant to addressing gender-based violence and the means by which international instruments are applicable in the context of Kosovo.

### The Istanbul Convention

The IC entered into force in August 2014. The IC intended to provide a set of comprehensive obligations for addressing gender-based violence against women within the legal framework of international human rights law, making it the first legally binding instrument of its kind in Europe.<sup>1</sup> Drawing on the UN Declaration on the Elimination of Violence Against Women, the IC recognised violence against women as a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women.<sup>2</sup>

The IC defines and criminalises various forms of violence, and signatories must make legislative changes to domestic civil and criminal law if necessary. The listed crimes are psychological violence, stalking, physical violence, sexual violence including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation, and sexual harassment. The IC is holistic in its approach with its four pillars addressing prevention, protection and support services, prosecution, and coordinated policies. A broad range of measures on the implementation of coordinated and comprehensive policies between national and governmental bodies are uniquely provided for.<sup>3</sup>

On 25 September 2020, Kosovo amended its Constitution to recognise the IC as directly applicable within its legal framework.<sup>4</sup> This method of implementing international instruments has been utilised by Kosovo for several important human rights documents, including CEDAW with its General

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<sup>1</sup> Nousiainen, K. and Chinkin, C., "[Legal Implications of EU Accession to the Istanbul Convention](#)", European Commission, 2015, p. 39.

<sup>2</sup> [Council of Europe Convention on preventing and combating violence against women and domestic violence](#), Preamble.

<sup>3</sup> Jürviste, Ü., European Parliamentary Research Service, "[The Istanbul Convention: a tool to tackle violence against women and girls](#)", 2015, p. 1.

<sup>4</sup> Council of Europe, "[The National Assembly of Kosovo\\* decides to apply the Istanbul Convention](#)", 2020.

Recommendations 19 and 35 on violence against women, given that Kosovo's current international legal status limits its access to ratifying or participating fully in conventions of the United Nations (UN) or the Council of Europe.<sup>5</sup> While acknowledging the symbolism marked by the inclusion of the IC in the list of Kosovo's constitutionally recognised international agreements, this system of "constitutionalisation without ratification" has its challenges.<sup>6</sup> This is particularly due to Kosovo's lack of international oversight and enforcement mechanisms. Nevertheless, the IC requires states to ensure or encourage certain measures by amending the domestic legal and policy framework. Therefore, for the IC provisions to have practical effect, Kosovo must take further legislative action, accompanied by rigorous accountability and monitoring actions, and strict implementation of the law. Acknowledging that including the IC in the Constitution may lack practical impact without legislative intervention, this report analyses the extent that Kosovo's legal framework currently reflects the standards set by the IC and what further amendments may be necessary.

## The Role of EU Law in Combating Gender-Based Violence

Currently, there is no general legal instrument at an EU level on gender-based violence. Rather, the EU *acquis* in this area largely consists of Council conclusions, Parliament resolutions, and Commission strategies; none of these bind Member States to action.<sup>7</sup> Relevant directives are not specific to gender-based violence and only reference violence against women. Nonetheless, some legal acts are relevant as Kosovo must align its legislation to that of the EU under the Stabilisation and Association Agreement.<sup>8</sup> Key instruments include the Victims' Rights Directive<sup>9</sup> and the Anti-Trafficking Directive.<sup>10</sup> Other relevant instruments include the Recast Equal Treatment Directive<sup>11</sup> and the Gender Goods and Services Directive,<sup>12</sup> which both define and condemn harassment<sup>13</sup> and sexual harassment,<sup>14</sup> and the Directive on Combating Sexual Abuse of Children.<sup>15</sup>

<sup>5</sup> Accession to the Convention is possible for states that are not members of the Council of Europe. However, the process by which this is done is likely inaccessible for Kosovo. The Parties to the Convention must be consulted and their unanimous consent must be obtained. After this, the Committee of Ministers may invite any state to accede. This decision requires a two-thirds majority provided for in Article 20.d of the Statute of the Council of Europe and the unanimous vote of the Parties to this Convention (Article 76). Currently, 12 of the 47 members of the Council of Europe do not recognise Kosovo.

<sup>6</sup> De Hert, P. and Korenica, F., "[The New Kosovo Constitution and its Relationship with the European Convention on Human Rights: Constitutionalization 'Without' Ratification in Post-Conflict Societies](#)", *ZaöRV* 76(1), 2016, p. 165.

<sup>7</sup> Bonewit, A. (European Parliament Directorate-General for Internal Policies), "Study on the Issue of Violence Against Women in the European Union", p. 44.

<sup>8</sup> [Stabilisation and Association Agreement between the European Union and Kosovo](#) (OJ L 71, 16.3.2016).

<sup>9</sup> Directive 2012/29/EU [on common minimum standards on the rights, support and protection of victims](#).

<sup>10</sup> Directive 2011/36/EU [on preventing and combatting trafficking in human beings and protecting its victims](#).

<sup>11</sup> Directive 2006/54/EC [on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation \(recast\)](#).

<sup>12</sup> Directive 2004/113/EC [on implementing the principle of equal treatment between men and women in the access to and supply of goods and services](#).

<sup>13</sup> "Where unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment."

<sup>14</sup> "Where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment."

<sup>15</sup> Directive 2011/93/EU [on combating the sexual abuse and sexual exploitation of children and child pornography](#). Protection is also found in Directive 2011/99/EU [on the European protection order](#) and Regulation (EU) No 606/2013 [on mutual recognition of protective measures in civil matters](#). However, the application of these instruments is only effective within the EU.



# THEMATIC ISSUES UNDER THE IC AND THEIR APPLICABILITY TO KOSOVO LAW

This section examines particular themes within the IC and the extent to which they are reflected within Kosovo's legal and policy framework, including the integration of an adequate gender perspective into the legal framework, coordinating a comprehensive inter-institutional victim-centred approach, and ample monitoring mechanisms.

## Implementing the Gender-perspective of the IC

### **“Sex”**

Refers to “biological differences between women and men.”

(CEDAW, General Recommendation 28)

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### **“Gender”**

Refers to “socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for ... biological differences, resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women. The social position of women and men is affected by political, economic, cultural, social, religious, ideological and environmental factors that can be changed by culture, society and community.”

(CEDAW, General Recommendation 28)

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### **“Gender-based violence”**

Means violence that is perpetrated against a person because of her or his gender or that affects persons of a particular gender disproportionately.

The IC recognises the structural nature of violence against women, meaning that it is a manifestation of historically unequal power relations between women and men. The use of the term “gender” has proven instrumental in describing structural oppression against women.<sup>16</sup> While the term was already in use in international human rights prior to the introduction of the IC (see Box),<sup>17</sup> the IC was the first legally binding international treaty to define “gender” in social constructionist terms. States previously have elected not to define the term at a multilateral level due to diverging understandings of the term and related controversy.<sup>18</sup> In contrast, the UN has defined the term and stressed its so-

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<sup>16</sup> Antić, M. and Radačić, I., “The evolving understanding of gender in international law and ‘gender ideology’ pushback 25 years since the Beijing conference on women”, *Women's Studies International Forum*, 2020, 83.

<sup>17</sup> See, for example, General Recommendation 28 of the Committee on the Elimination of Discrimination against Women (2010, section 5).

<sup>18</sup> Oosterveld, V., “The Definition of ‘Gender’ in the Rome Statute of the International Criminal Court: A Step Forward or Back for International Criminal Justice?”, *Harvard Human Rights Journal*, 18, 2005, p. 70.

cially constructed nature, the complexity of this construction, and the influences of culture, politics, economics, race, and other variables.<sup>19</sup> Nevertheless, such a definition was omitted from CEDAW in 1979, which focuses on sex discrimination.<sup>20</sup> The Rome Statute of the International Criminal Court became the first international treaty to adopt a definition of “gender” in 2002. This became the basis of a polarised debate between states, feminist non-governmental actors, and conservative non-governmental representatives,<sup>21</sup> ultimately only resolved by applying constructive ambiguity.<sup>22</sup>

The IC acknowledges the socially constructed nature of gender, as “the roles, behaviours, activities and attributes that a given society considers appropriate for women and men”. This progressive interpretation of gender sets the IC apart from previous international treaties. The IC requires gender-sensitive policies and a gender perspective in implementing and evaluating the impact of its provisions. Obligations on protection, support,<sup>23</sup> and the criminal process are to be based on a gendered understanding of violence against women.<sup>24</sup> State parties must take measures, where appropriate, to include teaching material on issues such as equality between women and men, mutual respect and non-stereotyped gender roles.<sup>25</sup> The IC requires states to protect the rights of victims without discrimination on any ground, including, for the first time in an international treaty, on the basis of gender identity or sexual orientation.<sup>26</sup>

The IC is partially gender specific by focusing on gender-based violence against women, defined as “violence directed at a woman because of her gender or violence which affects women disproportionately”.<sup>27</sup> However, in the context of domestic violence, the IC provisions are gender-neutral. In aiming to achieve a compromise for delegations reluctant to understand domestic violence as gender-based violence,<sup>28</sup> the IC applies to all victims of domestic violence but pays particular attention to women victims (Article 2). Meanwhile Article 3(b) provides a gender-neutral definition.

While this solution has been described as innovative, incidences of domestic violence against men are not rooted in structural discrimination or subordination.<sup>29</sup> The previous UN Special Rapporteur on Violence Against Women, Rashida Manjoo, has written that the use of gender neutrality in this context “favours a more pragmatic and politically palatable understanding of gender, that is, as simply a euphemism for ‘men and women’, rather than as a system of domination of men over women.”<sup>30</sup> She

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<sup>19</sup> Ibidem, p. 71.

<sup>20</sup> While the term “gender” was later increasingly used by the Committee on the Elimination of Discrimination against Women in its General Recommendations (such as General Recommendation 19 which defined “gender-based violence” in 1992), recommendations are not legally binding on signatories, despite constituting authoritative interpretations of CEDAW.

<sup>21</sup> Oosterveld, V., “Constructive Ambiguity and the Meaning of ‘Gender’ for the International Criminal Court”, *International Feminist Journal of Politics*, 2014, 16(4), p. 563.

<sup>22</sup> “Constructive ambiguity” refers to the deliberate use of ambiguous language to resolve differing points of view on a sensitive issue.

<sup>23</sup> Articles 18 and 49.

<sup>24</sup> Article 6.

<sup>25</sup> Article 14.

<sup>26</sup> Article 4.3; See the Non-Discrimination and an Intersectional Approach to Addressing Gender-based Violence section below.

<sup>27</sup> Article 3(d).

<sup>28</sup> Some delegations argued that domestic violence is gender neutral, as it can impact men, children, and the elderly, thereby intersecting with age and gender (see Nousiainen, K. and Chinkin, C., “[Legal Implications of EU Accession to the Istanbul Convention](#)”, European Commission, 2015, p. 43).

<sup>29</sup> Ibidem.

<sup>30</sup> Manjoo, R., “[Report of the Special Rapporteur on violence against women, its causes and consequences](#)”, (A/HRC/26/38), p. 17.

argues that this suggests that male victims of violence “require, and deserve, comparable resources to those afforded to female victims, thereby ignoring the reality that violence against men does not occur as a result of pervasive inequality and discrimination, and also that it is neither systemic nor pandemic in the way that violence against women indisputably is.” She continues:

Violence against women cannot be analysed on a case-by-case basis in isolation of the individual, institutional and structural factors that govern and shape the lives of women. Such factors demand gender-specific approaches to ensure an equality of outcomes for women. Attempts to combine or synthesize all forms of violence into a “gender neutral” framework, tend to result in a depoliticized or diluted discourse, which abandons the transformative agenda.

Moreover, as the UN Handbook for Legislation on Violence Against Women (dated before the IC came into force) states:

A number of countries have adopted gender-neutral legislation, applicable to both women and men. However, such legislation may be subject to manipulation by violent offenders. For example, in some countries, women survivors of violence themselves have been prosecuted for the inability to protect their children from violence. Gender-neutral legislation has also tended to prioritize the stability of the family over the rights of the (predominantly female) complainant/survivor because it does not specifically reflect or address women’s experience of violence perpetrated against them.<sup>31</sup>

In Kosovo, the Law on Gender Equality recognises gender-based violence as a form of discrimination that “seriously inhibits women’s and men’s ability to enjoy rights and freedoms on a basis of equality”.<sup>32</sup> However, prior to the adoption of the IC, there was no provision in the Kosovo legal framework that recognises the overwhelmingly disproportionate impact of such violence against women.<sup>33</sup> The NSPDV recognises that domestic violence primarily affects women and children,<sup>34</sup> as does the Kosovo Program for Gender Equality 2020-2024.<sup>35</sup> However, the primary legal act in the sphere of gender-based violence in Kosovo, the Law on Protection Against Domestic Violence (LPD-V),<sup>36</sup> does not reflect this understanding. The OSCE has commented that that Law fails to acknowledge adequately that violence against women constitutes a form of discrimination and a violation of women’s human rights.<sup>37</sup> The Council of Europe has made the same comment about the wider legislative

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<sup>31</sup> UNW, [Handbook for Legislation on Violence Against Women](#), New York, 2012, p. 12.

<sup>32</sup> Law 05/L-020 on [Gender Equality](#), Article 4.2.

<sup>33</sup> Gavrić, S. for the European Women’s Lobby, “[Mapping of Policies and Legislation on Violence Against Women and the Istanbul Convention in Kosovo](#)”, p. 18.

<sup>34</sup> NSPDV, p. 8.

<sup>35</sup> AGE, [Kosovo Program for Gender Equality 2020-2024](#).

<sup>36</sup> Law No. 03/L-182 on [protection against domestic violence](#).

<sup>37</sup> OSCE, [Adjudication of petitions for protection orders in domestic violence cases in Kosovo](#), 2012, p. 23.

framework.<sup>38</sup> The Standard Operating Procedures on Protection against Domestic Violence (SOPs) are similarly devoid of gendered considerations. Further, there is no national strategy that comprehensively addresses gender-based violence outside of the domestic violence frame or that supports an integrated response to such violence. Even where domestic violence is addressed, gender neutrality is prominent. It is useful from a preliminary perspective to understand this deficit of a gendered understanding of violence, and the consequent need for revisions to law and policy to integrate gender in line with the IC, as thematic issues in the Kosovo framework.

## Gender in Criminal Law

The criminal provisions of the IC are generally gender-neutral, as the gender of the victim or perpetrator should, in principle, not be a constitutive element of a crime. This is not intended to prevent states from introducing gender-specific provisions,<sup>39</sup> and there are exceptions. In Kosovo, an understanding of the gendered effects of violence related to crime is somewhat identifiable. The Draft Kosovo Criminal Procedure Code (KCPC) seeks to introduce “due consideration” for “the injured party or victim who is a victim of ... human trafficking, gender-based violence, violence in a domestic relationship, sexual violence, exploitation or discrimination and victim[s] who have suffered considerable harm due to the severity of the criminal offense”.<sup>40</sup> No definition of gender is included in the draft KCPC.

The CCK primarily understands the gendered aspects of violence only within the domestic setting. It defines a “vulnerable victim” as: “a victim of a crime who is ... a pregnant woman, ... or a person whose relationship to and dependence on the offender make them particularly vulnerable to repeat victimisation, intimidation or retaliation”.<sup>41</sup> “Vulnerable victims” are addressed specifically in several crimes relevant to gender-based violence,<sup>42</sup> but any crime that is committed against a victim who is “particularly vulnerable” is to be treated as aggravated during sentencing.<sup>43</sup> The Supreme Court Sentencing Guidelines explain that the greatest consideration in sentencing where these provisions apply is the level of vulnerability of the victim and the extent to which the perpetrator perceived that vulnerability.<sup>44</sup> In relation to domestic violence, the Guidelines state that “a prolonged period of mental and physical abuse will increase the defencelessness of the victim and the likelihood of a finding of significant aggravation.”<sup>45</sup> The Guidelines are generally informed on issues of domestic violence, though an understanding of gender-based violence is notably absent.

Other crimes are aggravated where the perpetrator shares a domestic relationship with the

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<sup>38</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 78.

<sup>39</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Istanbul, 11.V.2011, pgh. 153.

<sup>40</sup> *Draft Criminal Procedure Code* no. 06/L-151, Article 63.1.4.

<sup>41</sup> Code No. 06/L-074 *Criminal Code of the Republic of Kosovo*, Article 113.39.

<sup>42</sup> See in particular: Light bodily injury (Article 185), grievous bodily injury (Article 186), female genital mutilation (Article 180), assault (Article 184), kidnapping (Article 191), and unlawful deprivation of liberty (Article 193).

<sup>43</sup> Article 70.2.6.

<sup>44</sup> Supreme Court of Kosovo, *Sentencing Guidelines*, First Edition, 2018, p. 79.

<sup>45</sup> *Ibidem*.

victim,<sup>46</sup> and again there is a general aggravating factor with the same principle.<sup>47</sup> The definition of “gender” within the CCK has not yet been harmonised with the wider definition of gender given by the IC; it currently contains the ambiguous definition used in the Rome Statute (“Gender - refers to the two sexes, male and female, within the context of society”).<sup>48</sup> Regardless, several crimes are aggravated if committed on the grounds of gender,<sup>49</sup> and there is a generally applicable aggravating factor with the same principle.<sup>50</sup>

## Coordinating a Comprehensive Institutional Response

The IC requires the implementation of integrated, effective, comprehensive, and coordinated policies that encompass all relevant measures to combat and prevent all forms of violence covered by the IC, and to protect and support victims.<sup>51</sup> Signatories should establish a holistic, victim-centred response to violence against women.<sup>52</sup> The IC requires appropriate allocation of financial and human resources for the adequate implementation of integrated policies, measures, and programmes, including those carried out by non-governmental organisations (NGOs).<sup>53</sup> The IC recognises the important work of NGOs and civil society, especially women’s rights NGOs, requesting states to encourage and support their work.<sup>54</sup> States must designate official, central bodies responsible for coordination, implementation, monitoring, and evaluation of policies and measures to prevent and combat all forms of violence in the IC.<sup>55</sup>

In Kosovo, the respective SOPs for domestic violence<sup>56</sup> and trafficking<sup>57</sup> establish the roles, responsibilities, and inter-institutional coordination of institutions responsible for addressing domestic violence and trafficking, respectively. However, these responsibilities do not concern other forms of gender-based violence explicitly. Nor are these responsibilities, particularly for inter-institutional coordination in rehabilitation programs, recognised in law. This has budget implications and contributes to a lack of financial support for such programs and coordination mechanisms. The NSPDV recognises the lack of coordination mechanisms in Kosovo and the need for them in every municipality.<sup>58</sup> By 2020, a

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<sup>46</sup> See in particular: rape (Article 227), sexual assault (Article 229), degradation of sexual integrity (Article 230), and slavery, slavery-like conditions and forced labour (Article 163).

<sup>47</sup> Article 70.2.14.

<sup>48</sup> Article 143.I.10. Some argue that using the phrase “within the context of society” explicitly incorporates the social construction of gender (Copelon, R., “Gender Crimes as War Crimes: Integrating Crimes Against Women into International Criminal Law”, *McGill Law Journal*, 46, 2000, 237), while conservative evaluations of this definition generally conclude that it situates gender within the confines of biological sex (Singson, S., “New European Convention Defines ‘Gender’ as Social Construct”, *Catholic Family and Human Rights Institute* [C-FAM], 7 April 2000, 1).

<sup>49</sup> See for example: aggravated murder (Article 173), assault (Article 184), and grievous bodily injury (Article 186).

<sup>50</sup> Article 70.2.12.

<sup>51</sup> Articles 7.1 and 18.2, respectively.

<sup>52</sup> Article 7.2.

<sup>53</sup> Article 8.

<sup>54</sup> Article 9.

<sup>55</sup> Article 10.

<sup>56</sup> Office of the Prime Minister, [Standard Operating Procedures for Protection from Domestic Violence in Kosovo](#).

<sup>57</sup> Ministry of Internal Affairs Office of the National Anti-Trafficking Coordinator, [Standard Operating Procedures for Trafficked Persons in Kosovo](#).

<sup>58</sup> NSPDV, p. 30.

primary strategic objective aimed at:

Ensuring of inclusive and efficient mechanisms for quick reaction against domestic violence, as well as liable inter-institutional cooperation between central and local level actors, for protection and management of these cases.<sup>59</sup> [sic]

The NSPDV is well developed and accompanied by concrete, measurable, and applicable objectives, including costing and financing sources for each measure.<sup>60</sup> The pillars of the strategy are: prevention and awareness-raising; protection and coordination; legislation, investigation and prosecution; and rehabilitation and reintegration of victims.

However, by definition, the NSPDV focused on domestic violence and did not address other forms of gender-based violence.<sup>61</sup> The Council of Europe has drawn attention to the fact that many forms of violence covered by the IC including sexual violence, forced marriage, stalking, forced sterilisation, forced abortion, psychological violence, and female genital mutilation have been completely absent from targeted policy interventions in Kosovo.<sup>62</sup> In Albania and Montenegro, the body tasked with monitoring the implementation of the IC, the Group of Experts on Action Against Violence Against Women and Domestic Violence (“GREVIO”), similarly has expressed concern that national strategies do not comprehensively address all forms of violence against women as per the IC.<sup>63</sup> When government strategies focus exclusively on domestic violence, insufficient resources are allocated to services that deal with other forms of gender-based violence. According to Krol et al., this approach also contributes to insufficient understanding of violence against women among service providers, who “operate for the most part on the basis of a gender-neutral, domestic violence-based definition”.<sup>64</sup> In this regard, a Council of Europe report on Kosovo commented the following:

Coverage of all forms of violence against women by both specialist and general support services lags behind support services for domestic violence victims. No dedicated specialist support services exist for other forms of violence covered by the IC, and victims are currently not systematically supported within the mandate of both specialist and general services.<sup>65</sup>

Kosovo thus has an urgent need to develop a comprehensive strategy addressing all forms of violence against women, which contains a gendered understanding of violence and a holistic response to such violence, considering all measures covered by the IC. The Council of Europe has recommended that such a strategy in Kosovo should address the links between all forms of violence against

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<sup>59</sup> Ibidem, p. 9.

<sup>60</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 8.

<sup>61</sup> Annex 3 includes definitions of other forms of violence covered by the IC. However, this has no substantive impact on the measures in the Strategy because all specific objectives refer only to domestic violence.

<sup>62</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 45.

<sup>63</sup> GREVIO, *Baseline Evaluation Report – Montenegro*, 2018, p. 15; and GREVIO, *Baseline Evaluation Report – Albania*, 2017, p. 12.

<sup>64</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 78.

<sup>65</sup> Ibidem.

women in a coherent and consistent manner, as well as address gender-based violence as a human rights violation and a form of discrimination.<sup>66</sup> This has become even more urgent since the expiry of the 2016-2020 NSPDV.<sup>67</sup>

Progress has been made with the Kosovo Program for Gender Equality 2020-2024, which contains a broader understanding of gender-based violence. The Program is intended to address several structural inequalities affecting women and girls, considering all strategic documents affecting the gender equality agenda, including the NSPDV, while not duplicating relevant strategies. First, it draws attention to women being disproportionately affected by gender-based violence. In relation to domestic violence, the Program discusses delays in issuing and enforcing protection orders and inadequate sentencing of perpetrators, even in cases of recidivist violence. The Program also discusses trafficking in human beings, the challenges of identifying and treating cases of sexual harassment, the prevalence of early marriages in minority and rural communities, and inadequate information on conflict-related gender-based violence. The Program also discusses low reporting of sexual violence and insufficient information on violence in the name of “honour”. Structural inequalities are addressed, such as women’s access to the labour market. The Program draws attention to limited gender-disaggregated data on gender-based violence, lower protection for women in the northern part of Kosovo, and a lack of follow-up mechanisms to monitor gender-based violence cases.

In terms of objectives, the Program does not explicitly address several forms of gender-based violence not covered by the present or future NSPDV. Relevant targets in the Program include the percentage of domestic violence cases handled by the judiciary; a review of the implementation of sanctions for perpetrators of gender-based violence, including adequate punishment for cases of trafficking in human beings; improving the evaluation of applications by the Commission for Verification for survivors of sexual violence perpetrated during the war within the mandated legal timeframe; integrating gender-based violence data into the Health Information System; and monitoring the percentage of girls and women who have experienced physical and psychological violence. In terms of activities, the Program includes designating judges and prosecutors specialised in dealing with family cases, domestic violence, sexual violence during the war, property and inheritance issues; training judges, prosecutors, and police officers with regard to newly adopted definitions in the CCK, emphasising domestic violence and sexual harassment; improving data regarding victims and perpetrators of domestic violence; raising awareness on women’s rights, including fighting domestic violence, gender stereotypes, and patriarchy; preparing a situational analysis to understand better the situation of girls and women detained in the correctional system, including their access to reproductive health services; providing information and training to girls and women in correctional systems and in prisons regarding their rights, including to rehabilitation and reintegration; and strengthening the capacity of the governmental commission reviewing applications from survivors of sexual violence during the war and of or-

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<sup>66</sup> Ibid, p. 79.

<sup>67</sup> In a press release by the Ministry of Justice on 4 December 2020, the incumbent NCDV stated that his office is “working on the National Strategy for Protection from Domestic Violence and has given an opinion on addressing some issues within the Draft Law on Protection from Domestic Violence” (Ministry of Justice, “Deputy Minister Dushi: Building local mechanisms against domestic violence, like we have at the central level” [*“Zëvendësministri Dushi: Të ndërtojmë mekanizma lokal kundër dhunës në familje, të ngjashëm siç i kemi edhe në nivelin qendror”*]) [Albanian only], 4 December 2020).



ganisations licensed to increase women's access to justice.<sup>68</sup> Thus, while acknowledged in the Program, the broader understanding of gender-based violence has yet to be reflected fully in a comprehensive approach to addressing all forms of gender-based violence, as foreseen in the IC.

## Monitoring

GREVIO is tasked with monitoring the implementation of the IC.<sup>69</sup> Parties to the IC submit reports to GREVIO, but GREVIO does not process individual complaints of violations.<sup>70</sup> The only body that handles individual complaints under the IC is the European Court of Human Rights ("ECtHR"). As Kosovo is not a member of the Council of Europe and is unable to formally ratify the IC, citizens of Kosovo do not have access to the ECtHR. Thus, these monitoring mechanisms are currently inaccessible. Kosovo could perhaps engage in negotiations with the Council of Europe for GREVIO monitoring, in a similar manner to how the Group of Experts on Action against Trafficking in Human Beings monitors Kosovo. In the interim, the lack of access to monitoring mechanisms places further importance on the work of civil society, including CSOs, academics, trade unions, and bar associations in monitoring implementation of the legal framework.<sup>71</sup> The IC requires states to designate official bodies to monitor and evaluate policies and measures to prevent and address all forms of violence.<sup>72</sup> The Law on Gender Equality already provides for the AGE to lead implementation and prepare reports on CEDAW.<sup>73</sup> Opportunities may exist to expand this competence to include coordinating an independent inter-institutional body with civil society representatives to monitor implementation of the IC, facilitating a stronger domestic monitoring system. This and other possible scenarios for establishing a permanent monitoring body could be further deliberated and addressed by representatives of institutions and civil society while finalizing a comprehensive law on gender-based violence.

## SUBSTANTIVE LAW

This section examines chapter V of the IC on substantive law, including the forms of gender-based violence that are criminalised therein and provisions on victim compensation. The focus of this section is on the extent to which these substantive provisions are reflected in Kosovo law.

### Domestic Violence

The IC defines domestic violence as, "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or part-

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<sup>68</sup> AGE, [Kosovo Program for Gender Equality 2020-2024](#), strategic objective 3 (pp. 60-61).

<sup>69</sup> The work of such organisations is recognised in Article 66 of the IC.

<sup>70</sup> However, GREVIO can initiate an inquiry procedure where there is reliable information indicating that action is required to prevent a serious, massive, or persistent pattern of any acts of violence covered by the IC (Article 68).

<sup>71</sup> Article 9.

<sup>72</sup> Article 10.

<sup>73</sup> Article 8.1.5.



ners, whether or not the perpetrator shares or has shared the same residence with the victim”. Of the forms of violence in the IC, domestic violence is the most comprehensively addressed in Kosovo’s legal framework. The primary legal acts are the LPDV and CCK.

The IC does not require a dedicated offence of domestic violence. Rather, any of the crimes under the IC may be aggravated in a domestic violence setting; being where the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority.<sup>74</sup> Kosovo has adopted a multifaceted approach to treating domestic violence in the CCK by including both a dedicated offence on domestic violence and making domestic relationships an aggravating circumstance for other crimes.<sup>75</sup> The dedicated offence contains two formulations of domestic violence:<sup>76</sup>

- Whoever commits physical, psychological or economic violence or mistreatment with the intent to violate the dignity of another person within a domestic relationship (Article 248.1),
- Every member of the family who exerts physical, psychological, **sexual** or economic violence or mistreatment against another member of his/her family (Article 248.3).

While both carry the same penalty, this repetition causes an unnecessary lack of clarity, particularly owing to the omission of sexual violence from the first offence formulation. The law would be significantly clearer if it was simplified to only one formulation that accounted for physical, psychological, sexual, or economic violence or mistreatment within a “domestic relationship”.

The definition of “domestic relationship”, used in the first offence formulation, includes persons who are:

- engaged or were engaged or are married or were married or are in extra marital union or were in extra marital union or are co-habiting in a common household or were co-habiting in a common household;
- who use a common house **and** who are related by blood, marriage, adoption, in-law or are in a guardian relationship, including parents, grandparents, children, grandchildren, siblings, aunts, uncles, nieces, nephews, cousins; or
- who are the parents of a common child. (Article 113.25)

The acknowledgement of “common household” living arrangements may be useful in the Kosovo context to account for where multiple families or extended family reside together. However, the IC specifies that it is immaterial whether the perpetrator shares or has shared the same residence with the victim. Thus, tying a common household requirement to certain relationships may be problematic by limiting the scope of application of the law. This definition should be clarified to account

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<sup>74</sup> Article 46a.

<sup>75</sup> Article 70.2.14. An additional punishment is imposed on public officials who are convicted of domestic violence under the CCK; they are prohibited from exercising public administration or service for one to five years (Article 62.4).

<sup>76</sup> Article 248.

for all family members (regardless of living arrangements) or any persons who share a common living arrangement (regardless of relationship). Clarifying the definition also would positively impact the aggravating provision for other crimes that refer to domestic relationships.

The definition of domestic violence under the LPDV is more detailed than in the CCK, including a non-exhaustive list of actions that constitute domestic violence.<sup>77</sup> The LPDV contains a similar definition of “family relationship” which should be clarified in accordance with the above. The LPDV places special attention on children, elderly persons, and disabled persons,<sup>78</sup> but does not contain any provision recognising that women are disproportionately affected by domestic violence.

## Psychological Violence

The IC criminalises the intentional serious impairing of a person’s psychological integrity through coercion or threats.<sup>79</sup> What is considered “serious” is not defined, but the provision is directed towards a course of conduct rather than a single event.<sup>80</sup> Psychological violence comes within the definition of domestic violence in Kosovo law, both in the LPDV and the CCK. This is important considering that several studies have indicated that it may be the most prevalent form of violence in a domestic setting, including restriction of financial resources, education, or medical care, or isolation, humiliation, and threats.<sup>81</sup> Such violence often accompanies physical or sexual abuse.<sup>82</sup> The Committee on the Elimination of Discrimination Against Women has emphasised the importance of recognising psychological violence in the domestic setting in *VK v Bulgaria*,<sup>83</sup> concluding that:

gender-based violence ... within the meaning of ... [CEDAW] and general recommendation No. 19, does not require a direct and immediate threat to the life or health of the victim. Such violence is not limited to acts that inflict physical harm, but also covers acts that inflict mental or sexual harm or suffering, threats of any such acts, coercion and other deprivations of liberty.

The ECtHR has reached similar conclusions. For example, in the case of *Hajduová v Slovakia*,<sup>84</sup> the Court found that although repeated threats made by a victim’s former husband never materialised, they were enough to affect the psychological integrity and wellbeing of the victim.<sup>85</sup> The Kosovo Constitution provides that human rights and fundamental freedoms shall be interpreted consistent with the

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<sup>77</sup> Article 2.1.2.

<sup>78</sup> Article 1.

<sup>79</sup> Article 33.

<sup>80</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Istanbul, 11.V.2011, pgh. 181.

<sup>81</sup> Truchero Cuevas, J. and Khrystova, G., “Good International Practices and Standards on Violence Against Women and Domestic Violence”, Council of Europe, 2015, pp. 24-25.

<sup>82</sup> Krug, E., Dahlberg, L., Mercy, J., Zwi A., and Lozano, R. (eds.) for the World Health Organisation, *World Report on Violence and Health: Chapter 4 - Violence by Intimate Partners*, 2002, p. 89.

<sup>83</sup> CEDAW Committee, *VK v Bulgaria* (CEDAW/C/49/D/20/2008).

<sup>84</sup> See for example: *Opuz v Turkey* (Application no. 33401/02); *A v Croatia* (Application no. 55164/08); and *X and Y v the Netherlands* (Application no. 8978/80).

<sup>85</sup> *Hajduová v Slovakia* (Application no. 2660/03).

decisions of the ECtHR,<sup>86</sup> so this line of reasoning may inform Kosovo courts dealing with cases of psychological violence.

Psychological violence, however, may occur *outside* the sphere of domestic violence, and the IC does not limit the application of this offence to the domestic setting. For example, the Explanatory Report to the IC draws attention to the workplace or school environment.<sup>87</sup> Criminalising psychological violence only within a domestic relationship may fail to consider patterns of behaviour foreseen by the IC. The domestic violence offence relies on a particular relationship existing for psychological violence to occur, which may not apply in environments such as work or school (for example, colleagues or teachers). In Kosovo, relevant offences in this context include threat, blackmail,<sup>88</sup> and harassment.<sup>89</sup> However, a dedicated provision on psychological violence in the CCK may better address psychological violence from a gender-perspective.

## Physical Violence

The IC criminalises any intentional acts of physical violence against another person, irrespective of the context in which such acts occur.<sup>90</sup> This refers to bodily harm suffered following physical force.<sup>91</sup> Physical violence comes within the definition of domestic violence in the CCK and LPDV. Within the CCK, three offences generally prohibit physical violence: assault, light bodily injury, and grievous bodily injury.<sup>92</sup> These offences are subject to a higher penalty if the offence involves use of a weapon, is perpetrated against a vulnerable victim,<sup>93</sup> and/or is motivated by a number of protected grounds, including gender.

## Femicide and Due Diligence

Femicide refers to the gender-based killing of women and girls. There is no standardised definition of femicide but the term encompasses a range of recognisable forms. The UN considers femicide to include, for example, the killing of women and girls as a result of intimate-partner violence, domestic violence, related to “honour” or dowries, and/or the killing of women sex workers.<sup>94</sup> The European Institute for Gender Equality (EIGE) additionally refers to female foeticide, deaths related to unsafe abortions, and female genital mutilation-related deaths.<sup>95</sup>

Within Kosovo law, the CCK offence of murder attracts a minimum penalty of five years im-

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<sup>86</sup> Article 53.

<sup>87</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Istanbul, 11.V.2011, pgh. 181.

<sup>88</sup> KCC articles 181 and 329, respectively.

<sup>89</sup> See Stalking below.

<sup>90</sup> Article 35. “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Istanbul, 11.V.2011, pgh 187.

<sup>91</sup> Ibidem, pgh 188.

<sup>92</sup> Articles 184, 185, and 186, respectively.

<sup>93</sup> See the “[Gender in Criminal Law](#)” section above.

<sup>94</sup> UN Office on Drugs and Crime, [Global Study on Homicide: Gender-related killing of women and girls](#), 2018, pp. 29-37.

<sup>95</sup> EIGE, [Terminology and Indicators for Data Collection: Rape, femicide and intimate partner violence](#), 2017, pp. 34-35.

prisonment.<sup>96</sup> The offence is aggravated by a number of factors, raising the penalty to a minimum of ten years or lifelong imprisonment, including: if the victim is a child, a pregnant woman, a family member, or if the motivation is based on a number of grounds including gender, gender identity, or sexual orientation.<sup>97</sup> The definition of a “member of the family” includes spouses and persons who “live in an extra-marital communion”.<sup>98</sup> The aggravated offence could be broadened to include partners and ex-partners who do not live with the victim. Additionally, several crimes relevant to gender-based violence attract penalty increases if the crime results in the death of the victim: rape, sexual assault, forced abortion, forced sterilisation, and female genital mutilation, including inciting or assisting.<sup>99</sup>

The IC does not use the term “femicide”, but the crime of physical violence is intended to encompass violence resulting in the death of the victim.<sup>100</sup> Perhaps more significant is the duty of due diligence imposed on states to prevent, investigate, punish, and provide reparation for acts of violence covered by the IC that are perpetrated by non-state actors.<sup>101</sup> This refers to situations of extreme danger where state authorities knew or ought to have known of the risk but did not react. This duty can be seen in the context of intimate partner violence in ECtHR case law,<sup>102</sup> in which the court has referred to opinions of the Committee for the Elimination of All Forms of Discrimination Against Women and jurisprudence of the Inter-American Court of Human Rights on due diligence. In *Branko Tomasic v Croatia* the ECtHR held:

A positive obligation will arise where it has been established that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.<sup>103</sup>

In Kosovo, in recent years, increased attention has been drawn to femicide in the context of domestic violence and the inadequate institutional response to such crimes, including by police and in sentencing. From 2017 to 2020, at least 74 women have been killed.<sup>104</sup> The due diligence obligation under the IC would require investigation after such crimes into whether state authorities had prior knowledge of a woman’s exposure to violence, if state institutions knew or should have known that the woman’s life was at risk, and if appropriate measures were taken.<sup>105</sup> Consideration should be given

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<sup>96</sup> Article 172.

<sup>97</sup> Article 173.

<sup>98</sup> Article 113.26.

<sup>99</sup> Articles 227.5, 229.4, 178.3, 179.2, and 180.4, respectively.

<sup>100</sup> Article 35. “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Istanbul, 11.V.2011, pgh. 188.

<sup>101</sup> Article 5.

<sup>102</sup> *Opuz v Turkey* (Application no. 33401/02).

<sup>103</sup> *Branko Tomasic v Croatia* (Application no. 46598/06).

<sup>104</sup> Data provided to KWN by Kosovo Police. See also, Kosovar Gender Studies Center, [Femicide and the feminist perspective](#), 2019.

<sup>105</sup> Duhaček, D., Branković, B. and Miražić, M. for the European Parliament FEMM Committee, [Women’s Rights in Western Balkans](#), January 2019, p. 41.

to establishing a “femicide watch” focused on prevention by identifying shortcomings in law, policy or implementation.<sup>106</sup> The remedies under the IC must be accessible to the descendants of the victim in the event of her or his death.<sup>107</sup>

## Forced Marriage

The IC requires states to take measures to ensure that intentional forced marriage of an adult or child is criminalised.<sup>108</sup> The CCK adequately provides this protection. Forcing a person to enter into marriage, or entering a marriage knowing that the other person was compelled, is punishable by imprisonment.<sup>109</sup> The penalty increases if the offence is committed against a child (under age 18);<sup>110</sup> by a parent; and/or if an element of material benefit exists. The CCK also punishes any official who knowingly permits unlawful marriage.

Civil law has a crucial role in addressing forced marriage. This is reflected in the IC as marriages concluded by force must be annulled or dissolved without undue financial or administrative burden on the victim.<sup>111</sup> The Kosovo Family Law provides that a marriage is not valid when established “under coercion, threat or by mistake or any other lack of free will” and shall be annulled if the “spouse” has provided consent under fear, violence, or serious threat.<sup>112</sup>

Commentators have said that it may be difficult to satisfy the burden of proof that a marriage was “forced”. While courts may accept physical threats or emotional pressure, there has been reluctance among judges to accept as “forced” factors like fear of ostracism or shame, which may be particularly onerous for women in certain communities.<sup>113</sup> In Kosovo, child and early marriage occur more in Roma, Ashkali, Egyptian, rural, and diaspora communities.<sup>114</sup> Thus, judges’ training on forced marriage should integrate attention to the fact that certain cultural or gendered aspects<sup>115</sup> must be considered in their understanding of what may constitute “force” (and “threat” and “coercion” in the Family Law). Meanwhile, training must make clear that no culture, custom, religion, tradition, or so-called “honour” may justify forced marriages in any circumstances, as required by the IC.<sup>116</sup>

## Stalking

The IC defines stalking as “the intentional conduct of repeatedly engaging in threatening con-

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<sup>106</sup> United Nations Office of the High Commissioner for Human Rights, “[Femicide Watch Call 2020](#)”.

<sup>107</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Istanbul, 11.V.2011, pgh. 164.

<sup>108</sup> Article 37.1. Luring an adult or child to a territory other than where they reside for the purpose of forced marriage is also criminalised (Article 37.2).

<sup>109</sup> Article 239.

<sup>110</sup> Article 113.22.

<sup>111</sup> Article 32.

<sup>112</sup> Nr. 2004/32, articles 18 and 63, respectively.

<sup>113</sup> European Agency for Fundamental Rights, “[Addressing forced marriage in the EU: legal provisions and promising practices](#)”, 2014, p. 19.

<sup>114</sup> Krol, et al., [Mapping support services for victims of violence against women in Kosovo](#), p. 4.

<sup>115</sup> Anitha, S. and Gill, A., “Coercion, consent and the forced marriage debate in the UK”, *Feminist Legal Studies*, 17(2), 2009, 165-184, p. 175.

<sup>116</sup> Article 42.

duct directed at another person, causing her or him to fear for her or his safety”.<sup>117</sup> Although the CCK does not use the term “stalking”, the offence of “harassment” captures the same behaviour.<sup>118</sup> Harassment in the CCK is “a pattern of repeated and unwanted attention or communication with the intent to harass, intimidate, injure, damage property or kill another person or his or her children, family, relatives or pets” or placing a person under surveillance with the same intent.

The phrasing of this provision in the IC has faced some criticism as emphasising the consequences of the behaviour on the victim may set a particularly high threshold that leaves many victims unduly unprotected.<sup>119</sup> Some argue that the effect on the victim should be omitted, as the intrusive invasion of psychological space or mental privacy is sufficient for criminalisation.<sup>120</sup> Kosovo law faces the same critiques by requiring the victim to be “placed in a reasonable fear of death, grievous bodily injury, serious damage to property or substantial emotional stress”.<sup>121</sup> Future reform should consider removing this aspect of the offence.

The penalty increases if the crime is committed against a former or current domestic partner or family member. A further aggravating circumstance is where a weapon, instrument, or other object is used.

## Sexual Harassment

The IC prohibits sexual harassment, defined as: “any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment”.<sup>122</sup> The CCK now contains a new, similar offence.<sup>123</sup> It protects all persons from sexual harassment, but attends specifically to those who are “vulnerable” due to age, illness, disability, addiction, pregnancy, or severe physical or mental disability, but not based on gender. There is a penalty increase if the perpetrator is in a position of authority over the victim or if a weapon, instrument, or object is used.

Kosovo law also contains protection against sexual harassment outside of the criminal sphere, by prohibiting sexual harassment under the Law on Gender Equality and the Law on Protection from Discrimination.<sup>124</sup> The sanctions under both laws are poorly drafted.<sup>125</sup> Nevertheless, including these prohibitions is positive because the scope of these laws is very broad, encompassing a wide range of aspects of public and private life, including but not limited to employment, education, access to social protection, social amenities, fair and equal treatment in court proceedings, and access to public places.

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<sup>117</sup> Article 34.

<sup>118</sup> Article 182. Some commentators criticise this approach, arguing that although stalking and harassment are related, they are different phenomena and warrant separate criminalisation (Van der Aa, S., “New Trends in the Criminalization of Stalking in the EU Member States”, *European Journal of Criminal Policy and Research*, 24, 2018, 315-333, p. 326).

<sup>119</sup> Ibidem, p. 325.

<sup>120</sup> Guelke, J. and Sorel, T., “Violation of privacy and law: the case of stalking”, *Law, Ethics and Philosophy*, 4, 2016, 32-60.

<sup>121</sup> Article 182.

<sup>122</sup> Article 40.

<sup>123</sup> Article 183.

<sup>124</sup> Article 3.1.12; and Law No. 05/L-021 on the [protection from discrimination](#), Article 4.1.3.

<sup>125</sup> See KWN, [Gender-Based Discrimination and Labour in Kosovo](#), pp. 19 and 23.

## Sexual Violence

The IC prohibits various crimes related to sexual violence, including:

- A. engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object;
- B. engaging in other non-consensual acts of a sexual nature with a person;
- C. causing another person to engage in non-consensual acts of a sexual nature with a third person.<sup>126</sup>

The CCK contains the offences of rape and of sexual assault, which broadly correspond with offences A and B above, respectively.<sup>127</sup> The definition of rape is subjecting another person to a sexual act without that person's consent.<sup>128</sup> Sexual assault is where a person touches another for a sexual purpose or induces a person to touch them or another person for a sexual purpose, without consent.<sup>129</sup> The CCK contains a wide range of aggravating circumstances. One is unique to rape: if the act is accompanied by a threat "to reveal a fact that would seriously harm the honour or reputation of such person or of a person closely connected". Punishments for both rape and sexual assault are increased if there is a threat of violence, imminent danger, exploitation, use of weapon, torture, bodily injury, intoxication, awareness of a victim's vulnerabilities, or domestic relationship with the victim.

## Consent

The IC adopts the approach of international and human rights law in considering autonomy central to the definition of rape, stating that "[c]onsent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances." The Council of Europe offers the following guidance:

Prosecution of this offence will require a context-sensitive assessment of the evidence in order to establish on a case-by-case basis whether the victim has freely consented to the sexual act performed. Such an assessment must recognise the wide range of behavioural responses to sexual violence and rape which victims exhibit and shall not be based on assumptions of typical behaviour in such situations. It is equally important to ensure that interpretations of rape legislation and the prosecution of rape cases are not influenced by gender stereotypes and myths about male and female sexuality.<sup>130</sup>

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<sup>126</sup> Article 36.

<sup>127</sup> The offence of Degradation of Sexual Integrity (Article 230) broadly follows the same structure of these offences, albeit with different penalties. This offence is where a person is induced to expose the private parts of their body, to masturbate or to commit another act that degrades their sexual integrity, without their consent.

<sup>128</sup> Article 227. Article 225.4 defines "sexual act".

<sup>129</sup> Article 229.

<sup>130</sup> "Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence", Istanbul, 11.V.2011, pgh. 192.

In the Explanatory Report to the IC, the Council of Europe also draws attention to the ECtHR case of *M.C. v Bulgaria*:

the Court is persuaded that any rigid approach to the prosecution of sexual offences, such as requiring proof of physical resistance in all circumstances, risks leaving certain types of rape unpunished and thus jeopardising the effective protection of the individual's sexual autonomy. ... [Member states must require] the penalisation and effective prosecution of any non-consensual sexual act, including in the absence of physical resistance by the victim.<sup>131</sup>

Under the CCK, "consent" means voluntary agreement of a person over age 16 to engage in a sexual act.<sup>132</sup> It can also mean voluntary agreement between two persons over the age of 14 where the difference in their ages does not exceed two years. A defence exists under the CCK where a person mistakenly believes that a victim is over the age of 16 for "justifiable reasons".<sup>133</sup> In such circumstances, a person may not be criminally liable for engaging in a consensual sexual act with a person below the age of consent. The negligence of the accused is insufficient to satisfy this defence, meaning that the perpetrator should be convicted if they ought to have been aware that the victim was under the age of consent or if they acted recklessly.

The CCK defines some non-exhaustive circumstances where no consent is obtained. These are: where the victim expresses by words or conduct that they do not want to engage in a sexual act; where consent is expressed by someone other than the victim; where consent was obtained through deception, fear or intimidation; or where someone is not capable of agreeing to a sexual act because of diminished mental or physical capacity or intoxication.

## Inadmissible Evidence

While the *International Criminal Tribunal for the former Yugoslavia* and *International Criminal Court* rules of procedure both state that the prior sexual conduct of a victim cannot be admitted as evidence, the IC allows this "only when it is relevant and necessary",<sup>134</sup> allowing considerable discretion.<sup>135</sup> In Kosovo, the Draft KCPC seeks to introduce the following:

Any evidence that is related to the past sexual conduct of the witness, victim or injured party shall be ruled to be inadmissible in criminal proceedings of criminal offenses of [a] sexual nature, unless relevant and strictly necessary and not unduly degrading to the witness, victim or injured party.<sup>136</sup>

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<sup>131</sup> Application no. 39272/98.

<sup>132</sup> Article 225.1 – 225.2.

<sup>133</sup> Articles 25 and 226.

<sup>134</sup> Article 54.

<sup>135</sup> Nousiainen, K. and Chinkin, C., "[Legal Implications of EU Accession to the Istanbul Convention](#)", European Commission, 2015, p. 44.

<sup>136</sup> Article 257.



The only circumstances in which such evidence can be introduced is to prove that physical evidence derives from a person other than the defendant or to prove consent based on prior sexual contact between the defendant and the witness, victim, or injured party. However, prior sexual conduct may not be used as sole or decisive evidence proving consent. The Supreme Court of Kosovo Sentencing Guidelines direct judges that “[t]he victim’s past sexual history is not relevant to her credibility. Nor should it be a reason to reduce an offender’s sentence”.<sup>137</sup>

## **Sexual Violence within Relationships, including Marital Sexual Violence**

The IC requires law to recognise that the above sexual offences apply to acts committed against former or current spouses or partners.<sup>138</sup> This provision recognises that sexual violence and rape are a common form of exerting power and control in abusive relationships and are likely to occur during relationships and after couples break-up.<sup>139</sup> Therefore, there must be “no exceptions to the criminalisation and prosecution of such acts when committed against a current or former spouse or partner”.<sup>140</sup>

For both rape and sexual assault, the CCK recognises their occurrence within a domestic relationship as an aggravating circumstance.<sup>141</sup> In the LPDV, “non-consensual sexual acts and sexual ill-treatment” are recognised in the definition of domestic violence.<sup>142</sup> It also adequately recognises previous spouses or partners. Despite these provisions, concern has been raised over inadequate implementation and widespread issues surrounding marital rape in Kosovo.<sup>143</sup> Notably, the previous CCK limited the domestic relationship aggravating circumstance to instances in which the victim was between 16 and 18 years old, thereby unjustifiably excluding many potential victims of marital rape.<sup>144</sup> The clarity in the new CCK is thus a welcome development, but may need to be monitored to ensure appropriate application given this history.

## **Female Genital Mutilation**

The IC prohibits performing any mutilation to a woman’s genitalia or coercing a woman or girl to undergo any acts of genital mutilation.<sup>145</sup> The CCK provides that whoever “for non-medical reasons, partially or totally removes or permanently alters the external female genitalia” shall be punished, with a penalty that increases for “vulnerable” victims.<sup>146</sup> There is also a penalty increase if the victim

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<sup>137</sup> Supreme Court of Kosovo, [Sentencing Guidelines](#), First Edition, 2018, pp. 135-136.

<sup>138</sup> Article 36.3.

<sup>139</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Istanbul, 11.V.2011, pgh. 194.

<sup>140</sup> Ibidem.

<sup>141</sup> Articles 227.4.9 and 229.3.9, respectively

<sup>142</sup> Article 2.1.2.7.

<sup>143</sup> See, for example, Gjocaj, S., for Kosovo 2.0, “[Marital rape, ‘legitimate’ and granted in Kosovo](#)”, December 2019.

<sup>144</sup> Code No. 06/I-074 [Criminal Code of the Republic of Kosovo](#) (Abolished), Article 230.4.9.

<sup>145</sup> Article 38.

<sup>146</sup> Article 180.

dies as a result of the mutilation. Inciting or assisting the crime is also punishable. The “non-medical reasons” aspect of the provision is also foreseen by the World Health Organisation, but concern was raised in 2014 on an increasing trend of medically trained personnel performing acts of female genital mutilation.<sup>147</sup> Beyond punishment, support and protection measures for victims are also necessary, which should include training for frontline professionals.<sup>148</sup> A good practice in legislating against female genital mutilation is to protect victims from suffering mutilation overseas<sup>149</sup> and criminalise the failure to protect a girl from the risk of genital mutilation.<sup>150</sup> This means that if parents or another person responsible for a girl expose her to such a risk, they may face prosecution. Consideration should be given to adopting this approach in Kosovo.

## **Forced Abortion and Forced Sterilisation**

The IC addresses forced abortion and forced sterilisation in the same article.<sup>151</sup> These crimes are addressed separately in the CCK.<sup>152</sup> The IC prohibits the intentional performing of an abortion on a woman without her prior and informed consent.<sup>153</sup> Kosovo law on forced abortion prohibits the termination of pregnancy without the consent of the pregnant woman. It also prohibits the termination of pregnancy *with* the consent of the pregnant woman, but in violation of the Law for Termination of Pregnancy.<sup>154</sup> Such situations, or assisting with such, is punishable with imprisonment. Forced abortions carry penalty increases if they result in grievous bodily injury, serious impairment to health, or the death of the pregnant woman.

On forced sterilisation, the IC prohibits performing surgery which has the purpose or effect of terminating a woman’s capacity to naturally reproduce without her prior and informed consent or understanding.<sup>155</sup> In Kosovo, forced sterilisation is formulated in gender-neutral terms. The offence of forced sterilisation carries a penalty increase if the offence results in grievous bodily injury, serious impairment to health, or the death of the person. The Kosovo provision relies exclusively on a lack of consent, while the IC provision additionally prohibits sterilisation if the victim does not understand the procedure.

## **Technology Facilitated Crime, including “Revenge Porn”**

Several emerging forms of gender-based violence are instigated or facilitated by information and communications technology (ICT). These include online harassment, stalking, bullying, and sexual

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<sup>147</sup> World Health Organisation, “[Female Genital Mutilation: Fact Sheet](#)”.

<sup>148</sup> Gardner-Rhys, R., “Recent Developments in the Law Relating to Female Genital Mutilation”, *Child and Family Law Quarterly*, 28(1), 2016, 87-98, pp. 96 – 97.

<sup>149</sup> For example, see the United Kingdom Female Genital Mutilation Act 2003, s.3 (as amended).

<sup>150</sup> *Ibidem*, s.3A (as amended).

<sup>151</sup> Article 39.

<sup>152</sup> Articles 178 and 179.

<sup>153</sup> Article 39a.

<sup>154</sup> No. 03/L-110.

<sup>155</sup> Article 39b.

abuse.<sup>156</sup> One form of sexual abuse is “revenge porn”, which refers to the dissemination of sexually explicit images or videos without the consent of the pictured person and for no legitimate purpose (e.g., within a criminal trial). While often an ex-partner who obtained the material consensually, perpetrators are not always ex-partners and the motive is not always revenge.<sup>157</sup> Empirical research on sexual abuse online is lacking, but women and girls seem disproportionately affected.<sup>158</sup>

The IC does not address “revenge porn”, and ongoing debate surrounds the correct legal response to the issue. Some have argued that existing remedies may be adequate. However, patchwork non-specific civil law or existing criminal law is often unable to capture the harms of the behaviour, partially due to the slow nature of the law to respond to new technologies.<sup>159</sup> Thus, several EU member states have adopted targeted criminal legislation, but drafting provisions that adequately capture the scope and nature of the behaviour has proven difficult.<sup>160</sup>

A partial remedy within EU data protection law is the “right to be forgotten”,<sup>161</sup> which allows EU citizens to demand search engines delete data about them. However, this remedy does not remove content from hosting sites, so material is still accessible. The European Court of Justice recently held that this right does not automatically extend outside the EU.<sup>162</sup> Thus, Kosovo citizens must rely on general policies for removal of material online, which appear very limited and at the discretion of the company to which the request is submitted. Considering the limited remedies available, Kosovo should consider adopting a targeted criminal provision in the CCK and/or measures within the Law on Prevention and Fight of the Cybercrime.<sup>163</sup> The Kosovo Police has a Cybercrime Investigation Unit, and adequate training to respond to such issues should be considered.

## Victim Compensation

The IC requires states to ensure victims have the right to claim compensation from perpetrators for any offence covered by the IC.<sup>164</sup> State compensation must be awarded within a reasonable time if persons have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance, or state-funded health and social provisions.<sup>165</sup> The EU Directive on Compensation for Crime Victims also provides detailed procedures by which victim compensation should be awarded.<sup>166</sup> The Victims’ Rights Directive also

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<sup>156</sup> Council of the European Union Conclusions, “Preventing and combating all forms of violence against women and girls, including female genital mutilation”, Justice and Home Affairs Council Meeting, Luxembourg, 5-6 June 2014, p. 2.

<sup>157</sup> EIGE, “[Cyber violence against women and girls](#)”, p. 2.

<sup>158</sup> See for example: Drouin, D., Ross, J., and Tobin, E., “Sexting: a new, digital vehicle for intimate partner aggression?”, *Computers in Human Behaviour*, 50, 2015, 197, and Franks, M.A. and Citron, D., “Criminalizing Revenge Porn”, *Wake Forest Law Review*, 49, 2014, 345.

<sup>159</sup> Henry, N. and Powell, A., “Sexual Violence in the Digital Age: The Scope and Limits of Criminal Law”, *Social and Legal Studies*, 25, 2016, 397, 398.

<sup>160</sup> Ryan, D., “European remedial coherence in the regulation of non-consensual disclosures of sexual images”, *Computer Law and Security Review*, 34, 2018, 1053-1076, 1066.

<sup>161</sup> Now the “right to erasure” (GDPR Article 17).

<sup>162</sup> Case C-507/17 *Google v CNIL*.

<sup>163</sup> No. 03/L –166.

<sup>164</sup> Article 30.1.

<sup>165</sup> Article 30.2.

<sup>166</sup> Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims.

requires mechanisms for recovering compensation from offenders.<sup>167</sup> In Kosovo, the Law on Crime Victim Compensation is broadly aligned with the EU Directive on Compensation for Crime Victims.<sup>168</sup> The Law specifically includes criminal offences falling within the definition of domestic violence under LPDV, as well as murder, rape, trafficking in persons, and sexual abuse of children.<sup>169</sup> The Law foresees psychological injuries. The Crime Victim Compensation Committee is the competent authority.<sup>170</sup> However, concern has been raised of insufficient budget allocations for compensating victims and inadequate assistance for victims in filing requests for compensation.<sup>171</sup>

## Compensation for Victims of Conflict-Related Sexual Violence

The IC recognises conflict-related gender-based violence in its preamble: “Recognising the ongoing human rights violations during armed conflicts that affect the civilian population, especially women in the form of widespread or systematic rape and sexual violence and the potential for increased gender-based violence both during and after conflicts”.

Since February 2018, persons who suffered sexual violence during the war in Kosovo can apply to the *Government Commission for the Recognition and Verification of the Status of Survivors of Sexual Violence Victims During the Kosovo Liberation War* to receive recognition and be verified for individual compensation.<sup>172</sup> However, it excludes victims who experienced conflict-related sexual violence after 20 June 1999.<sup>173</sup> A further issue is the imposition of a five year time limit for applications following the establishment of the Commission.<sup>174</sup> Several other measures have been introduced for survivors of conflict-related sexual violence.<sup>175</sup>

## Other Substantive Provisions

Offences under the IC apply irrespective of the relationship between the victim and the perpetrator.<sup>176</sup> The IC requires that culture, custom, religion, tradition, or so-called “honour” are unacceptable justifications for offences.<sup>177</sup> No such defences exist within the Kosovo criminal framework. Moreover, the Supreme Court Sentencing Guidelines direct judges not to consider any sentence reduction if a perpetrator claims to have acted out of these factors, drawing attention to the fact that

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<sup>167</sup> See also: Milquet, J. for the President of the European Commission, “[Strengthening Victims' Rights: From compensation to reparation – for a new EU Victims' rights strategy 2020-2025](#)”, 2019.

<sup>168</sup> No. 05/L-036. European Commission, [Kosovo 2019 Report](#), 2019, p. 30.

<sup>169</sup> Article 6.

<sup>170</sup> See Chapter III of the Law.

<sup>171</sup> See Victim Advocates below.

<sup>172</sup> Established under Regulation No. 22/2015 [on defining the procedures for recognition and verification of the status of sexual violence victims during the Kosovo liberation war](#).

<sup>173</sup> Ibid, Article 3.1.4.

<sup>174</sup> Regulation No. 22/2015 [on defining the procedures for recognition and verification of the status of sexual violence victims during the Kosovo liberation war](#), Article 17.

<sup>175</sup> Including establishing the National Council on the Survivors of Sexual Violence During the War in Kosovo and adopting Law no. 04/L-17228 which legally recognised the status of civilian victims of sexual violence during the armed conflict.

<sup>176</sup> Article 43.

<sup>177</sup> Article 42, reiterated in Article 12.5.

the IC demands harsher punishment when a family member commits such a crime.<sup>178</sup>

Mandatory alternative dispute resolution processes are prohibited by the IC related to all forms of violence within its scope.<sup>179</sup> The Draft KCPC provides that crimes of domestic violence shall not be referred to mediation, as does the Law on Mediation.<sup>180</sup> The Code of Conduct of Mediators also requires mediators to terminate any mediation process where there are elements of domestic violence, to notify the parties of the reason for termination, and to instruct the parties to follow “the procedures in accordance with the legislation in force”.<sup>181</sup> This could be quite relevant in other civil proceedings, such as related to child custody, alimony, and divorce, where the potential exists for mediation to traumatize victims and exploit their vulnerable positions. Meanwhile, the Family Law still contains a provision encouraging spouses to take all practicable steps, including reconciliation measures, to save a marriage, which officials have referenced in seeking to “reconcile” couples.<sup>182</sup> Notably, the same provision requires that any risk of harm or violence to spouses or children should be avoided.

## INVESTIGATION, PROSECUTION, PROCEDURAL LAW AND PROTECTIVE MEASURES

The following sub-sections focus on the protection of victims, firstly during the legal process and then in terms of support services and protection from further violence. Many relevant IC measures in this area overlap with the Victims’ Rights Directive. While many needed measures described herein are currently absent from the legal framework, the proposed Draft KCPC would significantly improve the legal framework’s harmonization with the IC and Victims’ Rights Directive. Therefore, it should be adopted with its current provisions and a few, recommended minor adjustments.

### Victims’ Rights Overview

The Draft KCPC proposes to introduce a significant amount of needed detail related to victims’ rights.<sup>183</sup> First, it seeks to expand the definition of an injured party or victim to include someone who has suffered harm, including physical, mental, or emotional harm, or economic loss.<sup>184</sup> The current provision focuses on the violation of personal or property rights.<sup>185</sup> While the rights in the Draft KCPC will apply generally to all victims, a new provision on vulnerable victims will be introduced:

the injured party or victim who is a victim of ... human trafficking, gender-based violence, violence in a domestic relationship, sexual violence, exploitation or discrimination and victim who

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<sup>178</sup> Supreme Court of Kosovo, [Sentencing Guidelines](#), First Edition, 2018, p. 135.

<sup>179</sup> Article 48.

<sup>180</sup> [Draft Criminal Procedure Code](#), Article 231; and Law No. 06/L-009, Article 2.3.

<sup>181</sup> Code Moj-No.12/2019 of [Conduct of Mediators in the Republic of Kosovo](#), Article 7.8.

<sup>182</sup> Article 59. See findings in the Courts [section](#) below.

<sup>183</sup> [Draft Criminal Procedure Code](#) no. 06/L-151.

<sup>184</sup> Article 19.1.7.

<sup>185</sup> Current Code Article 19.1.7.

have suffered considerable harm due to the severity of the criminal offense as well as victims with disabilities and those who are particularly vulnerable, shall be duly considered.<sup>186</sup> [sic]

The NSPDV 2016-2020 also recognised the protection of victims' rights.<sup>187</sup> Kosovo's legal framework will meet many requirements of the IC and Victims' Rights Directive, provided that the Draft KCPC is adopted as presently phrased.

## **Guiding Principles of Procedural Protections**

Chapter VI of the IC is on investigation, prosecution, procedural law, and protective measures. The guiding principles include investigation and prosecution of crimes without undue delay; adequate and immediate protection and support for victims; full consideration of victims' rights, including a gendered understanding of violence; and ensuring governmental and non-governmental organisations and domestic violence counsellors may assist and/or support victims, at their request, during investigations and judicial proceedings.<sup>188</sup> The following is an overview of the protective measures for victims foreseen in the IC and the Victims' Rights Directive, and how they are transposed in Kosovo law.

## **Risk Assessment**

A central concept in victim protection under the IC is risk assessment and risk management. All relevant authorities should conduct an assessment of the lethality risk, the seriousness of the situation, and the risk of repeat violence on a case-by-case basis to manage risks and establish if it is necessary to provide coordinated safety and support measures. A similar obligation exists under the Victims' Rights Directive.<sup>189</sup> The Directive applies generally to all victims but requires particular attention to victims of gender-based violence, violence in close relationships, and sexual violence, among others. The same approach is adopted in the Draft KCPC.

The Draft KCPC provides that victims have the right to receive information on the types of support they may obtain "following an individual assessment by the police, the state prosecutor, the judge or other body conducting the criminal proceedings".<sup>190</sup> The Standard Operating Procedures for Victim Protection and Assistance Office provide for a victim needs assessment when a Victim Advocate (VA) is assigned a case. Once the need for services is established, appropriate actions should be taken to meet those needs.<sup>191</sup> The Standard Operating Procedures for Protection Against Domestic Violence (SOPs) detail the risk assessment procedure that police should conduct in domestic violence cases.<sup>192</sup> A VA should be present. If a victim contacts an actor other than police, the same Basic Form should be used.

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<sup>186</sup> Article 63.1.4.

<sup>187</sup> NSPDV 2016-2020, p. 9.

<sup>188</sup> Articles 49, 50 and 55.2.

<sup>189</sup> Article 22.

<sup>190</sup> Article 63.1.3.1.

<sup>191</sup> Article 8.

<sup>192</sup> Standard Operating Procedures for Protection Against Domestic Violence, p. 29. See also Annex 8 (Risk Assessment Checklist).

## Protections in the Legal Process

Chapter VI of the IC establishes a number of procedural protections to protect and empower victims at all stages of proceedings, including during investigations and trials. The measures are indicative, and parties may adopt more favourable provisions. In the following tables “**VD**” refers to the Victims’ Rights Directive and “**DPC**” refers to the Draft KCPC.

General Measures	
IC and VD	Kosovo
Provide for the protection of victims, their families and witnesses, from intimidation, retaliation and repeat victimisation (IC Article 56a; VD Article 18).	Victims will have the right to request protection (DPC 63.1.17). The risk assessment procedures outlined above should be carried out to determine what emergency, health and security needs are relevant for a victim.
Provide victims with appropriate support services so that their rights and interests are duly presented and taken into account (IC Article 56e).	All victims of crime have the right to access victim support services (DPC 63.1.18) and may request assistance from the Victim Protection and Assistance Office (SOPs).

Interviewing	
IC and VD	Kosovo
Protect victims during the criminal investigation by conducting victim interviews without unjustified delay after the complaint, keeping the number of interviews to a minimum, allowing the victim to be accompanied by a legal representative or a person of their choice and only carrying out medical examinations where they are strictly necessary (VD Article 20).	The DPC transposes these requirements (Articles 127.6, 127.7, and 142.4).==

<p>Where an individual assessment finds it necessary, interviews with the victim should be carried out in a premises designed or adapted for the victims' needs, carried out by or through professionals trained for that purpose, and being conducted by the same persons unless this is contrary to the good administration of justice (VD Article 23.2a - 23.2c).</p>	<p>These requirements are in SOPs. However, AGE found that not every police station has an appropriate room for interviewing victims of domestic violence.<sup>193</sup> Such a space should also be available for victims of other forms of gender-based violence, including victims of sexual violence.</p>
<p>All interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, should be conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced (VD Article 2d).</p>	<p>The DPC transposes this requirement (Article 127.8).</p>
<p>Enable victims, in a manner consistent with the procedural rules of internal law, to be heard, to supply evidence and have their views, needs and concerns presented, directly or through an intermediary, and considered (IC Article 56d; VD Article 10).</p>	<p>The DPC transposes these requirements (Article 63.1.8).</p>

<sup>193</sup> Agency for Gender Equality, "[Assessment of the level of implementation of the Standard Operating Procedures for Protection against Domestic Violence in Kosovo](#)" 2019, p. 152.



Information	
IC and VD	Kosovo
<p>Inform victims on first contact of (VD Article 4): complaints procedures;</p> <ul style="list-style-type: none"> <li>• access to legal advice, legal aid and any other sort of advice including interpretation and translation;</li> <li>• how and under what conditions they can access compensation</li> <li>• complaints procedures for where their rights are not respected by competent authorities operating within the context of criminal proceedings;</li> <li>• the contact details for communications about their case;</li> <li>• the available restorative justice services;</li> <li>• how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.</li> </ul>	<p>The DPC transposes these requirements (Article 63.1.3).</p>
<p>Inform victims of their rights and the services at their disposal and the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein, as well as the outcome of their case (IC Article 56c) including (VD Article 6):</p> <ul style="list-style-type: none"> <li>• the decision to not proceed with or to end an investigation or not to prosecute the suspect;</li> <li>• the time and place of the trial and nature of the charges;</li> <li>• any final judgment;</li> <li>• the state of the criminal proceedings.</li> </ul>	<p>Various provisions of the DPC partially transpose these requirements (Articles 63.1.3.1, 63.1.9, 371.6 [current KCPC Article 369.6]). Victims do not have an express right to receive information on the general progress of the investigation or proceedings in the DPC. However, there is a right to inspect the case file (Article 212 [current Code Article 214]).</p>
<p>Ensure victims are informed, at least in cases where the victims and the family might be in danger, when the perpetrator escapes or is released temporarily or definitively (IC Article 56b; VD Article 6.5).</p>	<p>The DPC transposes these requirements (Article 63.1.9).</p>

Procedural Rights	
IC and VD	Kosovo
<p>Ensure victims have the right to review a decision not to prosecute (VD Article 11).</p>	<p>The DPC transposes this requirement (Article 82.8).</p>

<p>Ensure that measures may be adopted to protect the privacy and the image of the victim (IC Article 56f; VD Article 21).</p>	<p>The current KCPC and the DPC provide for this protection (DPC Articles 219 and 220; KCPC Articles 221 and 222). Petitions for anonymity may be submitted at any stage, where there is a serious risk to an injured party, witness, or family member.</p>
<p>Provide victims with independent and competent interpreters when victims are parties to proceedings or when they are supplying evidence (IC Article 56h; VD Article 7) and ensure victims are enabled to make the complaint in a language that they understand or by receiving the necessary linguistic assistance (VD Article 5.2).</p>	<p>The current KCPC contains the right to interpretation (Article 14.2). The DPC has added that such interpretation shall be of a quality sufficient to safeguard the fairness of the proceedings (Article 14.2). The DPC also contains a new right of victims to interpretation in interviewing and questioning (Article 63.1.12), to file a motion and complaint in a language they understand or with linguistic assistance (Article 63.1.13) and for translation of information essential to exercise their rights in the criminal process (Article 63.1.14).</p>
<p>Ensure that contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible (IC Article 56g; VD Article 19) and enable victims to testify, according to the rules provided by their internal law, in the courtroom without being present or at least without the presence of the alleged perpetrator, notably through the use of appropriate communication technologies (IC Article 56i; VD Article 23.3).</p>	<p>The DPC has introduced the possibility for a victim or witness to testify at a session that is closed to the public, or at a different location by means of technology (Article 340).</p>

<p>Provide the right to legal assistance and to free legal aid for victims, under the conditions provided by internal law (IC Article 57; VD Article 13).</p>	<p>The DPC transposes this provision exactly without any qualification such as a needs-based or resource-based individual assessment (Article 63.1.15), indicating that the effort to transpose the Victims' Rights Directive may have lacked adequate consideration as to the practicalities of the rights therein. The EU has criticised this legal aid provision in the DPC as "insufficient in practice to meet the obligations of the relevant Kosovo legislation and the requirements of the EU acquis and the European Convention on Human Rights and its jurisprudence".<sup>194</sup></p> <p>The entitlement under the IC and Directive is not a right to automatic free legal aid, as states should provide conditions for access. The Law on Free Legal Aid (No. 04/L-017) offers more detail as to the qualifications for applying for aid. Under Article 64 of the DPC (current KCPC Article 63), victims have the right to be represented by a member of the bar or a VA.</p>
<p>Ensure that the statute of limitations for initiating proceedings for the offences of sexual violence [Article 36], forced marriage [Article 37], female genital mutilation [Article 38] and forced abortion and forced sterilisation [Article 39] continues for a period of time that is sufficient and commensurate with the gravity of the offence in question, to allow for the efficient initiation of proceedings after the victim has reached the age of majority (IC Article 58)</p>	<p>Kosovo law provides that where an offence is committed against a person under the age of 18, the limitation period only begins to run from the day the victim reaches the age of 18 (CCK Article 100.2). The statutory limitations on criminal prosecutions in Kosovo are determined by reference to the maximum penalty for the offence, ranging from a four-year period (for crimes punishable with imprisonment up to one year or a fine) to a 30-year period (for crimes punishable with life imprisonment) (CCK Article 99).</p>

<sup>194</sup> European Commission, [Kosovo 2019 Report](#), 2019, p. 30.

Remedies	
IC and VD	Kosovo
Safeguard the victim from secondary and repeat victimisation, intimidation and retaliation when providing any restorative justice services (VD Article 12). Such services may only be used with the victim's free and informed consent, which may be withdrawn at any time.	While these services are provided informally and in some instances by shelters and social workers, they are not adequately detailed within the relevant legal framework.
Ensure victims are entitled to obtain a decision on compensation by the offender (VD Article 16).	The DPC provides the right of victims to reasonable, court-ordered restitution from a defendant (Article 63.I.19). If such compensation is not possible, the victim is entitled to claim from the Crime Victim Compensation Program (Article 63.I.20).

## Victim Protection and Support

The IC requires states to protect victims from any further acts of violence.<sup>195</sup> Many IC provisions in this area overlap with those in the Victims' Rights Directive.<sup>196</sup> According to the IC's guiding principles, measures must: be based on a gendered understanding of violence against women, focusing on the human rights and safety of the victim; use an integrated approach that takes into account the relationship between victims, perpetrators, children, and their wider social environment; avoid secondary victimisation; aim at the empowerment and economic independence of women victims of violence; and address the specific needs of vulnerable persons. The emphasis of this chapter of the IC is on cooperation among actors. While law enforcement may be the first contact with victims, they must be able to refer a victim to specialist support services such as sexual violence referral centres, rape crisis centres, shelters, for forensic evidence collection, psychological support, and/or legal counselling.<sup>197</sup> These steps often lead the victim towards contact with lawyers, VAs, or courts.

## Protection Orders

The IC requires that states must make **protection orders** available to victims of **all** forms of violence covered by the Convention. Such orders must be available irrespective of other legal proceedings.<sup>198</sup> States also must ensure competent authorities have the power to issue **emergency**

<sup>195</sup> Article 18.

<sup>196</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

<sup>197</sup> "Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence", Istanbul, 11.V.2011, pgh. 114.

<sup>198</sup> Article 53.

**barring orders** in **domestic violence** situations of immediate danger.<sup>199</sup> A deficiency in Kosovo's legal framework is the limited availability of protection orders for victims of gender-based violence other than domestic violence. The Draft KCPC foresees that victims must be informed of how and under what conditions they "can obtain protection, including protection measures."<sup>200</sup> Affected persons, their representatives, VAs, social welfare representatives, persons in a domestic relationship with the victim, and CSOs can all petition for a protection order. The LPDV includes three forms of protection orders that may be sought in response to domestic violence:

1. Protection Orders (POs), issued by a court decision to provide protection measures to a victim.
2. Emergency Protection Orders (EPOs), issued temporarily and with shorter time frames.
3. Temporary Emergency Protection Orders (TEPOs), issued outside the working hours of courts.

The OSCE has expressed concern that insufficient distinction between POs and EPOs in the law may cause confusion among victims in determining which order is most appropriate to their situation, and to courts in determining whether the evidence presented by the petitioner best supports the issuance of a PO or EPO.<sup>201</sup> More specifically, the test for both orders is the same, and there is no definition of what situations amount to emergencies, such as to form the basis of an EPO, rather than a PO. A clearer distinction could facilitate prioritisation for situations of immediate danger and would avoid the distinction between POs and EPOs being left open to interpretation, which may contribute to inconsistent application.

Several measures may be granted in POs and EPOs, such as: prohibiting approaching the victim,<sup>202</sup> prohibiting harassment, temporary child custody, removal of a perpetrator from a shared home, ordering a perpetrator to pay rent, property-related measures, confiscation of an item used to perpetrate an act of violence, mandatory psychosocial medical treatment, or mandatory substance abuse treatment.<sup>203</sup> It also foresees other measures necessary to protect the safety, health, or welfare of the protected party. As discussed in later chapters, protection orders seem to rarely include some of these measures, such as the removal of the perpetrator from the shared home, payment of rent, and alimony.

Two administrative instructions have been introduced to regulate the two mandatory medical treatment measures.<sup>204</sup> These have been criticised for not paying sufficient attention to protected persons, inadequate detail on treatment evaluation, overemphasising reconciliation, and potentially

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<sup>199</sup> Article 52.

<sup>200</sup> Article 63.I.3.3.

<sup>201</sup> OSCE, "[Adjudication of petitions for protection orders in domestic violence cases in Kosovo](#)", 2012, p. 23.

<sup>202</sup> Article 5. This is also available outside domestic violence cases: CPC, Article 177 / DCPC, Article 176.

<sup>203</sup> Articles 7, 10, 4, 9, respectively.

<sup>204</sup> Administrative Instruction No. 12/2012 for determining the place and way of psychosocial treatment of perpetrators of domestic violence and Administrative Instruction Nr. 02/2013 on the method of treatment to perpetrators of domestic violence against which there is imposed the measure for mandatory medical treatment from alcoholism and addiction to psychotropic substances.

conflicting with LPDV aims.<sup>205</sup> Mandatory rehabilitation treatment for persons who committed criminal offences under the influence of alcohol or drugs may also be imposed for other crimes under the KCPC.<sup>206</sup> Kosovo lacks infrastructure and specific intervention programmes for perpetrators of domestic violence and sex offenders, as per the IC, including treatment for substance abuse and psychological disorders.<sup>207</sup> The lack of clear, state-funded programs hampers implementation of these measures.

POs or EPOs are issued where the court suspects the perpetrator shall “unavoidably risk the health, safety or wellbeing of the protected party and the person who has a domestic relationship with the protected party”.<sup>208</sup> The order, once granted, is executed immediately and is sent to the police and other relevant parties.<sup>209</sup>

Petitions for TEPOs are submitted to the Kosovo Police and decided by the Head of the Regional Kosovo Police Unit against Domestic Violence.<sup>210</sup> TEPOs are limited to the following measures: prohibiting the perpetrator from approaching or harassing victims, removing a perpetrator from a shared home, and item confiscation.<sup>211</sup> To issue a TEPO, one of the following must be satisfied: grounds to believe that the perpetrator has committed or threatened to commit domestic violence; the perpetrator poses an immediate or imminent threat to the safety, health, or well-being of the protected party; or a TEPO is necessary to protect the safety, health, or well-being of the protected party. The order must be served immediately to the perpetrator and is effective immediately.<sup>212</sup> TEPOs expire at the end of the next day that the courts are in operation.<sup>213</sup>

The violation of any protection order constitutes a criminal offence, to be immediately prosecuted.<sup>214</sup> Repeat violations are considered an aggravating circumstance impacting sentencing.<sup>215</sup> Issuing an order does not prevent filing of criminal proceedings.<sup>216</sup>

## Support Services

The following table summarises support services required by the IC and Victims’ Rights Direc-

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<sup>205</sup> Farnsworth et al. for KWN, [No More Excuses](#), p. 12.

<sup>206</sup> Chapter XXXII.

<sup>207</sup> Krol, et al., [Mapping support services for victims of violence against women in Kosovo](#), pp. 76-77.

<sup>208</sup> LPDV, Article 17.1.

<sup>209</sup> Courts must decide on issuing a PO within 15 days of the petition and EPOs within 24 hours (LPDV, Articles 15 and 16.1 respectively)

<sup>210</sup> LPDV, Article 22.3.

<sup>211</sup> LPDV, Articles 5, 6, 7, and 10, respectively.

<sup>212</sup> LPDV, Article 23.2, 23.4.

<sup>213</sup> LPDV, Article 22.2.

<sup>214</sup> LPDV, Article 26.1.

<sup>215</sup> LPDV, Article 25.

<sup>216</sup> LPDV, Article 26.2.

tive and the extent to which they exist in Kosovo.

Support Services	
IC and VD	Kosovo
Ensure victims receive adequate and timely information on support services and legal measures in clear intelligible language <sup>217</sup> (IC Article 19, VD Articles 3 and 4).	This entitlement is transposed in the DPC (Articles 63.1.3.1 and 63.1.10).
Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood (VD Article 3.3).	This entitlement is transposed in the DPC (Articles 63.1.6).
Ensure victims have access to services facilitating their recovery from violence, including legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment (IC Article 20.1; VD Articles 8 and 9).	The European Women's Lobby has drawn attention to the need for significantly increased support for rehabilitation and reintegration programmes for victims of gender-based violence in Kosovo. <sup>218</sup> The EU also observed the need for measures for effective reintegration of victims. <sup>219</sup>
Ensure victims have access to health and social services which are adequately resourced and where professionals are trained to assist victims and refer them to the appropriate services (IC Article 20.2).	The Council of Europe reports insufficient training and understanding of gender-based and intersectional violence amongst professionals working with victims, a lack of standardised procedures, protocols, guidelines, or common framework, and a lack of sufficient or sustainable funding from government budgets. <sup>220</sup>

<sup>217</sup> Victims also must have access to applicable regional and international individual/collective complaints mechanisms (Article 21). However, such mechanisms may be limited for Kosovo citizens.

<sup>218</sup> Gavrić, S. for the European Women's Lobby, "Mapping of Policies and Legislation on Violence Against Women and the Istanbul Convention in Kosovo", p. 18.

<sup>219</sup> European Commission, Kosovo 2019 Report, 2019, p. 28.

<sup>220</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, pp. 74-75.

<p>Ensure adequate geographical distribution, immediate, short- and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of the IC, which should include specialist women's support services for women victims and their children (IC Article 22).</p>	<p>The Council of Europe reports that this standard has not been met in Kosovo. Where specialist services are available, it is important that such services and their staff are capable of addressing the different types of violence against women that occur outside domestic relationships.<sup>221</sup></p>
<p>Ensure shelters are easily accessible and in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children (IC Article 23). The Explanatory Report to the Convention specifies that the security situation of each victim should be assessed and an individual security plan drawn up. Effective co-operation with the police on security issues is indispensable.<sup>222</sup></p>	<p>The Council of Europe reports that the provision of shelters in Kosovo does not meet the European standard of one family place per 10,000 inhabitants. Insufficient long-term housing or economic opportunities risks forcing victims to return perpetrators.<sup>223</sup> Limited options exist to safely accommodating women with boys older than 12 years of age.<sup>224</sup></p>
<p>Ensure rape crisis or sexual violence referral centres for victims are easily accessible and in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for victims (IC Article 25).</p>	<p>Kosovo has no specialised services focusing on victims of sexual violence (neither rape crisis nor sexual violence referral centres); other service providers reportedly devote only a small portion of their work to sexual violence.<sup>225</sup> Wor- ryingly, access to forensic medical examinations is limited to one institution and several services reportedly require a victim to file a report or undertake a forensic medical examination to access support services.<sup>226</sup></p>

<sup>221</sup> Ibidem, p. 38.

<sup>222</sup> "Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence", Istanbul, 11.V.2011, pgh. 134.

<sup>223</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 76.

<sup>224</sup> Ibidem.

<sup>225</sup> Ibid.

<sup>226</sup> Ibid.



Provide state-wide round-the-clock telephone helplines free of charge to provide advice to callers, confidentially or with due regard for their anonymity, in relation to all forms of violence covered by the scope of this Convention (IC Article 24).	The LPDV requires police to assure a special telephone line for reporting domestic violence (Article 24). Additionally, the Victims Advocacy and Assistance Office manages another free hotline (0800 11 112) available 24 hours a day. <sup>227</sup> The helpline's specialist coverage of forms of violence beyond domestic violence is reportedly limited. <sup>228</sup> This is not compliant with IC standards, which require a dedicated helpline for all forms of gender-based violence covered by the IC with specifically trained operators. VA and free legal aid helplines are also reported to be unreliable and sometimes not functioning.
Ensure that the provision of protection and support services takes due account of the rights and needs of child witnesses, including age-appropriate psychosocial counselling (IC Article 26).	The Draft KCPC foresees the provision of a child psychologist or counsellor to assist in the examination of child witnesses (Article 127.5). Reportedly few support services offer specialised and age-appropriate psychosocial support. <sup>229</sup>
Take the necessary measures to encourage any person witness to the commission of acts of violence covered by the scope of the IC or who has reasonable grounds to believe that such an act may be committed, or that further acts of violence are to be expected, to report this to the competent organisations or authorities (IC Article 27).	The CCK criminalises a person having knowledge but failing to report preparation of a criminal offence, if such an offence is committed or attempted (Article 377.1) and failure to report criminal offenses or perpetrators (Article 378). There are higher penalties for failure to report several specific crimes (Article 377.2). There is one exception, but it does not apply for offences involving child abuse and domestic violence (Articles 377.3 and 378.3). Therefore, an obligation to report exists if a person has knowledge of domestic violence, regardless of the relationship.

<sup>227</sup> NSPDV 2016-2020, p. 18.

<sup>228</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 76.

<sup>229</sup> Ibidem.

As the table illustrates, major issues exist with the provision of support services for victims of gender-based violence in Kosovo. The Council of Europe has reported:

Given that the entire intervention system is geared up to respond almost exclusively to domestic violence, essential services for other forms of violence covered by the Istanbul Convention are consequently missing, in particular for victims of sexual violence.<sup>230</sup>

A key issue is inadequate funding of support services.<sup>231</sup> The legal framework focuses exclusively on financing measures related to domestic violence, and there is no clear mandate for funding support services for other forms of violence against women. In a Council of Europe survey, service providers commented that inadequate funding is an obstacle to victims' long-term rehabilitation, re-integration, and empowerment: "The dependence on donors not only threatens the sustainability of service provision and measures addressing violence against women, but also specific activities such as specialised training or municipal co-ordination initiatives."<sup>232</sup> In order to implement the IC and Victims' Rights Directive, Kosovo's legal framework requires more complete inclusion of the services available, enabling clearer responsibilities for funding them.

## MEASURES TO PREVENT VIOLENCE

Early legislative responses to violence against women focused heavily on the criminal sphere without addressing the root causes of violence. The importance of preventative measures has since received increased emphasis, and Chapter III of the IC reflects this. This section discusses these measures in the context of Kosovo.

### Changing Patterns and Engaging Men

Drawing on CEDAW,<sup>233</sup> the IC calls on states to change social and cultural patterns of behaviour to eradicate "prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men."<sup>234</sup> Use of adverse stereotypes has been increasingly recognised as a form of discrimination against women that contributes to gender-based violence.<sup>235</sup> The IC requires states to take measures to encourage all members of

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<sup>230</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 74.

<sup>231</sup> The EU acknowledged the failure to provide sustainable funding for shelters in its most recent Kosovo Report (European Commission, *Kosovo 2019 Report*, 2019, p. 28).

<sup>232</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 82.

<sup>233</sup> Although CEDAW does not explicitly prohibit violence against women, it provides "a gender specific framework on the elimination of all forms of discrimination against women that encompasses violence against women", which enables the CEDAW Committee to interpret violence against women as a form of discrimination against women and apply it in its work (Šimonović, D., "Global and Regional Standards on Violence Against Women: The Evolution and Synergy of the CEDAW and Istanbul Conventions", *Human Rights Quarterly*, 36, 2014, 590).

<sup>234</sup> Article 12.

<sup>235</sup> Cook, R. and Cusack, S., *Gender Stereotyping Transnational Legal Perspectives*, University of Pennsylvania Press, 2010.

society, especially men and boys, to contribute actively to preventing all forms of violence in the IC.<sup>236</sup> Engaging men in preventing gender-based violence has become an increasingly institutionalised component of gender equality work globally. Their effective engagement may benefit from considering an intersectional understanding of how men may experience marginalisation based on race, class, sexuality, and other social locators.<sup>237</sup> However, the disproportionate prevalence and impact of gender-based violence on women and addressing gender inequities must be treated as priorities.<sup>238</sup> Engaging men and boys in the prevention of violence against women should be based on feminist principles and led by women's rights organizations to drive efforts forward.

## **Awareness-raising, Education and Training Professionals**

The IC includes awareness-raising, education, and training professionals under the prevention chapter.<sup>239</sup> The Victims' Rights Directive also stresses many of these points.<sup>240</sup> In Kosovo, the NSPDV 2016-2020 included prevention as a primary strategic objective: "Decrease of judgmental stances and behaviour that support domestic violence, through information, education and schooling and continuous awareness raising of professionals, community and the whole society".<sup>241</sup> For awareness-raising, such campaigns should be regarding regular campaigns to address various forms of violence, women's human rights, gender equality, women's right to live free from violence, "zero tolerance" responses, and other initiatives.<sup>242</sup> Specific campaigns also should improve knowledge of laws that address violence against women and remedies. In Kosovo, diverse actors should engage in awareness-raising while AGE coordinates such measures.<sup>243</sup>

According to the IC, education similarly should include teaching curricula at "all levels" on "equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity". "All levels" includes informal educational facilities, sports, culture, and the media. Education should be gender-sensitive and include information on laws that promote women's rights and address violence against women.<sup>244</sup> A good practice is introducing a legal requirement for education authorities to conduct "gender audits" of school materials, ensuring the removal of sexist and discriminatory stereotypes.<sup>245</sup> In Kosovo, this measure is included in the Law on Gender Equality and

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<sup>236</sup> Article 12.4.

<sup>237</sup> Casey, E., Leek, E., Tolman, R., Allen, C., and Carlson, J., "Getting men in the room: perceptions of effective strategies to initiate men's involvement in gender-based violence prevention in a global sample", *Culture, Health and Sexuality*, 19(9), 2017, 979-995, p. 993.

<sup>238</sup> Ibidem. Concerns exist that men's involvement reproduces patterns of men's power and privilege and threatens women's leadership of the movement (see: MenEngage for UNW and UNFPA, "Men, Masculinities and Changing Power: A discussion paper on engaging men in gender equality from Beijing 1995 to 2015", p. 43).

<sup>239</sup> Articles 13 – 15.

<sup>240</sup> Article 26.

<sup>241</sup> NSPDV 2016-2020, p. 9.

<sup>242</sup> Truchero Cuevas, J. and Khrystova, G., "Good International Practices and Standards on Violence Against Women and Domestic Violence", Council of Europe, 2015, p. 12.

<sup>243</sup> Law on Gender Equality, Article 8.1.10.

<sup>244</sup> Truchero Cuevas, J. and Khrystova, G., p. 12.

<sup>245</sup> Adapted from Chapter I of the Spanish Organic Act on Integrated Protection Measures against Gender Violence, 2004.

a methodological guide on “Preventing Gender Stereotypes and Promoting Gender Equality in School Textbooks and Materials” has been published by AGE.<sup>246</sup> However, the Program for Gender Equality states that little progress has been made to undertake gender audit of textbooks and curricula.<sup>247</sup> Improving this is a strategic objective of the Program.

The IC requires training for professionals, who deal with victims or perpetrators of violence, on preventing and detecting violence, equality between women and men, the needs and rights of victims, the needs of marginalised women, risk assessment, gender dynamics, and how to prevent secondary victimisation. This should include coordinated multi-agency cooperation for comprehensive and proper handling of referrals. Training is also required under the Victims’ Rights Directive.<sup>248</sup> General and specialist training is particularly important for police, prosecutors, the judiciary, court staff, lawyers, victim support organisations, social and healthcare workers, and other officials likely to engage with victims.

Currently, SOPs regulating the duties of professionals in addressing domestic violence in Kosovo only partially comply with IC requirements, as they fail to address adequately other forms of violence against women.<sup>249</sup> AGE has observed that inadequate training hampers appropriate implementation of SOPs on domestic violence.<sup>250</sup> Ideally, specific protocols and guidelines should be introduced for professionals dealing with victims of all forms of violence in the IC, and such measures should be bolstered by consistent, systematic specialised training.<sup>251</sup>

While respecting freedom of expression and independence, the IC encourages the private sector and media to participate in designing and implementing policies, guidelines, and self-regulatory standards to prevent violence against women.<sup>252</sup> The Council of Europe has commented on the importance of the media in Kosovo in reporting on violence against women and domestic violence in a gender-sensitive, non-stereotypical manner.<sup>253</sup> Media can shape public opinion, so increased awareness and more gender-sensitive approaches to reporting may lead to societal support in preventing and addressing violence against women.<sup>254</sup> The OSCE in Kosovo has prepared a useful document for journalists for reporting on domestic violence cases.<sup>255</sup>

## DATA COLLECTION

The IC obliges states to regularly collect gender-disaggregated statistical data and to support

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<sup>246</sup> Article 21. The language of this provision is aspirational and should be strengthened; AGE, “[Preventing Gender Stereotypes and Promoting Gender Equality in School Textbooks and Materials](#)”.

<sup>247</sup> AGE, [Kosovo Program for Gender Equality 2020-2024](#), p. 32.

<sup>248</sup> Article 25.

<sup>249</sup> Duhaček, D., Branković, B., and Miražić, M. for the FEMM Committee, “Women’s Rights in Western Balkans”, 2019, p. 54.

<sup>250</sup> AGE, “[Assessment of the level of implementation of the Standard Operating Procedures for Protection against Domestic Violence in Kosovo](#)”, 2019, p. 150.

<sup>251</sup> Krol, et al., [Mapping support services for victims of violence against women in Kosovo](#), p. 79.

<sup>252</sup> Article 17.

<sup>253</sup> Council of Europe, “[Raising awareness on violence against women and domestic violence: working with media in Kosovo](#)”, 2019.

<sup>254</sup> Ibidem.

<sup>255</sup> OSCE Kosovo, “[Reporting on Domestic Violence: Guidelines for journalists](#)”, 2018. The Council of Europe also has prepared guidance.

research on all forms of violence covered by the IC in order to study its root causes, effects, incidence, conviction rates, and the efficacy of implementation measures.<sup>256</sup> In Kosovo, the Law on Gender Equality obliges all public institutions to collect gender-disaggregated statistical data and submit it to the Kosovo Agency of Statistics.<sup>257</sup> Failure to do so is punishable with a fine.<sup>258</sup>

The justice system continues ongoing work towards making its Case Management Information System (CMIS) fully operational and has adopted a manual on CMIS usage. The system should include electronically details of all cases, documentation, and rulings processed by the justice system: police, prosecution, and courts. Eventually, it may enable processing of institutional data to produce statistics for public use and to inform policymaking, which would facilitate the government's communication with the EU regarding its progress towards chapter 23 of the *acquis*, "judiciary and fundamental rights". Although some court judgments are available online, finding relevant case law is extremely difficult as decisions are organised chronologically rather than thematically. Thus, it is difficult to gain information on how courts are treating gender-based violence cases specifically. Data disaggregated by gender is still not easily accessible online.

Kosovo also established an integrated database for gender-based violence cases in December 2018, financed by UN Women and the EU.<sup>259</sup> The Deputy Minister of Justice and National Coordinator for Protection from Domestic Violence supervises the database. Concerns exist regarding the efficient use of officials' time in entering data in both this and the CMIS database. The fact that KWN struggled to secure gender-disaggregated information from relevant institutions to inform this report suggests that data management still does not function as has been foreseen. Most relevant institutions clearly are not fulfilling their duty to submit data to the Kosovo Agency of Statistics in accordance with the Law on Gender Equality.

## CONCLUSION

Adopting the proposed Draft KCPC will bring the legal framework on gender-based violence in Kosovo significantly closer to the IC and Victims' Rights Directive in terms of investigations and criminal proceedings, as well as victim protection and support. While the framework will reflect many of the substantive provisions of the IC with these amendments, areas for improvement remain in the existing legal framework, particularly related to offences such as domestic violence, psychological violence, stalking, female genital mutilation, and combatting emerging forms of ICT-facilitated gender-based violence. Additionally, access to protection orders urgently must be extended to victims of all forms of gender-based violence.

The main structural issue in the legal and policy framework is the lack of a gendered understanding of violence against women, particularly outside the sphere of domestic violence. Gen-

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<sup>256</sup> Article 11.

<sup>257</sup> Article 5.1.8.

<sup>258</sup> Article 23.5.

<sup>259</sup> European Commission, *Kosovo 2019 Report*, 2019, p. 28.

der-neutrality in law and the absence of targeted policy measures to address forms of violence against women other than domestic violence illustrate the need for additional legal and policy measures for implementing the integrated, effective, comprehensive, and coordinated framework to combat and prevent all forms of gender-based violence mandated by the IC. Further arrangements are needed to institutionalise monitoring and evaluation, as well as implementation.

# THE INSTITUTIONAL RESPONSE TO GENDER-BASED VIOLENCE IN KOSOVO

This chapter examines the institutional response to gender-based violence in Kosovo, as per the existing legal framework. It identifies shortcomings that require address to fully implement the IC. This chapter first provides an overview of institutions' general awareness of the legal framework, attitudes towards gender-based violence, and implementation of the legal framework, overall. Second, it discusses inter-institutional coordination in addressing different forms of gender-based violence at national and local levels. The chapter then includes sections on each institution, or group of institutions, responsible for addressing gender-based violence in Kosovo. Each section discusses their knowledge, attitudes, and performance in addressing gender-based violence in accordance with the legal framework. The chapter draws from existing research, interviews, monitoring, and data. While researchers employed triangulation to enhance the validity of findings, other levels of knowledge and attitudes may exist in Kosovo that the research team did not encounter, given the sampling method used. Nevertheless, the fact that themes recurred across respondents suggests trends in awareness and attitudes; authors indicated differences in findings, where identified.

## OVERALL AWARENESS AND IMPLEMENTATION OF THE LEGAL FRAMEWORK

This section provides an overview of institutions' knowledge, attitudes, and implementation of the legal framework, prior to discussing institutions individually. This includes respective sub-sections on ensuring an intersectional, non-discriminatory approach; and budget allocations for addressing gender-based violence.

### Knowledge and Attitudes on Gender-based Violence

In their views, representatives of institutions tended to agree that awareness and attitudes towards gender-based violence, particularly domestic violence, have improved since 2017. The representatives of diverse institutions interviewed by KWN knew various forms of gender-based violence, as per Kosovo's legal framework. Some observed that gender-based violence involves violence towards a person of another gender *because* of their gender. Some noted that women experience violence more than men and that it is a human rights abuse. However, more often than not, respondents lacked a deeper conceptual understanding. They recurrently confused gender with sex, or women. Nor did they tend to understand fully gender relations and how these contribute to structural violence against women. When asked to identify forms gender-based violence, respondents frequently mentioned physical, psychological, sexual, and economic violence. Fewer mentioned stalking, sexual harassment, sex trafficking, and female genital mutilation. Respondents frequently focused on domestic violence, demonstrating limited knowledge of other forms of violence occurring outside domestic relationships. This research thus substantiated Krol et al.'s finding that service providers "operate for

the most part on the basis of a gender-neutral, domestic violence-based definition”.<sup>1</sup> This may be attributable to the legal and policy framework’s aforementioned focus on domestic violence measures and limited attention to other forms of gender-based violence. Given this focus, institutions have had less training or experience treating other forms of violence comprehensively. Indeed, respondents recurrently reported that training, coupled with incorporating “domestic violence” into the CCK, have contributed to improved knowledge and awareness in handling these cases.

With a few notable exceptions, discussed in later sections, officials tended to be familiar with recent amendments to the CCK and new definitions of criminal offences. However, respondents recurrently confused sexual assault and sexual harassment. Confusion also surrounded the CCK article “Incitement to expose intimate body-parts”; a respondent said:

It means, for example, we have the dress code [in our ministry], and we wanted to raise awareness. It is an ugly situation when women wear shorts and do not look okay. It’s a bad thing. We welcomed [the fact that someone] was refused entrance to this building so that they would not enter without complying with the dress code.

Comments heard, such as this, not only illustrate poor understanding of what this crime entails, but also suggest broader socialised gender norms and attitudes, which could affect officials’ approaches towards addressing gender-based violence.

Widespread misunderstanding also surrounded the new CCK article on female genital mutilation. For example, a respondent said: “mutilation is synonymous with harm; it can occur when sexual violence is done by force, when there is an element of sadism; severe violence can be brought upon you by your partner”. Culturally relativist statements also recurred, questioning why such an article had any relevance in Kosovo, where people “are not animals”. Such comments suggest the need for further awareness regarding its relevance in Kosovo and more sensitive ways of discussing the issue.

Respondents from institutions tended to know about the LPDV, though some confusion existed regarding its content and purpose, particularly among institutions not directly engaged in its implementation. For example, some discussed poor implementation of rehabilitation programmes, though this is only partially and temporarily addressed within the LPDV in terms of protection orders and the accompanying administrative instructions.<sup>2</sup> The LPDV does not in fact comprehensively address long-term reintegration or offer long-term solutions for victims after protection orders expire. Representatives in some institutions seemed not to understand this. Officials engaged in implementing SOPs related to domestic violence generally knew their responsibilities. Meanwhile, research participants across various institutions tended to have less knowledge about the NSPDV, particularly actions outside the purview of their institutions.

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<sup>1</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 78.

<sup>2</sup> Administrative Instruction No. 12/2012 for determining the place and way of psychosocial treatment of perpetrators of domestic violence and Administrative Instruction Nr.02/2013 on the method of treatment to perpetrators of domestic violence against which there is imposed the measure for mandatory medical treatment from alcoholism and addiction to psychotropic substances.



To assess attitudes within institutions, and their propensity to refer cases as per the CCK, SOPs, and NSPDV, KWN asked officials what a woman should do if she experiences domestic violence. Officials tended to state that victims should report violence to the police. Nevertheless, the view that women should handle domestic violence privately persevered among officials across diverse institutions. Some said a victim should first go to a CSW or CSO, which could consult and guide the family; she should contact police only as a last resort, they said. The need to “save the family” seemingly superseded the victim or children’s wellbeing for several respondents.

“We avoid that conversation with men, our generation is not ready to talk about subjects that are taboo. Only us female colleagues speak about it.”

**- Woman, ministry official**

Overall, using an index to assess the knowledge and attitudes of responsible actors towards gender-based violence, KWN found that both knowledge and attitudes have improved since 2017. For example, respondents were more likely in 2020 than in 2017 to consider controlling family members, threatening them, hitting a child, touching a family member sexually without consent, or forcibly having sex with an intimate partner as forms of violence. They were less likely to “normalise” violence as “part of any relationship”, or to consider alcoholism or unemployment justifiable reasons for violence. These positive shifts in knowledge and attitudes, as stated by respondents, could contribute to an improved response to gender-based violence.

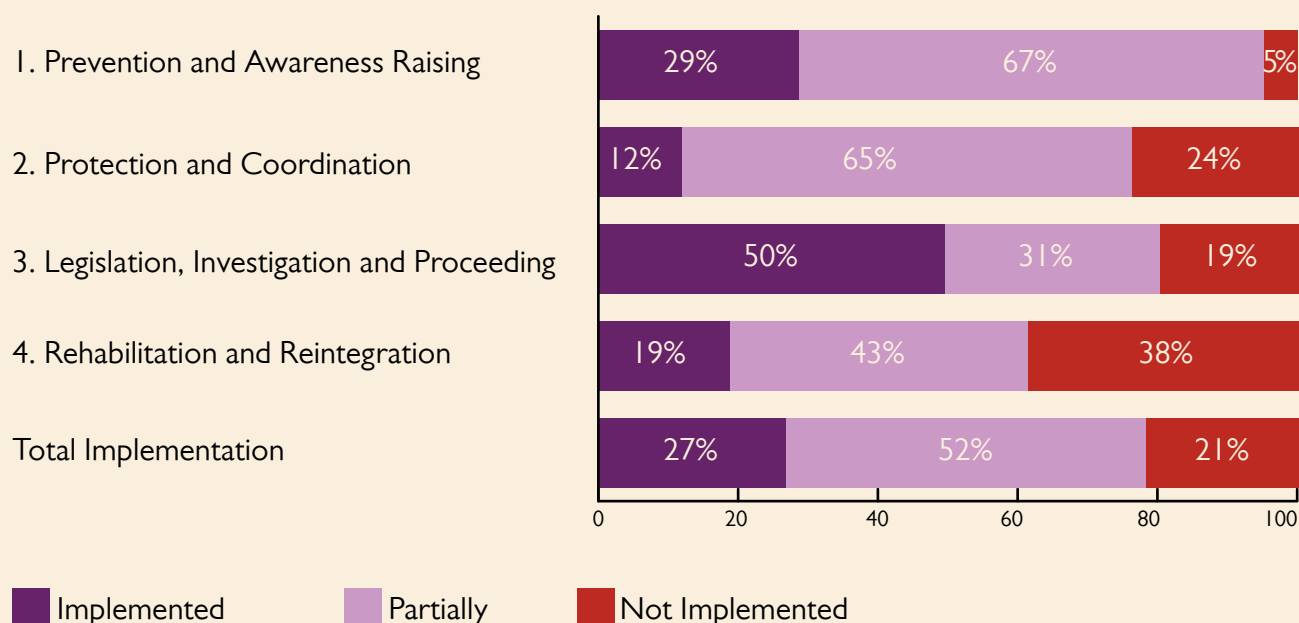
## **Implementation of the Legal Framework: An Overview**

Generally, respondents tended to think that the LPDV was partially implemented. A recurrently mentioned shortcoming was weak implementation of protection orders. Responses also suggested that measures foreseen in the LPDV, such as removing the perpetrator from a shared residence, requiring perpetrators to pay alimony, or requiring them to pay rent, remain under-requested, which sometimes places victims in danger of recidivism. The absence of rehabilitation and reintegration programs for victims and poor rehabilitative services for perpetrators remained among the most repeatedly heard key challenges.

Regarding the implementation of SOPs, while noting improvements since 2017, oft-mentioned challenges related to inter-institutional cooperation. Financial limitations also presented obstacles, particularly for sufficient human resources for appropriate case management and for covering victims’ emergency costs (e.g., food, clothing). This research did not examine the implementation of SOPs for addressing trafficking, and notably SOPs do not exist for treating other forms of gender-based violence, such as sexual violence.

Disrespect for ensuring client confidentiality remained a problem, respondents said. A shelter representative said: “I see [other officials] in many meetings, who mention [victims’ first and last names], and it is very bad. It bothers me. You can [mention names] in the office every day, [but] when you go out, you speak without a name and without a surname.” Persisting issues with ensuring confidentiality may prevent women from trusting and thus reporting violence to institutions.

**Graph 2.** Implementation of NSPDV 2016-2020 by Pillar



A recurring theme among respondents from diverse institutions was that the NSPDV for 2016-2020, including its action plan,<sup>3</sup> was only partially implemented. KWN estimates confirm these responses. Overall, only approximately 27% of the NSPDV was fully implemented and 52% was partially implemented.<sup>4</sup> Meanwhile, about 21% seemingly was not implemented at all. Pillar 3 of the action plan, “Legislation, Investigation and Proceeding”, was implemented the most, with 50% of its foreseen actions completed (see Graph 2). Pillar 1, “Prevention and Awareness Raising” was 29% implemented, and Pillar 4, “Rehabilitation and Reintegration”, had only 19% of its actions completely implemented. This finding was reiterated during interviews, as diverse respondents recurrently emphasised failures to implement rehabilitation and reintegration programs for victims and perpetrators, mainly due to insufficient funding. Pillar 2, “Protection and Coordination”, was the least implemented, with only 12% completely implemented. Respondents also observed shortcomings, particularly in the functioning of coordination mechanisms and the case management database for domestic violence victims.

More specifically, under Pillar 1, “Prevention and Awareness-raising”, NSPDV Strategic Objective 1 sought to decrease “judgmental stances and behaviour that support domestic violence”. As indicated, some progress was observed towards this long-term objective in that KWN identified fewer judgmental stances and behaviours in 2020 than in 2017, though these do still exist among some officials. More specifically, Objective 1.1. sought to “enhance professional capacities of professionals that provide basic services for prevention of domestic violence”. KWN observed progress in most institutions, though several officials still had not attended training and professional capacities could

<sup>3</sup> All references to the NSPDV include reference to its action plan throughout this report.

<sup>4</sup> For details and an explanation of the method of calculation, see [Annex 3](#).

be further enhanced.<sup>5</sup> Objective 1.2. aimed to “encourage individuals to report domestic violence cases and increase ... their trust in respective institutions”. Progress seemingly was made in reporting domestic violence cases, as indicated by an overall average increase in cases reported to police by 13% annually. Objective 1.3. sought to “increase awareness of the society for not accepting and not tolerating domestic violence”, and increased awareness seemed observable, as shown by the growth of diverse women and men’s engagement in public demonstrations, online discussions, and in reporting domestic violence.<sup>6</sup>

Under Pillar 2 on “Protection and Coordination”, the overall objective was “until 2020, ensure inclusive and efficient mechanisms for quick reaction against domestic violence cases, as well as liable inter-institutional cooperation between central and local level actors, for the protection and management of these cases”. KWN’s monitoring suggested that this was partially implemented. While improvements existed with the establishment of new Coordination Mechanisms (CMs), detailed later, KWN found evidence of slow response and persisting weaknesses in inter-institutional cooperation and case management. More specifically, as per Objective 2.1., “advancing of inclusive policies in the frame of protection of domestic violence victims”, Kosovo adopted the IC and amended the CCK, which established a legal environment for policy changes. While efforts began to revise the LPDV and SOPs, among other policies, these were not finalised. The NSPDV also planned for increased functioning of existing CMs at the local level, as well as the establishment of new CMs in municipalities where they did not exist (Objective 2.2.). Indeed, new CMs were established, but CMs still do not exist in some municipalities and not all are functional and efficient. According to KWN’s assessment, Objective 2.3. “improvement of inter-institutional coordination and cooperation between central, local level and civil society organisations, for protection of victims by clarifying the roles, tasks and responsibilities of each institution in providing adequate services” also was implemented partially; coordination seems to have improved among some CMs, but limited services remain available. KWN partially attributes this to the aforementioned limitations in Kosovo’s legislation, which does not clearly specify roles, responsibilities, and thus financial allocations to ensure CMs’ appropriate functioning.

Under Pillar 3, “Legislation, Investigation and Proceeding”, the main objective was: “until 2020, improve legal infrastructure and increase efficiency in treating [domestic violence] cases, with a focus on victims’ needs, as well as achieve adequate punishment for perpetrators”. Institutions made progress in this area by adopting the IC, amending the CCK, and making some improvements in coordination related to case management. Meanwhile, only slight improvement existed in sentencing. Objective 3.1. aimed at “improvement of legal infrastructure and other acts for efficient treating of domestic violence cases”. This was implemented partially with the amendment of the CCK and Constitution. However, a consolidated database still does not exist within the justice system to measure accurately the percentage of perpetrators punished by the type of violence committed, their sentences, or the time required to complete cases. Objective 3.2., “profiling of police investigators, social workers, vic-

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<sup>5</sup> Data was unavailable for the NSPDV’s corresponding indicator, so this conclusion is based on KWN’s research and monitoring (see [Annex 3](#) for further information).

<sup>6</sup> Precise measurement of an increase in awareness was not possible because the OSCE [Survey on violence against women: Well-being and Safety of Women](#) (2019). used slightly different indicators than the KWN 2015 survey ([No More Excuses](#)), and the OSCE survey only interviewed women.

tims' advocates, prosecutors and judges, for investigation and prosecution of domestic violence cases with added urgency and care" was achieved partially, as several institutions, albeit not all, have profiled officials responsible for addressing domestic violence. As per Objective 3.3., "clarify the roles, tasks and responsibilities of each institution in provision of adequate services for domestic violence cases", progress was made in clarifying roles, but some remain unclear or inadequate. Nor is a "zero tolerance" policy towards domestic violence always upheld, KWN monitoring suggested.

Pillar 4 on "Rehabilitation and Reintegration" aimed to "enable access to new and existing services that are efficient and sustainable, for long term rehabilitation and reintegration of domestic violence and gender-based violence victims and rehabilitation of perpetrators, throughout Kosovo", by 2020. This research showed little if any progress in ensuring efficient, sustainable long-term rehabilitation and reintegration services. More specifically, KWN found that only Objective 4.1., "establishing of services for rehabilitation and empowerment of domestic violence victims and increase of their efficiency in central and municipal level" was partially implemented. The other three foreseen specific objectives seemingly were not implemented:

- 4.2. Establishing of budgetary lines for long term reintegrating services for domestic violence victims, in the governmental level.
- 4.3. Use of integrated policies for improvement of rehabilitation and reintegration services for domestic violence victims.
- 4.4. Establish rehabilitation institutions and consultancy centres with mandatory programs for the perpetrators of domestic violence.

Later sections in this chapter discuss each responsible institution's implementation of actions foreseen by the NSPDV.

## **Non-Discrimination and an Intersectional Approach to Addressing Gender-based Violence**

The IC requires that states take measures to protect the rights of victims without discrimination on any ground, such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.<sup>7</sup> Moreover, an intersectional approach to service provision would consider the ways in which inequalities and/or vulnerabilities may hinder diverse women's access to services. For example, rural Serb women, young disabled women, or isolated migrant women that do not speak Albanian all may face added challenges in accessing services.

Research participants from CSOs working with groups of people who may have added vulnerabilities had differing views about the institutional response to gender-based violence. Groups working with LGBTQIA+ persons observed some improvements in the police response, whereas groups

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<sup>7</sup> Article 4.3.

working with Roma, Ashkali, and Egyptian women felt that police did not take cases seriously enough. Activists said that women with different abilities still rarely seek assistance, so they could not assess the institutional response. Similarly, activists' experiences with other institutions, aside from police, were too limited to allow for any comment on the quality of services.

A Council of Europe survey on support services in Kosovo found that more than half of the service providers did not provide training on equalities and discrimination to their staff.<sup>8</sup> Noting that access to services for vulnerable and marginalised groups remains a challenge (with only 9% of providers offering services adapted to their specific needs), the report recommended providing regular, appropriate, and effective cross-sectoral training to all staff providing specialised and general services to address the specific needs of vulnerable groups of women, such as LGBT, disabled, Roma, and other women from minority groups.<sup>9</sup>

## Financing for Addressing Gender-based Violence

The IC requires appropriate allocation of financial and human resources for the adequate implementation of integrated policies, measures, and programmes, including those carried out by CSOs.<sup>10</sup> In Kosovo, each budget organisation has the responsibility to budget appropriately for implementing its responsibilities.<sup>11</sup> The Ministry of Finance (MF) sets spending limits, provides instructions via budget circulars, and compiles the Kosovo consolidated budget before submitting it to the parliament for debate and eventual adoption. While relevant ministries propose budget allocations, the MF finalises the overall Kosovo budget and can request that ministries budget sufficiently for implementing their activities, including for addressing gender-based violence.

A rapid analysis of Kosovo's budget laws for 2017-2020 identified very few specific budget lines related to addressing gender-based violence. Some budget lines do contribute to this indirectly, such as through the regular budget lines of responsible institutions (e.g., police, prosecution). By Kosovo law, shelters licensed by the state should receive state funding.<sup>12</sup> The 2019 and 2020 budgets contained a budget line for "Basic Expenditures for shelters" under the Ministry of Labour and Social Welfare (MLSW) (€880,000 per year).<sup>13</sup> This specific budget line for shelters was established following years of intensive advocacy by shelters, KWN, AGE, and the Security Gender Group, which involves other stakeholders. Although initial efforts failed to gain support from relevant ministries, the parliament included this budget line following intensive advocacy just before approving the 2019 budget. Then, fol-

<sup>8</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*, p. 79.

<sup>9</sup> Ibidem, pp. 79-80.

<sup>10</sup> Article 8.

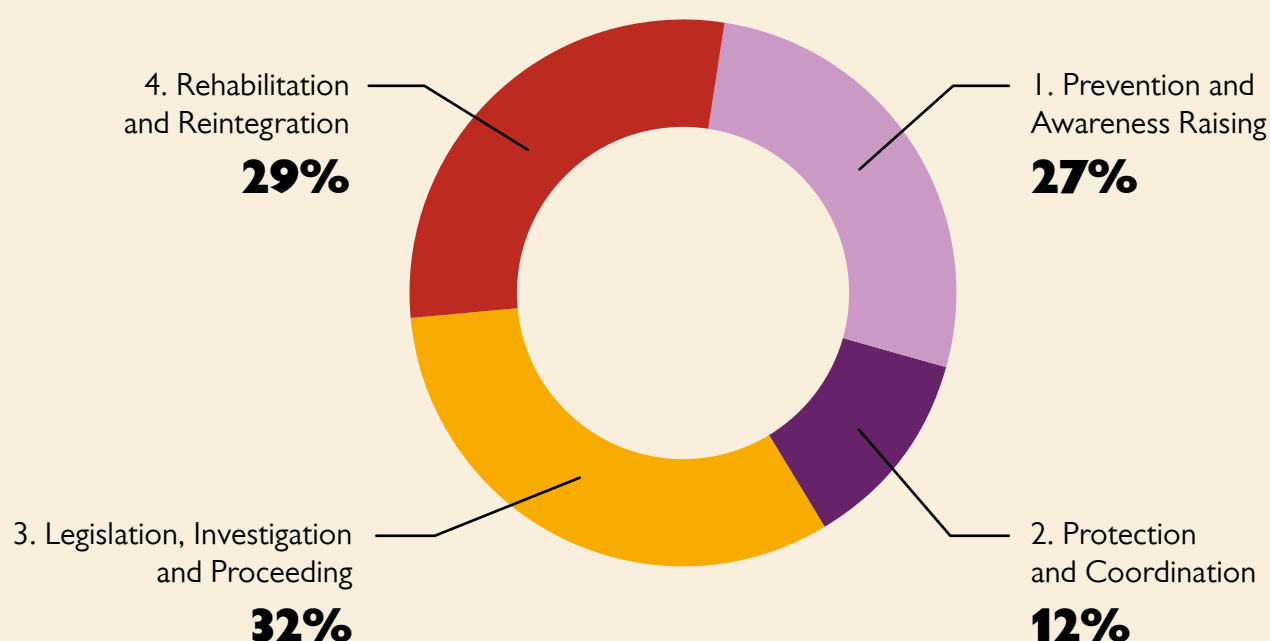
<sup>11</sup> In Kosovo, the legal framework refers to each body responsible for budgeting, including ministries and municipalities, among others, as "budget organisations". According to the [Law No. 03/L-048 on Public Financial Management and Accountability](#), Article I, "Budget Organisations" are "any public authority or public undertaking that directly receives under an Appropriations Law an appropriation that is not a component of a larger aggregate appropriation provided to another public authority or public undertaking".

<sup>12</sup> Law No. 02/L-17, [Law on Social and Family Service](#), Article 8.

<sup>13</sup> KWN has rounded all amounts in this report to the nearest Euro. Law No. 07/L-014 [Law On Amending And Supplementing The Law No. 07/L-001 On Budget Appropriations For The Budget Of Republic Of Kosovo For Year 2020](#), Table 3.1: The Revised Budget for Central Level (in euro), p. 27/68, August 2020. In the initial budget for 2020, "Basic Expenditures for Shelters" was under the Ministry of Health, but then it was moved to MSLW in the amended budget, in the same amount; Law No. 06/L-133 [Law On The Budget Appropriations For The Budget Of The Republic Of Kosovo For Year 2019](#), Table 3.1: Central Budget (in euro), p. 27/67, February 2019.

lowing further lobbying, the government included the same budget line again in 2020 (for €880,000).<sup>14</sup> Prior to 2019, shelters received funding through a general MLSW budget line for social services. The absence of an earmarked budget hampered the timely and adequate disbursement of funds, sometimes contributing to shelter closures that placed women and children at risk.<sup>15</sup> Despite the progress achieved in establishing this budget line, it is not permanent. In 2020, the Ministry of Justice also had a budget line for “Shelters for VKT” for the state-run Interim Security Facility for trafficking victims (€100,000 initially, amended to €90,683).<sup>16</sup>

**Graph 3.** NSPDV Planned Funding by Pillar



In budget laws for 2017-2020, municipalities do not have any specific budget lines related to gender-based violence. Some have a budget for social residence, primary healthcare, and other expenses, from which funding for addressing gender-based violence could be allocated, but this is not clearly indicated in their budget lines. Only the Municipality of Suhareka had a budget for “Support for sheltering victims of domestic violence” under its Primary Health Care budget line (€2,200) in 2020.<sup>17</sup>

Overall, the NSPDV planned for a total budget of €10.5 million with €7.3 million expected to

<sup>14</sup> For further information, see KWN, “[Advocacy Leads Kosovo’s New Government to Establish Budget Line for Shelters](#)”, 28 May 2020. While differing from the amount in the budget of Kosovo for 2020, according to AGE, 10 shelters had a budget of 600,000 (comment on draft report, 2021).

<sup>15</sup> See KWN, “[Ministry to Release Long-Awaited Assembly-Approved Funds for Shelters](#)”, 1 March 2019.

<sup>16</sup> Law No. 07/L-001 [On Budget Appropriations For The Budget Of Republic Of Kosovo For Year 2020](#), Table 3.1: Central Budget (in euro), p. 38/55, March 2020; Law No. 07/L-014 [Law On Amending And Supplementing The Law No. 07/L-001 On Budget Appropriations For The Budget Of Republic Of Kosovo For Year 2020](#), Table 3.1: The Revised Budget for Central Level (in euro) p. 40/58, August 2020,

<sup>17</sup> Law No. 07/L-001 [On Budget Appropriations For The Budget Of Republic Of Kosovo For Year 2020](#), p. 51, March 2020; Law No. 07/L-014 [Law On Amending And Supplementing The Law No. 07/L-001 On Budget Appropriations For The Budget Of Republic Of Kosovo For Year 2020](#), p. 66, August 2020.

come from the government and nearly €3 million from donors (28%).<sup>18</sup> While planned allocations were distributed fairly equally across the NSPDV pillars, the lowest percentage of funding was planned for Protection and Coordination (12%). Notably, the NSPDV planned to establish a budget line for the municipal offices for gender equality for supporting the functioning of CMs (2.2.5.). However, the NSPDV did not budget for this. The absence of this municipal budget line was recurrently mentioned by research participants. As per the NSPDV, MF also was to increase the budget for resources and staff for the NCDV (2.3.7), but no clear budget line for permanent staff seems to have been added.

Regarding actual budget allocations, the NSPDV foresaw that several municipalities and ministries would allocate funds, including for the “economic empowerment of victims in the form of subsidies from the relevant ministries” (4.2.1.). While the NSPDV seems to indicate that this would be reflected in each ministry and municipality’s “budgetary lines”, no such specific budget lines were identifiable in the Kosovo budget. Nor did budgets during this timeframe contain any reference to the planned “allocation of budgetary means of each ministry/institution for special programs for [domestic violence] victims” (4.2.2.). Nevertheless, ministries and municipalities may have allocated such funds through broader unspecified subsidy budget lines. Other budget allocations for the NSPDV’s implementation are discussed in reference to the responsible institutions in later sections.

Extremely limited information is available regarding budget allocations for addressing forms of gender-based violence other than domestic violence. In 2019, the budget mentions that “financial support for the victims of sexual violence during the war” is a priority. While no specific budget line exists for this purpose, allocations existed within other budget lines, including for the commission for reviewing survivors’ applications (€20,500), secretary wages for the commission (€18,540), for four CSOs supporting women survivors (€96,000), and for pensions of survivors under the general MLSW budget line of pensions for civil victims of war (€1,098,319).<sup>19</sup> As in this example, the possibility exists that some services are budgeted for as part of institutions’ general expenses, which cannot be identified given Kosovo’s use of expenditure categories rather than line item budgeting. Indeed, Kosovo’s present budget system makes monitoring precise budget allocations difficult, and few institutions interviewed by KWN could provide accurate information regarding their budget allocations for addressing gender-based violence.

As explained in the [Legal Analysis](#), the legal mandate for funding support services for several forms of gender-based violence is insufficiently clear. As a result, institutions did not or could not budget for these expenses. Even for implementing existing legal responsibilities, such as related to domestic violence, “There’s no budget”, was a recurrently heard theme among research participants across institutions. Insufficient budget allocations, particularly for rehabilitation and reintegration services, was mentioned repeatedly as among the main challenges to implementing the legal framework for addressing gender-based violence. Insufficient budget allocations also made it hard for CSWs, VAs, and shelters, among others, to perform their duties and responsibilities as defined in SOPs because they lacked human resources and access to reliable transportation.

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<sup>18</sup> MJ, [NSPDV](#), 2017.

<sup>19</sup> Information provided by AGE, cited in KWN, “[Monitoring the Implementation of SDG Indicator 5.c.1 in Kosovo 2020](#)”, p. 3.

## Conclusion

Findings suggest improvements in responsible officials' knowledge and attitudes related to gender-based violence. However, a comprehensive understanding of gender-based violence and thorough knowledge of forms of violence other than domestic violence remain inadequate among many officials. Respondents from various institutions tended to believe that the implementation of the legal framework had improved, though several areas require further improvement. The NSPDV has been only partially implemented, and progress towards establishing rehabilitation and reintegration services was particularly limited. Vulnerable groups seemingly do not have enough information or access to services with an intersectional approach to addressing their needs. Kosovo lacks a comprehensive legal and policy framework for the treatment of various forms of gender-based violence. This has contributed to insufficient knowledge, procedures, and budget allocations for addressing all forms of gender-based violence as per the IC.

## INTER-INSTITUTIONAL COORDINATION

This section discusses inter-institutional coordination. As per the IC, states must designate official bodies responsible for coordination, implementation, monitoring, and evaluation of policies and measures to prevent and address all forms of gender-based violence.<sup>20</sup> Kosovo has established coordination bodies at the national level, as well as within some municipalities, focused primarily on domestic violence and trafficking (not discussed herein). The subsections that follow examine these. Respectively, the subsections focus on each of the following bodies and actors: cooperation in recognising and supporting survivors of war-time sexual violence; the Inter-ministerial Coordination Group against Domestic Violence; the National Coordinator against Domestic Violence; the Agency for Gender Equality; and the municipal response to gender-based violence.

### Cooperation in Recognising and Supporting Survivors of War-time Sexual Violence

Since 1999, several women's rights groups (CSOs) have provided comprehensive psychosocial, health, legal, and economic services to women who suffered sexual violence during the war. In 2014, former President of Kosovo Atifete Jahjaga established the National Council on the Survivors of Sexual Violence during the War through a special Presidential decree. The Council engaged representatives of key ministries, CSOs, and international stakeholders. The Council sought to establish an improved, better coordinated response to psychosocial support, healthcare, justice, legal recognition, and economic empowerment for survivors of conflict-related sexual violence. The Council dissolved after President Jahjaga's term ended in 2016. However, members of the group have continued to meet informally to plan, coordinate, and implement comprehensive support services, primarily funded through CSOs and foreign donors.

After the Assembly amended the law on the status and rights of persons affected by war to

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<sup>20</sup> Article 10.



include “Sexual Violence Victims of the war” in 2015,<sup>21</sup> the Government issued a regulation establishing conditions, criteria, and procedures for recognition and verification of the status of persons who suffered conflict-related sexual violence in 2016.<sup>22</sup> The regulation established the duties and responsibilities of the Government Commission for the Recognition and Verification of the Status of Sexual Violence Victims during the Kosovo Liberation War (The Commission). Since February 2018, the Commission has reviewed applications and verified that people who suffered sexual violence qualify for state compensation. Based on the legislation, approved applicants then qualify to access benefits, including pension, health services, rehabilitation support, priority treatment in seeking employment, property tax relief, residential care, priority in accessing public education, and free education in public universities.<sup>23</sup>

Amid these positive measures, Amnesty International has voiced concern that the Law defined the war as ending on 20 June 1999, so it discriminates against women raped thereafter; several women, especially Serb, Roma, and some Albanian women, thus do not have access to the aforementioned state benefits.<sup>24</sup> Amnesty International also observed that the Law prohibits beneficiaries from receiving two pensions in cases when survivors already receive another war-related payment (e.g., for widows whose husbands died or were injured). Women must choose which benefit they receive, which undermines the purpose of recognising that this war crime was perpetrated against them specifically and that they deserve compensation. Moreover, the Law granted survivors only five years to decide to apply for recognition and benefits, which Amnesty International considers too short a time period. Indeed, given the still present social stigma surrounding sexual violence and women’s different social positions and circumstances, it may take time for women to come forward to claim the benefits. Meanwhile, the period for applying is set to end already in 2021.

The Government Commission created for verifying applications includes extremely qualified and carefully selected professionals. They utilise procedures established through an extensive consultation process that engaged women’s rights activists specialising in working with women survivors, towards ensuring women’s protection, dignity, and full confidentiality. For this, the Commission has been heralded as a best practice in the region.<sup>25</sup> Nevertheless, the Commission has experienced some challenges. The considerable number of applications received has contributed to some delays in processing applications. Given their professional expertise, the Commission members also work additional jobs and can only work part-time in reviewing cases. The long hours spent processing applications coupled with the absence of psychological supervision amid the often-disturbing stories they hear daily, may place Commission members at risk of burn-out.

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<sup>21</sup> [Law No. 04/L-172](#) on amending and supplementing the [Law No. 04/L-054](#) on the status and the rights of the martyrs, invalids, veterans, members of the Kosovo Liberation Army, Sexual Violence Victims of the war, civilian victims and their families.

<sup>22</sup> Government of Kosovo, [Regulation No. 22/2015 on Defining the Procedure for Recognition and Verification of the Status of Sexual Violence Victims during the Kosovo Liberation war](#), pursuant to Article 93 on Competencies of Government (paragraph 4) of the [Constitution of the Republic of Kosovo](#), Article 15 (paragraphs 10 and 12) of the [Law No. 04/L-172](#) on amending and supplementing the [Law No. 04/L-054](#) on the status and the rights of the martyrs, invalids, veterans, members of the Kosovo Liberation Army, Sexual Violence Victims of the war, civilian victims and their families, and the [Regulation of the rules and procedure of the government of the Republic of Kosovo, No. 09/2011](#), Article 19.

<sup>23</sup> Ibidem, Article 5.

<sup>24</sup> Amnesty International, [Wounds that Burn Our Souls: Compensation for Kosovo’s war time rape survivors, but still no justice](#), 2017, p. 9.

<sup>25</sup> KWN interview, 2021.

## Inter-ministerial Coordination Group against Domestic Violence

In 2012, the Government of Kosovo established an Inter-ministerial Coordination Group against Domestic Violence, based on a Government Decision.<sup>26</sup> The Group is chaired by the National Coordinator against Domestic Violence (NCDV) in the Ministry of Justice (MJ) and vice-chaired by AGE. The Decision does not outline the roles and responsibilities of the Group; nor could KWN find an official policy stating its role. The Group's official members include the MJ, MLSW, Ministry of Internal Affairs, Ministry of Health (MH), Ministry of Education, Science and Technology (MEST), MF, Ministry of Culture, Youth and Sports, Kosovo Police, and Kosovo Agency of Statistics. The State Prosecution, Kosovo Judicial Council (KJC), Kosovo Judicial Institute, and Coalition of Shelters served as monitors and experts. The Group, among others, engaged in drafting the NSPDV for 2016-2020.<sup>27</sup>

Reportedly, the Group has not functioned as initially envisaged.<sup>28</sup> Without a NCDV, meetings were held only sporadically. When meetings were held, the designated ministries reportedly sent ministerial gender equality officers (GEOs) to meetings. While they made fruitful contributions to the discussion, few actions resulted from the Group because GEOs did not have the political clout or executive powers to move decisions forward, according to the former NCDV. GEOs did not hold positions within their ministries that enabled them to establish and adopt official programs, strategies, or budgets for a more coordinated, inter-institutional response to domestic violence.

## National Coordinator against Domestic Violence

Based on a Decision taken by the Government on 11 July 2012, the Deputy Minister of Justice holds the position of National Coordinator against Domestic Violence (NCDV), while AGE holds the position of Vice Chair.<sup>29</sup> Under the supervision of the NCDV and AGE, the responsible institutions created the SOP for protection from domestic violence in 2013.<sup>30</sup> The NCDV should supervise the implementation of the NSPDV at the national level; coordinate measures and policies related to domestic violence; supervise the database for domestic violence cases; and coordinate the work of the Inter-Ministerial Coordination Group on Domestic Violence. The NCDV also drafts monitoring and evaluation reports on the NSPDV.<sup>31</sup>

Given that the Deputy Minister of Justice must hold the position of NCDV, following the fall of the government after a vote of no-confidence on 10 May 2017, Kosovo did not have any NCDV from June 2017 until the beginning of 2018. After the government disintegrated again in August 2019, the position was again vacant until July 2020. In summary, during the duration of the NSPDV for 2016-2020, the NCDV has changed three times and the position sat unfilled for more than a year. Most actions towards implementing the NSPDV were completed during the mandate of the second

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<sup>26</sup> Government of Kosovo, [Decision Nr. 04/83](#), 11 July 2012.

<sup>27</sup> As found in: Ministry of Justice, [Evaluation Report of the Kosovo Program against Domestic Violence and Action Plan 2011-2014](#), 2015.

<sup>28</sup> KWN interview with former NCDV, 2021, among others.

<sup>29</sup> Government of the Republic of Kosovo, [Decision No. 04/83](#), 11 July 2012.

<sup>30</sup> AGE, [Standard Operation Procedures for Protection from Domestic violence in Kosovo](#) [SOPs], 2013.

<sup>31</sup> MJ, [NSPDV](#), 2017.

NCDV, who was in this position for the longest period (a year and a half). However, the absence of a consistent NCDV has hindered progress in implementing the NSPDV, as well as its monitoring. Moreover, changes in the NCDV have contributed to irregularity in Inter-ministerial Coordination Group meetings.<sup>32</sup> This illustrates the importance of having a permanent NCDV in place to ensure progress in addressing domestic violence. Moreover, human resource shortages in the office of NCDV have hindered its work.<sup>33</sup> As a representative of AGE stated during a meeting in 2018, “it is the moment for the office of the National Coordinator to be empowered with a professional staff”.<sup>34</sup> According to AGE, “there should be permanent staff that will serve as an institutional memory for each coordinator who comes until the moment that another is appointed”.<sup>35</sup>

In accordance with the IC requirement to designate official bodies responsible for coordination, implementation, monitoring, and evaluation of policies and measures to prevent and combat all forms of gender-based violence,<sup>36</sup> KWN continuously has emphasised the need for the NCDV to be a permanent civil servant position, rather than a political position. This would institutionalise its role and prevent interruptions in the implementation of its mandate amid Kosovo’s unstable political environment.<sup>37</sup> GREVIO similarly has recommended in Montenegro and in Serbia that the respective coordinating bodies should be fully institutionalised with an adequate allocation of human and financial resources, have clear responsibilities, and have separate bodies for implementation and monitoring and evaluation to ensure objectivity.<sup>38</sup> Thus, while the NCDV meets the requirements of the IC as a coordinating body for implementation, monitoring, and evaluation, for improved accountability, good practice perhaps would require separating the implementation and monitoring and evaluation functions into separate responsible bodies.

This research also examined the NCDV’s actions towards implementing the NSPDV. Under activity “1.2.5. Responsible and professional implementation of SOPs”, the NCDV should have established functioning complaint mechanisms so people could report shortcomings in institutions performing their duties, but these do not seem to exist.<sup>39</sup> The NCDV together with AGE, line ministries, local institutions, donors, and CSOs, should have published “1.3.2. National periodic research on the phenomenon, the level, the profile of domestic violence perpetrators/victims” and “yearly statistical bulletins on the number of reported cases and cases treated in multidisciplinary manner” (1.3.3.). Some institutions had this data, such as the VAs’ annual statistical bulletin, but such data was not made public within a consolidated report, except within this present report.

Under Pillar 2, the NCDV should have coordinated, together with AGE, “2.1.1. Revising and

<sup>32</sup> Berisha et al. for KWN, *From Words to Action*, 2017; Ministry of Justice, *Office of the Minister of Justice*, 7 July 2020. KWN did not interview the new NCDV for this report, as the position was newly appointed towards the end of the fieldwork. This was confirmed by the former NCDV.

<sup>33</sup> This was a recurring theme among research participants (KWN interviews, 2020).

<sup>34</sup> *Kosova Live*, “National database created for victims of domestic violence” [“*Krijohet databaza kombëtare e të mbijetuarve të dhunës në familje*”] [Albanian only], 13 March 2018.

<sup>35</sup> AGE, comment made during peer review of draft report, 2021.

<sup>36</sup> Article 10.

<sup>37</sup> Berisha et al. for KWN, *From Words to Action*, 2017, p. 84.

<sup>38</sup> GREVIO *Baseline Evaluation Report – Montenegro*, 2018, p. 19; *GREVIO Baseline Evaluation Report – Serbia, 2019*, p. 18.

<sup>39</sup> Nor did MEST have information about this.

reviewing of existing policies and programs”. The LPDV is still under review. AGE evaluated the implementation of SOPs in 2019. SOPs will be reviewed and potentially revised after completing the legal framework with planned legal amendments. Neither process has been completed and no other known policies and programs were drafted under this NSPDV.

The NCDV did fulfil its responsibility to establish a data management system for the coordinated treatment of cases by CMs, together with municipalities (2.2.2.), in two languages, supported by UN Women (UNW).<sup>40</sup> A Memorandum of Understanding was signed between the MJ, mandated to coordinate the system, and the KJC, Kosovo Police, and Kosovo Prosecutorial Council, committing to insert data into the integrated database.<sup>41</sup> Additionally, social service providers and shelters can insert information. All service providers from these institutions have been trained in data entry and training has been institutionalised, in case of staff turnover.<sup>42</sup> The integrated database covers all forms of violence as per the IC, as well as information on perpetrators, enabling the monitoring of cases as they are treated by different relevant institutions. As a “living tool”, the database is being updated monthly with new features, infographics, and tables, and summary data will eventually be made publicly accessible, as per the IC.<sup>43</sup> However, KWN interviews suggested that not every institution consistently enters all data, and the periodic reports foreseen by the NSPDV were not yet available.

The NCDV reportedly has established a “consolidated monitoring and evaluation system” for following the implementation of the NSPDV (2.3.8.); created a common database of cases assisted by the police, prosecution, and judiciary; and trained staff in using this database (2.3.9.).<sup>44</sup> However, reports based on this system and database were not made publicly available, which has made independent monitoring of progress difficult.

Under Pillar 4, the NCDV was to ensure “4.1.6. Training of personnel in the existing shelters in order to be ready to provide quality services, based on different categories” of victims of domestic violence, including for LGBT, Roma, Ashkali, Egyptians, and other minorities. Shelter staff interviewed did not indicate that they had attended such training. Arguably, MLSW perhaps may be better suited to organize and provide such training as part of its licensing procedures.

## **Agency for Gender Equality**

Established in 2005 as per the Law on Gender Equality, the Agency for Gender Equality (AGE) sits in the Office of the Prime Minister. It is tasked with awareness-raising; and promoting the equal participation of men and women in political, economic, social, and cultural life. It also monitors the implementation of various laws, acts, and provisions by relevant institutions. AGE supports the network of GEOs in municipalities and ministries, and they should report to AGE on their efforts to address

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<sup>40</sup> Ministry of Justice, “[The National Database of the Survivors of Domestic Violence and Violence against Women is created](#)”, 12 March 2018.

<sup>41</sup> UNW, [Kosovo to start using an integrated database for cases of domestic violence](#), 2019.

<sup>42</sup> Information in this paragraph provided by UNW during peer review of draft report, 2021. While UNW has funded maintenance of the database to date, plans existed for the government to start financing it as of 2021. The process of establishing the database involved consultations with women’s rights organisations and institutions, including the Agency for Protection of Personal Data, towards ensuring protection of the personal data of persons suffering violence.

<sup>43</sup> Article 11.

<sup>44</sup> UNW supported the establishment of the database and training ([Kosovo to start using an integrated database for cases of domestic violence](#), 2019).

domestic violence. AGE has been a key institution engaged in diverse working groups drafting laws, policies, and programs on various forms of gender-based violence. As mentioned, AGE serves as the vice-chair of the Inter-Ministerial Coordination Group against Domestic Violence. AGE has led many awareness-raising campaigns about gender-based violence, including related to sexual harassment and domestic violence. AGE consults and cooperates very closely with women's rights organisations, including shelters, in all legal and policy reforms as well as awareness-raising efforts related to addressing gender-based violence.

Related to the NSPDV, AGE had several responsibilities to support other institutions. Responsibilities assigned specifically to AGE included "2.1.2. Review of needs for supplementing and amending the SOP forms", a process that could not start because the new LPDV was not amended. However, in the meantime, in 2019, AGE supported this initiative by organizing five workshops. Together with MLSW, MEST, and MH, AGE also was to provide "4.1.8. Trainings for officials for employment, healthcare, education, social services and others for a gender sensitive approach". Several such trainings were provided, including with the support of other actors. In 2019 alone, 218 participants received certificates.<sup>45</sup> Meanwhile, as mentioned, responses from the officials interviewed suggests the need for further training on a gender-sensitive approach, and several respondents stated that they had not attended such training.

During the COVID-19 pandemic in 2020, AGE took the initiative to ensure emergency shelter for women and children victims of violence until they could be tested for COVID-19, as well as for those who tested positive for COVID-19. AGE collaborated closely with MH, MJ, UNW, and UNFPA to ensure the timely establishment of this shelter. It ensured protection for these women and children, while averting potential risk to women, children, and staff members in Kosovo's pre-existing shelters. AGE also liaised with funders, including UNW and UNFPA, to coordinate the timely distribution of emergency supplies to shelters, including clothing, food, cleaning supplies, emergency protective equipment, and other equipment.

## **The Municipal Response to Gender-based Violence**

Following decentralisation, municipalities play an important role in managing the inter-institutional response to gender-based violence. Municipalities manage health, education, training, employment, and social services. These are financed primarily through budget transfers from the general Kosovo budget. Municipalities depend heavily on the General Grant from the central level, which comprises more than 80% of their budget in nearly all municipalities except Pristina.<sup>46</sup> Hypothetically, they could generate their own revenues, allocating them to addressing issues such as gender-based violence, but few do. This reliance on central government budget transfers means that municipalities are limited in the amount of funding that they can request to finance services for addressing gender-based violence.

The municipal officials interviewed had not had training on gender-based violence, and some

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<sup>45</sup> AGE comment on draft report, 2021.

<sup>46</sup> National Audit Office, *Report of Performance Audit*, 2018, p. 7.

lacked knowledge and understanding of sexual harassment, sexual violence, stalking, and female genital mutilation. In practice, municipalities do not seem to have dealt much with forms of gender-based violence other than domestic violence, for which they have clear competencies. According to SOPs, the Department of Health and Social Welfare manages social services, and the Department of Education oversees education for domestic violence victims, adults and children. However, the municipal officials interviewed had little to no knowledge about SOPs, the NSPDV, or that they had any responsibilities under the NSPDV.<sup>47</sup> Generally, this lack of knowledge may have contributed to poor implementation of their responsibilities.

In addition to supporting several activities in the NSPDV, municipalities had the specific responsibility to establish regional, inter-municipal partnerships for identifying, referring, sheltering, rehabilitating, and empowering domestic violence victims, in collaboration with the Ministry of Internal Affairs (MIA) and MLSW (2.3.4.). According to MLSW, 64 regional agreements were signed from 2017 to 2020, and four municipalities have shared their budgets (Peja, Prizren, Mitrovica, and Gjakova).<sup>48</sup> Thus, only some municipalities seemed to share budgets for addressing domestic violence, as foreseen by the NSPDV.

Coordination mechanisms (CMs) should collaborate to address domestic violence and manage specific cases at the municipal level, as per the legal framework. CM members include the GEO, KP, judges, CSWs, VAs, municipal departments of education, Employment Offices (EOs), CSOs including shelters, and, in some municipalities, women municipal assembly members.<sup>49</sup> As per the NSPDV, the Ministry of Local Government Administration (MLGA) was responsible for establishing CMs in municipalities that did not have them (2.2.4) and creating a budget line for municipal offices for gender equality for coordinating CMs (2.2.5.). Starting in 2017, the NSPDV foresaw that eight new CMs would be established every year in municipalities where they did not exist. When asked, the MLGA representative interviewed was unaware of these responsibilities, which may explain why MLGA has not implemented them. More CMs were established, but not in all municipalities. As of 2020, 19 municipalities seem to have CMs (50%). International actors like UNW (nine) and OSCE (twelve) reported financing the establishment of CMs. Municipalities, AGE, and UNW collaborated to train more than 80 CM members in the seven municipalities of North Mitrovica, Zvecan, Leposavic, Zubin Potok, Gjilan, Gjakova, and Dragash on SOPs and other forms of violence covered by the IC, focusing on preventing re-victimisation.<sup>50</sup> However, MLGA has not created the foreseen budget line that would enable the Government of Kosovo to institutionalise budget allocations for supporting CMs.

Municipal gender equality officer officers (GEOs) coordinate CMs in most municipalities. Exceptions exist, such as in Ferizaj, where the Deputy Mayor coordinates the CM. Reportedly, in some municipalities, GEOs have lacked political clout or support from power-brokers within the municipality, which hindered their ability to secure political support and adequate budget allocations for CMs'

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<sup>47</sup> For this report, four departments were interviewed in multiple municipalities: the Department for Health and Social Welfare, Department of Gender Equality, Department of Education, and Department of Finance. KWN conducted 28 interviews with representatives of these departments.

<sup>48</sup> Data provided to KWN, November 2020.

<sup>49</sup> UNW, progress report provided to KWN on 18 May 2020, unpublished, 2019.

<sup>50</sup> UNW comment on draft report, 2021.

work.<sup>51</sup> The NSPDV also foresaw that all GEOs would receive training to increase their capacities to coordinate CMs. While some GEOs attended such training, most had not. Even after attending specialised training, some GEOs lacked knowledge and understanding about gender-based violence.<sup>52</sup>

The NSPDV foresaw that municipalities would reflect GEOs' new responsibilities in their job descriptions and raise their wages, compensating them for increased responsibilities (2.2.1.). KWN found no evidence that municipalities had revised GEOs' job descriptions or increased their wages. One GEO explained that they did not wait for the municipality to give them an incentive to work; the CM took the initiative to make their own strategy for treatment of cases. "When we have a powerful mechanism, then everything is in order and the support is clear", the GEO said.<sup>53</sup> While commendable, as foreseen by the IC and NSPDV, the functioning of CMs throughout Kosovo should not be left to individual will, but rather an institutionalised approach.

Reportedly, none of the municipalities had allocated funding for GEOs' work related to CMs.<sup>54</sup> While some municipalities have general budget lines for gender equality, these are not earmarked for CMs or for addressing domestic violence. For example, the GEO in Mitrovica reported sometimes using the gender equality budget line to address domestic violence.<sup>55</sup> However, the municipality's budget does not specify the amount of funding allocated for domestic violence or for supporting the CM. Indeed, a recurrently raised concern among CM members, particularly GEOs, was the insufficient budget for CMs to offer services foreseen in the NSPDV.

The other institutions engaged in CMs generally agreed that CMs have made case management much easier, as well as facilitated cooperation among institutions. In contrast, respondents in some municipalities reported that CMs did not meet regularly and that some of the responsible institutions did not participate at all. Some CMs did not have adequate meeting space.

Municipalities were to ensure the inclusion of domestic violence victims in "existing programs" and to draft "programs for economic empowerment of domestic violence victims, in cooperation with private businesses and donors" (4.3.5.). KWN did not identify any examples of this. In none of the seven municipalities monitored by UNW in 2019 had CMs supported victims through EOs in becoming employed.<sup>56</sup> In 2018, these same seven municipalities supported only seven women with rent benefits, social housing, and professional training. From all the cases reported (266), UNW found that CMs assisted 137 women, but none seem to have become fully autonomous, largely because they did not secure employment. Although the NSPDV has a pillar devoted to reintegration, a recurring theme among respondents from relevant institutions, including CM members, was the lack of reintegration programmes for victims, particularly housing and employment.

In addition, the NSPDV gave municipalities several responsibilities related to shelter and social

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<sup>51</sup> KWN interview with former NCDV, 2021.

<sup>52</sup> KWN interpretation based on interviews with GEOs and comments made.

<sup>53</sup> KWN interview with a GEO, 2020.

<sup>54</sup> KWN interview with former NCDV, 2021.

<sup>55</sup> The GEO's total office budget was €37,312 in 2018, €30,513 in 2019, and €28,007 in 2020.

<sup>56</sup> UNW, progress report provided to KWN on 18 May 2020, unpublished, 2019. The report monitored the seven municipalities that UNW supported: Gjilan, Gjakova, Dragash, North Mitrovica, Zvecan, Zubin Potok, and Leposavic.

housing. Municipalities had to open a “shelter for boys and men victims of domestic violence” (4.1.5.). This was not achieved. Perhaps the fact that the NSPDV did not specify clearly which municipality had the financial obligation to open this shelter contributed to this activity not being implemented. Municipalities also had a responsibility to provide long-term shelter for victims, through “agreements of understanding between municipalities, shelter houses, CSW and the Commission for Social Sheltering, including regional sheltering through inter-municipal agreements” (4.1.7.). KWN found that Gjakova, Gjiilan, North Mitrovica, and Prizren have reserved social housing for victims, but the other municipalities interviewed had not.<sup>57</sup> Municipalities also were to cooperate with MLSW to provide municipal-owned facilities to serve as shelters for domestic violence, as well as to include victims as a category for social housing (4.3.1.). A few municipalities have offered municipal properties for shelters (e.g., Gjiilan, Prizren, Gjakova, Peja) and some municipalities support shelters in paying rent.<sup>58</sup> However, not all shelters have permanent government-funded spaces. Notably, during the COVID-19 pandemic, the government utilised public property in Pristina for the aforementioned temporary shelter. It was unclear if municipalities used any other government-owned facilities for shelters or social housing, including confiscated assets (4.3.2.).<sup>59</sup> Municipalities also should have supported shelters by using their annual budget to purchase services (4.3.4.). Some municipalities have supported shelters, but not all and, again, such support is not institutionalised.

## Conclusion

Kosovo has several coordination bodies, focused primarily on addressing domestic violence and sexual violence perpetrated during the war. Regarding sexual violence perpetrated during the war, women’s rights CSOs provide most of the comprehensive services. The government Commission for reviewing applications for recognition and state benefits is a best practice. However, its mandate will expire soon and adequate protections do not exist for all women. Kosovo does not have coordination bodies for addressing forms of gender-based violence within the scope of the IC, other than domestic violence and human trafficking.

The coordination bodies dealing with domestic violence lack a clear mandate enshrined in law at the national level and thus consistent human and financial resources to ensure their reliable functioning. This includes clear roles, responsibilities, and separation of implementation, monitoring and evaluation duties. More CMs have been established within municipalities and their functioning improved since 2017. Nevertheless, several municipalities still do not have functional CMs, as foreseen by the NSPDV. GEOs leading CMs do not all have adequate knowledge, capacities, updated job descriptions, adequate compensation, and political clout for this task, as per the NSPDV. Municipalities have not allocated sufficient budgets for comprehensive victim-centred rehabilitation and reintegration services, as foreseen by the IC and NSPDV.

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<sup>57</sup> Corroborated by NCDV (KWN interview, 2021).

<sup>58</sup> According to MLSW, Prizren has provided up to 17 apartments in a given year since 2017 for temporary social housing and Gjiilan has one. In total, 57 victims have stayed at these from 2017 to November 2020 (KWN correspondence with MLSW, November 2020).

<sup>59</sup> As foreseen according to the KCPC on confiscated assets, Article 284 (4).



## KOSOVO POLICE

The Ministry of Internal Affairs (MIA) must ensure that police are trained and able to protect and support all victims of gender-based violence. The Kosovo Police (KP) are responsible for investigation and prosecution of all crimes involving gender-based violence as defined by the CCK and KCPC; responding to reports of domestic violence as per the LPDV;<sup>60</sup> conducting risk assessments for victims; referring victims to support services; executing protection orders and processing TEPO petitions.<sup>61</sup> KP Domestic Violence Investigation Units (DVIUs) involve women and men police officers in each municipality who are trained specifically to deal with domestic violence cases. The Head of the Regional Kosovo Police Unit against Domestic Violence determines the granting of TEPOs. Meanwhile, the Police Inspectorate prevents, detects, and investigates criminal offences and other violations by police officers.<sup>62</sup>

Usually, KP is the first point of contact for someone who has experienced gender-based violence. Thus, KP tends to be the first institution setting in motion the implementation of the SOPs related to domestic violence and trafficking, respectively. A professional and adequate response is imperative for supporting victims, as an inadequate response could lead to re-victimisation.<sup>63</sup> Poor police response also could lead to a potential case not being filed officially. The KP reportedly lacks a standardized approach in responding to cases in different regions, as exemplified by delayed medical examination of victims, which can undermine the retrieval of physical evidence.<sup>64</sup>

The first steps involve conducting a proper risk assessment of the situation, assessing the potential for continued violence and services needed, as well as securing evidence. After the risk assessment, police have an obligation to protect victims and inform them of their rights, which may include informing them about various types of protection orders, giving TEPOs, and liaising with other actors to provide psychological support, legal aid, shelter, and other assistance.<sup>65</sup> They must have an adequate protection plan for the victim after the victim is brought to safety. Police also must accompany the victim to their houses to gather their belongings if requested. Every police unit must ensure that there are enough human and technical resources to fight domestic violence in their district.<sup>66</sup>

To examine any changes in institutional awareness and performance since 2017, KWN conducted 37 interviews with police officers across Kosovo in 2020. Regarding knowledge, half the respondents recognised that gender-based violence involved violence perpetrated against someone because of their gender, but others lacked this conceptual understanding. Officers recurrently identified physical, psychological, and economic violence as forms of gender-based violence. Officers also recognised the new criminal offences in the CCK like sexual harassment, female genital mutilation, and stalking. However, officers tended to confuse gender-based violence with domestic violence and to

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<sup>60</sup> Article 24.

<sup>61</sup> AGE, [SOPs](#), 2013.

<sup>62</sup> Law No. 03/L-231 [on Police Inspectorate of Kosovo](#).

<sup>63</sup> Morina, D. and Demolli, L., [Gender based violence in Kosovo: a critical review of police response](#), 2019.

<sup>64</sup> EULEX, comment on draft report, 2021.

<sup>65</sup> AGE, [SOPs](#), 2013, p. 31.

<sup>66</sup> Ibidem and MJ, [NSPDV](#), 2017.

have less knowledge about sexual assault and sexual harassment.

The officers interviewed had not dealt directly with any cases of sexual harassment, female genital mutilation, or stalking, or even heard of any such cases being reported or processed. No cases of

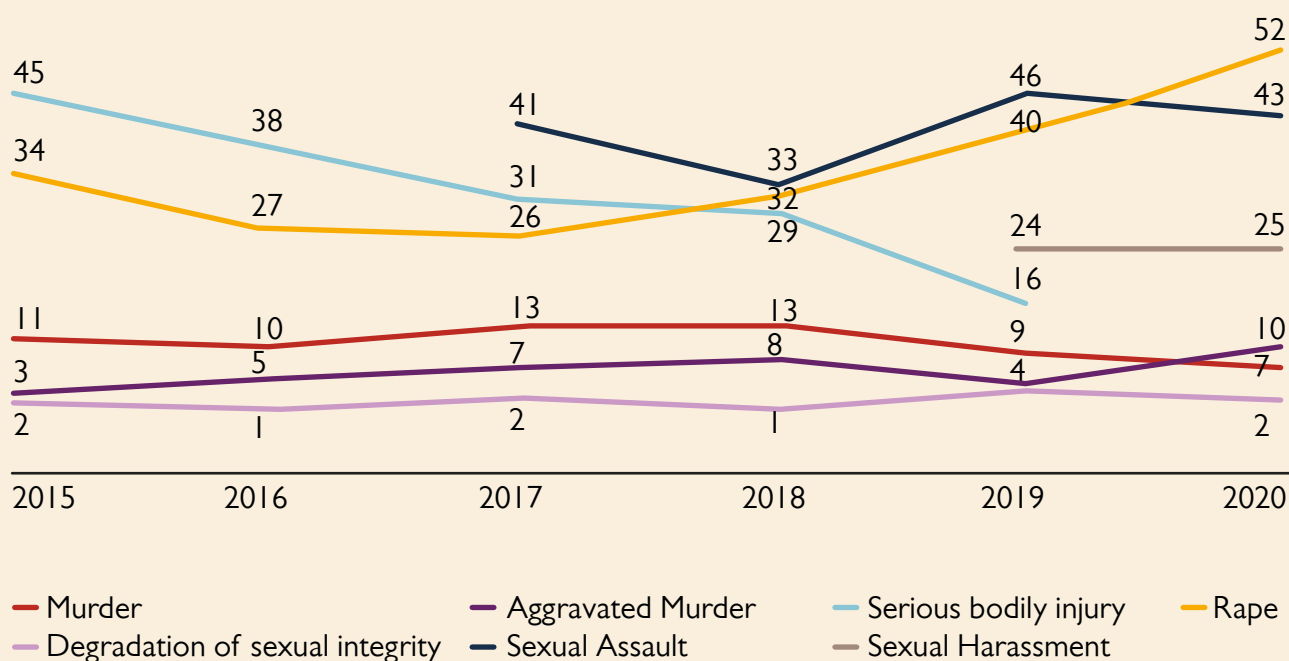
“[Domestic violence] cases of the LGBTIAQ+ community are rarely reported to the police, because the police classifies [these crimes] as hate crimes and not as domestic violence crimes, and do not treat them with priority.”

- Activist

female genital mutilation have been reported to KP yet, and few cases of sexual violence have been reported, though reports of rape have increased over time (Graph 4).<sup>67</sup> This may be because people are afraid to report it, given its private and sensitive nature. In some instances, perhaps police did not record such cases or dissuaded women from filing cases.<sup>68</sup> Other research has suggested that police have not always treated appropriately sexual harassment and other forms of sexual violence.<sup>69</sup> Officers told victims that they needed more proof; and some officers made derogatory comments, asked inappropriate questions, or requested that victims repeat their story multiple times, potentially

contributing to re-traumatization. Few such cases were investigated after the initial intake.<sup>70</sup> Given that the officers interviewed lacked experience treating such cases, KWN could not assess their response.

**Graph 4.** Violence against Women Reported to Police



<sup>67</sup> Source: KP. KWN combined cases under new and old KCC articles for the consolidated presentation of data. The graph only includes violence against women because in approximately 90% of all sexual violence cases during this period, women were the victims. While more men than women were victims of murder and bodily injury, such violence against women is far more likely to entail gender-based violence, that is violence perpetrated against women because they are women; moreover, often such violence is perpetrated by a male family member.

<sup>68</sup> KWN conversations with young women and monitoring, 2020.

<sup>69</sup> Qosaj-Mustafa, A. and Morina, D. *Accessing Justice for Victims of Gender Based Violence in Kosovo: Ending Impunity for Perpetrators*, 2018.

<sup>70</sup> Ibidem.

Concerningly, some officers still had attitudes that resembled victim blaming. Regarding a case that involved repeated rape and victimisation of a minor by a police officer and a school professor, a police officer said:

## Victim Blaming

According to the American Psychological Association, “Blaming the Victim” is a social psychological phenomenon in which individuals or groups attempt to cope with the bad things that have happened to others by assigning blame to the victim of the trauma or tragedy.

Victim blaming serves to create psychological distance between the blamer and the victim, may rationalise a failure to intervene if the blamer was a bystander, and creates a psychological defence for the blamer against feelings of vulnerability.

All of [the problems related to this case] are connected to this one female, whom I think cannot be without a male. ... With everyone that this girl had contact, she ended up in a hotel. Why is everything related to this one female?

The respondent suggests that it was the girl’s fault that she was raped, as, in his opinion, “she cannot be without a male”. Such victim blaming can hamper access to justice and a victim-centred approach to the protection and wellbeing of the victim. The Explanatory Report to the IC points out that measures and services which do not adequately take into consideration the devastating effects of violence and the length of the recovery process, or that treat victims insensitively, run the risk of re-victimising service users.<sup>71</sup>

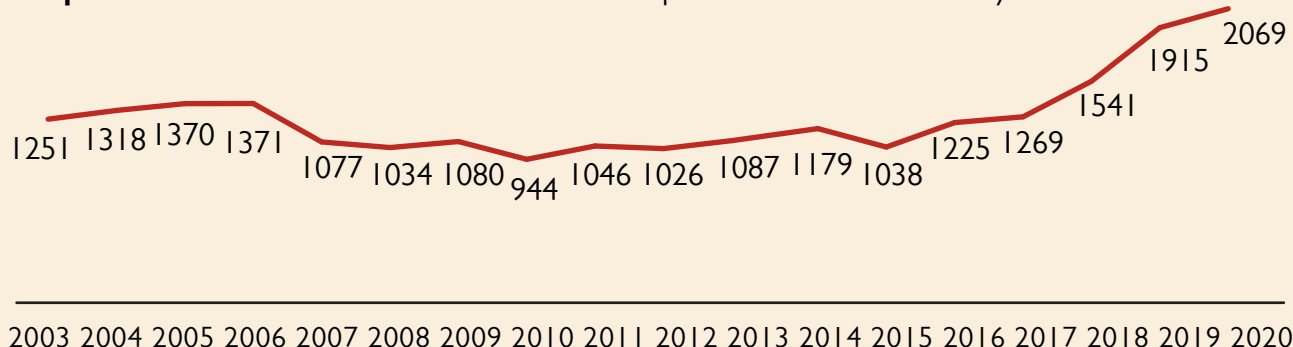
KP had substantially more experience with domestic violence cases than with sexual violence cases. Officers generally believed that KP and other relevant institutions treating domestic violence are more aware of their duties and how to treat such cases than they were in 2017. They said that since the new CCK incorporated domestic violence as a specific criminal offence, these cases are treated with priority, more so than in 2017. Meanwhile, the officers interviewed tended to have only partial knowledge regarding the NSPDV and SOPs. While they had heard of these documents, they demonstrated little knowledge regarding their precise content or implementation.

Since 2017, more cases of domestic violence are being reported. Data provided by KP illustrate an exponential increase in cases reported (Graph 5). Generally, respondents attributed this increase to people’s improved knowledge about their rights and improved trust in institutions (and not necessarily an increase in violence). KP officers attributed it to increased trust in the police. Reporting violence has also become easier; the KP phone application for reporting crimes has been updated to include

<sup>71</sup> “[Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence](#)”, Istanbul, 11.V.2011, pgh. 117. Protective and supportive services, including within the context of the police, must aim at avoiding secondary victimisation under the IC (Article 18.3).

domestic violence, and this was widely advertised with support from UNW.<sup>72</sup> Some have attributed the substantial increase in cases reported in 2020 to an increase in violence amid the COVID-19 pandemic.<sup>73</sup>

**Graph 5.** Number of Domestic Violence Cases Reported to Kosovo Police by Year



Amid oft-cited improvements in trust, interviews with potentially more vulnerable groups suggested that not everyone feels comfortable approaching the police for assistance. Concerns existed over reporting early marriage in particular:

We do not report these [underage marriages] to the police because they tell us that: “They are what they are, and we cannot change them because they have a tradition as a community.”

“There are many things that need to be improved, but the police are the institution that needs to treat cases of domestic violence with credibility, especially for members of the LGBTI community.”

**- Activist**

Such concerns raised by activists working with Roma, Ashkali, and Egyptian women require address, so that they trust that police will support them if they come forward. If they do not feel safe reporting such crimes, police cannot fulfil their duty to protect children, as among the most vulnerable. Indeed, the IC makes clear that cultural relativist perceptions are irrelevant when it comes to ensuring protection from gender-based violence. If such perceptions of Roma, Ashkali, and Egyptians indeed exist among police officers, it warrants attention. Moreover, perhaps community

policing and outreach could contribute to improving relations and trust, coupled with focused training that integrates locally relevant cultural and gendered aspects.<sup>74</sup>

Generally, the police officers interviewed knew that they should pursue cases *ex officio* when

<sup>72</sup> UNW, comment on draft report, 2021.

<sup>73</sup> Farnsworth et al. for KWN, *The Pandemic Knows No Gender? A Gender Fiscal Budget Analysis: The Government of Kosovo's Response to the COVID-19 Pandemic from a Gender Perspective*, 2020.

<sup>74</sup> Anitha, S. and Gill, A., “Coercion, consent and the forced marriage debate in the UK”, *Feminist Legal Studies*, 17(2), 2009, 165-184, p. 175.

they suspect a criminal offence involving gender-based violence has been committed, even if the victim withdraws testimony. However, in practice, exceptions occurred, as described by a court monitor: “Following an initial report of domestic violence, the Kosovo Police did not proceed the case to the Prosecutor because the wife forgave her husband for the violence used.”<sup>75</sup>

While improved since 2017,<sup>76</sup> some such cases still occurred of police not proceeding cases to the prosecution when crimes were committed and encouraging the family to “reconciled” (see box).

Police officers tended to know that they must offer victims protection. However, they lacked knowledge regarding all relevant steps foreseen by the IC. For example, AGE has observed shortcomings in police officers conducting risk assessments.<sup>77</sup> Although the NSPDV foresaw that KP should undertake “special assessment of circumstances and risk management in all criminal acts with DV elements” (3.2.1.), KWN interviews and monitoring also found that police did not always conduct risk analyses. In 2018, police failure to conduct an appropriate risk assessment allowed for a fatal altercation.<sup>78</sup>

In 2017, police stated that they often removed victims from their homes and took them to the police station after the initial report of violence, whereas perpetrators returned to the shared home.<sup>79</sup> This practice continued in 2020.<sup>80</sup> Generally, nearly a third of all KWN’s research respondents agreed that a woman should go to a shelter and man should remain at home. Rather, according to SOPs, in such situations the police should detain the suspected perpetrator.<sup>81</sup> Moreover, police should inform victims that they may obtain protection orders to remove perpetrators from the shared home. Removing the perpetrator and

According to a KWN monitor’s observations, during a hearing on 4 April 2020 in the Basic Court of Pristina, police accompanied the alleged perpetrator, M.G. When the hearing finished, KWN monitors observed as the police officer asked the woman who had reported the violence, D.G.,

**“Why do you not go back to him... get back together?”**

In case number 145/2020, monitored by KWN, following court hearings on 25 June 2020 and 9 July 2020 in the Basic Court of Prizren, Suhareka branch, police were ordered to escort D.G to take her personal things from the house where F.K, her perpetrator, was living. Even with the court ruling, the police in Suhareka did not escort her.

<sup>75</sup> Basic Court of Peja, Case P.nr. 1720/2019.

<sup>76</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>77</sup> AGE, “*Assessment of the level of implementation of the Standard Operating Procedures for Protection against Domestic Violence in Kosovo*”, 2019, pp. 126 and 154.

<sup>78</sup> Qosaj-Mustafa, A. and Morina, D., *Accessing Justice for Victims of Gender Based Violence in Kosovo: Ending Impunity for Perpetrators*, 2018.

<sup>79</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>80</sup> KWN interviews with KP and other institutions, 2020.

<sup>81</sup> AGE, *SOPs*, 2013, p. 31.

enabling the victim to remain should be a priority, as reflected in the IC.<sup>82</sup>

Police officers indicated that women's economic dependence on perpetrators and lack of property rights meant that women continued residing with perpetrators, even when protection orders involved measures distancing perpetrators from victims. For this, among other reasons, officers said they continued to face difficulties implementing protection orders.<sup>83</sup> A respondent said:

[W]e are often the ones who have to implement the protection order. It is impossible for us as police officers to do this, when these are assigned to a victim and perpetrator that live together, to oversee whether or not the [measure of not approaching the victim] is being violated. A criminal offence can occur. We have a difficult time monitoring [this] when a perpetrator and victim live together.<sup>84</sup>

The request and provision of additional measures, such as removing a perpetrator from a shared residence or requiring him to pay rent can be used to avoid such situations, enabling easier enforcement of protection orders. Police can inform victims of their right to request such measures.

As of 2020, officers tended not to know about the extent to which KP had implemented the NSPDV. KWN's analysis suggested that KP progressed since 2017, partially implementing its responsibilities. The NSPDV foresaw "I.I.I. Continuous training and certification of police officials focused on DV, on well-defined themes and approved modules". While all DVIU police were trained, other first responders interviewed by KWN had not been trained.<sup>85</sup> Otherwise, KWN found that some progress was made. The police officers interviewed tended to state that they had participated in at least one training for gender equality and prevention of domestic violence offered by the Kosovo Academy for Public Safety (KAPS) or other entities since 2017. Police records also suggested that in 2017, 38 participants took part in three trainings, and in 2018, 25 officers participated in two trainings. The European Union Rule of Law Mission in Kosovo (EULEX) trained approximately 60 first responders in 2020.<sup>86</sup> Overall, a rather small percentage of the police force seems to have participated, perhaps because the training was not obligatory. It was unclear whether training always enhanced professional capacities.

In 2017, KWN's monitoring suggested that police sometimes struggled to assist victims because some stations lacked a designated space for interviews. The NSPDV foresaw that MIA would ensure adequate infrastructure for police (3.2.2.). Reportedly, every KP station in all municipalities now has at least one room for interviewing victims. MIA also was responsible for ensuring that police officers speak Serbian, among other relevant languages (e.g., Turkish, Romani) (3.2.3.). This also was reported as completed.

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<sup>82</sup> "Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence", Istanbul, 11.V.2011, pgh. 264.

<sup>83</sup> VAs also observed that KP could improve their monitoring of protection orders (KWN interviews, 2020); According to the OSCE, about 74% of the protection orders are being monitored by the police (Data provided to KWN, 2020).

<sup>84</sup> KWN interview with a police officer, 2020.

<sup>85</sup> Corroborated by KWN interview with NCDV, 2021.

<sup>86</sup> EULEX comment on draft report, 2021.

## Conclusion

While police officers have general knowledge about various forms of violence as they relate to criminal offences, including the new offences in the CCK, they tended to confuse gender-based violence with domestic violence. Thorough understanding of various forms of sexual violence also seemed limited. Victim blaming and culturally relative justifications for insufficient police response may still exist. Officers still seemingly tend to remove victims rather than perpetrators from shared residences. Nor do police always conduct comprehensive risk assessments to ensure adequate protection of victims. Nevertheless, KP's overall response to domestic violence and implementation of the NSP-DV seem to have improved, though further training seems needed.

## INSTITUTE OF FORENSIC MEDICINE

The Institute of Forensic Medicine (IFM) facilitates the investigation of any type of gender-based violence. It examines victims and gathers physical evidence to be used in court. To be examined, victims must consent. Ideally, they should be examined within 72 hours or as soon as possible to provide an exact description of injuries.<sup>87</sup> The IFM also can examine suspected perpetrators of violence to identify any biological evidence in their bodies, injuries, and/or to determine if they have abused drugs and/or alcohol. IFM medical examiners must ensure confidentiality, remain objective, and treat every patient equally.

In terms of awareness, IFM staff have improved knowledge in how to treat cases of gender-based violence since 2017. EULEX and the Swedish International Development Agency have supported IFM staff with training, such as on collecting biological evidence related to sexual violence. In 2017, the public seemed rather unaware of the IFM and its work. Thus, the IFM sought to inform victims that they should seek help quickly, since physical evidence can best be obtained immediately after an incident.<sup>88</sup> In cooperation with EULEX, IFM undertook several campaigns to raise awareness on the importance of biological evidence in adjudicating cases of sexual violence and, thus, of reporting crimes in a timely manner, such as rape and sexual assault. Educational efforts targeted minors, as well, given that IFM data suggest they comprise a majority of victims.

An IFM official stated that they receive at least 100 cases of rape annually, while 59% of the sexual violence cases reported in 2017 involved minors.<sup>89</sup> This is interesting when compared to police data, which recorded less than 50 cases per year during the same period, suggesting that some cases handled by IFM may not be recorded by police. According to IFM, and confirmed by police data, "90% of victims of sexual violence are female". Unfortunately, they said that they can only collect biological evidence in 28% of the cases reported to them.<sup>90</sup> Of the cases addressed to IFM, a person known to

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<sup>87</sup> AGE, [SOPs](#), 2013.

<sup>88</sup> Berisha et al. for KWN, [From Words to Action](#), 2017.

<sup>89</sup> For example, in 2017, 2% of cases were children ages 0-10; 59% were ages 11-16; 13% were ages 17-20; 16% were ages 21 – 30; and 10% were ages 30+ (KWN interview, 2020).

<sup>90</sup> IFM, Brochure, "Speak on time, sexual violence is a crime", [["Ma thuaj me Kohë, dhuna seksuale është krim"](#)], [in Albanian].



the victim perpetrated the criminal offence in 81% of sexual violence cases.

IFM officials said that when children are victims of sexual assault or rape, in some cases their family members tended to care more about whether a girl remained a virgin than the consequences that the child may experience. “It has been noticed that very often an order is issued [by the prosecution] for a medical examination only to prove the ‘virginity’ of the person reporting because the family insists, and this is a distortion or even abuse of the purpose of the examination”, a IFM representative said, observing the need for other institutions to have further training so as to prevent such requests from being made.<sup>91</sup> Social stigma and cultural norms that surround virginity and marriage, specifically for girls, may thus affect the treatment of girls who have suffered sexual violence, particularly given the scarcity of programs for assisting them. In many instances, events may be too traumatizing for victims to come forward at all, and a medical exam can contribute to re-traumatisation.<sup>92</sup> Such issues persisted in 2020. Perhaps these issues may account for why some cases were reported to IFM but not to police; families did not want or allow for justice, particularly in cases involving minors. Nevertheless, in protecting the rights of women and girls, institutions should proceed with prosecuting such crimes *ex officio*. Indeed, IFM representatives expressed the need for improved cooperation with police and courts.

Kosovo still does not have sexual violence referral centres or rape crisis centres specialised in such treatment as foreseen by the IC. Emergency services also should provide access to post-exposure prophylaxis (an emergency medication to prevent HIV following exposure). In establishing one, opportunities exist for Kosovo to draw from examples in the region. For example, the Liliu Crisis Management Centre for Cases of Sexual Violence, recently established in Tirana, Albania, provides integrated emergency services to victims.<sup>93</sup> It offers free emergency healthcare services, psychological care and counselling, forensic examinations to gather evidence for criminal justice proceedings, and referral services to other institutions, including shelters. All services are provided at one location by professionals specialised in treating sexual violence. Moreover, the entire centre is financed by the government.

## Conclusion

IFM has improved its knowledge and capacities in how to treat cases of gender-based violence since 2017. Moreover, IFM has undertaken efforts to inform people, particularly minors, about the importance of reporting crimes in a timely manner, such as rape and sexual assault. Nevertheless, social stigma and pressure, including from family members, may prevent women and girls from coming forward or seeking justice. Insufficient cooperation among KP, IFM, and the prosecution seemingly hinders the timely referral of sexual violence cases in order to preserve biological evidence. Kosovo still does not have sexual violence referral centres or rape crisis centres specialised in such treatment as foreseen by the IC.

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<sup>91</sup> Comment on draft report, 2021.

<sup>92</sup> IFM, Brochure.

<sup>93</sup> Ministry of Health and Social Protection, “[Liliu Crisis Management Center for Cases of Sexual Violence](#)”, Albania. UNDP, UNW, and UNFPA in supported its establishment based on best practices internationally, with support from the Swedish International Development Agency.



## PROSECUTION

The Office of the State Prosecutor reviews evidence and decides whether to proceed with prosecution; ensures correct collection of evidence; supervises DVIUs; and initiates certain criminal proceedings *ex officio*, including violations of protection orders. To successfully pursue a case, the prosecutor must be briefed by the KP. After an assessment, the state prosecutor may pursue or decline a case. As per the CCK, the prosecutor selects the relevant offences with which to charge a perpetrator. Prosecutors must attend training on domestic violence, and they must prioritise these cases.<sup>94</sup>

For this report, KWN interviewed seven prosecutors. They tended to know their responsibilities,<sup>95</sup> as well as different forms of gender-based violence in the CCK, except female genital mutilation. Prosecutors also tended to confuse sexual assault with sexual harassment. Generally, they had extremely limited experience with cases of sexual violence.<sup>96</sup> Prosecutors indicated that they, and other institutions, are more aware about gender-based violence than in 2017, given enhanced cooperation among institutions and the prioritisation of domestic violence cases. Nevertheless, some reported encountering challenges with using the new CCK article on domestic violence. For example, how to define “family” related to the new CCK article caused confusion, even though the CCK defines “member of the family” and “family relationship”.

Another recurring theme among prosecutors was uncertainty as to whether they should use the criminal offense of domestic violence or that of bodily injury. One respondent

In a case described to KWN concerning marital rape, a prosecutor stated that it was difficult to find proof because the victim refused to be examined. They had to close the case due to lack of evidence. In general, she said that it is hard to prove these cases because they have to be “fresh”. This suggests an overemphasis on physical evidence as a “gold standard” in prosecuting sexual violence. Where forensic evidence is unavailable, prosecutors should proactively seek to establish other forms of corroborating evidence such as police reports and statements, medical reports, information on previous incidents and victim testimony.

### Case P.nr. 16/20

KWN’s monitoring of court sessions suggested that in some instances prosecutors do not consider all relevant circumstances in a case. For example, in the Basic Court of Peja, in a hearing on 4 March 2020, the prosecutor included only “domestic violence” and not “harassment” in the indictment, though the victim had experienced a pattern of intimidation and threats by her abuser and felt endangered. This affects the indictment and can lead to a lower sentence for the perpetrator, depending how the indictment was filed.

<sup>94</sup> AGE, [SOPs](#), 2013; and MJ, [NSPDV](#), 2017.

<sup>95</sup> However, some prosecutors only knew their responsibilities under the SOPs after they were mentioned to them. This suggests that perhaps they implement their responsibilities without knowing that these are in the SOPs.

<sup>96</sup> Only one prosecutor interviewed by KWN had dealt with such a case.

said that the two articles contradicted. Reportedly, in some instances, courts have dismissed indictments involving both domestic violence and other criminal offences like light bodily harm, requesting that the prosecution requalify these cases. The courts seemed to suggest in these cases that both criminal offences should not be cited in a given case. Although the domestic violence offence overlaps with other offences, including light bodily injury, they are not necessarily contradictory. In principle, a perpetrator can be convicted with concurrent offences,<sup>97</sup> but the issue with using both in this context may be that no materially distinct elements exist in the offences in the specific circumstances of a given case.<sup>98</sup> Thus, the choice of charge(s) should be case-specific, based on which would be best to secure a facts-based conviction and to reflect the seriousness of what occurred. In this regard, UNODC's *Handbook on effective prosecution responses to violence against women and girls* recommends:

The perpetrator might have committed more than one offence. Prosecutors should consider all charges that could result from a patterned use of intimidation, coercion and violence. Consideration should be given to what other crimes may be charged along with the main offence.<sup>99</sup>

In particular, prosecutors should consider if a charge needs to be added for violating a protection or court order, whether there have been prior offences against the same victim, whether the offence(s) should be charged as aggravated, whether there has been a pattern of intimidation so that harassment is applicable, and any relevant actions in obstructing justice.<sup>100</sup>

In Kosovo, the domestic violence offence has a notably wider definition of physical violence ("physical assault regardless of the consequences"<sup>101</sup>) than the harm-based requirements of light bodily injury, and this may facilitate a conviction, depending on the nature of the facts. A charge of light or grievous bodily injury against a vulnerable victim may be appropriate depending on the severity of the offence and/or harm but may be inappropriate depending on the nature of the relationship between the victim and offender. The domestic violence offence accounts for other forms of violence (psychological, economic, or mistreatment), which may be sufficiently materially distinct to amount to an additional offence, depending on the case. Further training inclusive of case studies coupled with guidance from the KJC could support clarifying these issues.

Prosecutors tended to know their responsibilities under the NSPDV. The NSPDV foresaw that the State Prosecutor would appoint prosecutors specialised in treating domestic violence cases. Indeed, specialised prosecutors have been appointed on level. However, respondents said that some municipalities do not have specialised prosecutors, which makes coordination among institutions difficult. This challenge has remained since 2017, when some municipalities also reported not having

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<sup>97</sup> KCC, Article 76.

<sup>98</sup> A Court of Appeals (EULEX) [judgment](#) dealt with this issue in 2013. It observed that the KCC at that time did not provide explicit rules on determining instances in which the same act meets the definitions of multiple offences. However, the court found that cumulative convictions may only be entered in respect to concurrent offences if the crimes are considered sufficiently distinct or possess "a materially distinct element" not found in the other. This was in reference to Article 71 of the Provisional Criminal Code of Kosovo ([UNMIK/REG/2003/25](#)), but the current KCC maintains the same provision (Article 76).

<sup>99</sup> UNODC, [Handbook on effective prosecution responses to violence against women and girls](#), 2014, p. 82.

<sup>100</sup> Ibidem.

<sup>101</sup> LPDV, Article 2.1.2.4, as applicable by virtue of KCC, Article 248.3.2.

specialised prosecutors.<sup>102</sup> Thus, while the NSPDV foresaw that the prosecution would prioritise all domestic violence cases as human rights violations (3.1.1.), this seemingly does not always happen in practice.

According to the NSPDV, the Prosecutorial Council was to provide appropriate infrastructure in prosecution offices for treating cases (3.2.4.). Special victim-friendly interview rooms have been installed in five municipalities, but Mitrovica and Gjakova still do not have them. The prosecution also should ensure availability of prosecutors that speak the Serbian language, among other languages (3.2.5.). According to the Prosecutorial Council, all prosecution offices have prosecutors who speak Serbian, and two prosecutors in Prizren speak Turkish, but prosecutors do not seem to speak the Romani language.

The NSPDV foresaw “1.1.3. Continuous training and certification of prosecutors focused on DV, on well-defined themes and approved modules”, which MJ reported as completed.<sup>103</sup> All respondents interviewed also said they attended several trainings on domestic violence. Moreover, the NSPDV foresaw that the prosecution would hold “continuous lectures every year by judges and prosecutors for raising awareness of young professionals with regard to treating domestic violence cases” (1.3.6.). The Prosecutorial Council reported completing this activity every year.

## Conclusion

Prosecutors tended to be informed regarding various forms of gender-based violence except female genital mutilation. Some confused sexual assault with sexual harassment. Some also expressed uncertainty regarding how to use the new domestic violence criminal offence, particularly in combination with other offences. Some special prosecutors have been appointed. Prosecutors had attended domestic violence training as required by the NSPDV, and they tended to know their responsibilities in the NSPDV and SOPs. Representatives of other institutions confirmed that prosecutors performed their role well. This suggests improvement since 2017, when some prosecutors seemed to lack knowledge and professionalism in addressing gender-based violence. Their experience treating sexual violence remains limited, largely due to low reporting of these crimes.

## VICTIM ADVOCATES

The Victims Advocacy and Assistance Office (VAAO) is within the Office of the State Prosecutor of Kosovo. Victim Advocates (VA) meet victims, ensure they understand available state services, represent victims under the CCK and KCPC, apply on behalf of victims for protection orders, participate in or monitor court proceedings, perform risk assessments for victims, and operate the toll-free 24-hour telephone helpline. Victims can call this line to be assisted and referred to appropriate

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<sup>102</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>103</sup> MJ, “First Monitoring Report on the Implementation of the Action Plan of the National Strategy on Protection from Domestic Violence 2016-2020”, 2018.

institutions.<sup>104</sup>

KWN interviewed seven VAs from different municipalities. In most cases, VAs were knowledgeable regarding different forms of gender-based violence and their legal responsibilities. However, they tended to use the terms “gender-based violence” and “domestic violence” interchangeably. VAs had differing opinions as to whether gender-based violence involved violence against women or violence towards another gender. The range of views encountered suggests insufficient understanding of the concept of gender-based violence, particularly as per the IC.

VAs seemed aware of the new changes in the CCK, and one observed that the new articles made their work easier, particularly the new article on domestic violence. VAs, as other institutions, tended to have more experience assisting domestic violence cases than other cases of gender-based violence.<sup>105</sup> For example, from October 2019 to September 2020, VAs supported 423 cases of domestic violence, five cases of trafficking, and two cases of sexual violence.<sup>106</sup>

VAs have several responsibilities related to assisting domestic violence victims. Usually, immediately after domestic violence is reported to police, VAs meet with victims to inform them of their rights and state services available. During this initial contact, VAs should build relationships with victims. VAs play a key role in protecting the rights of victims during criminal proceedings; they must attend all hearings and monitor judicial processes.<sup>107</sup> Victims may refuse assistance. In such cases, VAs should step back but inform victims of their rights to call VAs if they change their mind. During pre-trial procedures, VAs can request to review pre-trial orders and assess if these have affected victims’ rights.<sup>108</sup>

The Balkan Investigative Reporting Network (BIRN) and KWN’s monitoring of domestic violence cases in 2017 found that most victims are referred to VAs by police.<sup>109</sup> VAs seemed to know and carry out their duties in compliance with SOPs. Thus, they referred victims to the relevant institutions and services; spoke to them in a secure place; and informed them of their rights. Only in a few cases were victims informed about their right to compensation, however, which VAs should do in every case. VAs also noted that they faced challenges due to insufficient support from other relevant institutions and widespread recidivism.

All VAs agreed that a victim suffering from domestic violence should contact police. However, some indicated that having children might make the separation process more difficult. They attributed this to the fact that victims of domestic violence are usually economically dependent on their abusers and would not be able to support their children on their own. Perpetrators may also try to claim full custody of the children, to manipulate the victim into staying, or punish them for leaving. This suggests insufficient knowledge of the responsibility of institutions to protect victims and their dependents from perpetrators, as foreseen by the IC. While Kosovo has legal remedies available, including child custody,

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<sup>104</sup> AGE, [SOPs](#), 2013; MJ, [NSPDV](#), 2017; Krol, et al., [Mapping support services for victims of violence against women in Kosovo](#).

<sup>105</sup> While some VAs had heard of such cases, only a couple had supported such cases, and they provided limited information about their experiences treating these cases.

<sup>106</sup> The Republic of Kosovo, State Prosecutor, VAAO, [Newsletter](#), Nr. 7, 2020.

<sup>107</sup> Krol, et al., [Mapping support services for victims of violence against women in Kosovo](#), 2017.

<sup>108</sup> AGE, [SOPs](#), 2013.

<sup>109</sup> Berisha et al. for KWN, [From Words to Action](#), 2017.

as well as payment of rent and alimony by perpetrators, these measures seem under-used. VAs are well-positioned to better counsel victims to request such measures within protection orders and civil court proceedings.

Overall, VAs observed that their awareness and performance had improved since 2017, as had that of other institutions. They tended to state that they had good cooperation with other institutions. Meanwhile, some respondents from other institutions indicated that VAs do not visit cases as much as they did previously. In the past, a VA usually would be present when a victim first gave a statement at the police station. Now, VAs tend not to be present for such statements due to a lack of human resources, respondents said. As a result, victims must give their statements twice, which can contribute to re-traumatisation. Additionally, VAs do not always assist victims in filing compensation claims.<sup>110</sup>

KWN court monitors also observed the absence of VAs in court hearings. In some instances, the court did not invite VAs to the session.<sup>111</sup> In others, VAs were invited but did not attend.<sup>112</sup> Such non-participation can undermine the appropriate representation of the victim and hinder proper monitoring of the trial on behalf of the victim. The broadening of VA responsibilities to include support to additional victims, without allocating additional funding for hiring and training more human resources, has stretched their human resources thin and hampered their timely and quality response. As Kosovar Institute for Policy Research and Development (KIPRED) observed in 2018:

[V]ictim advocates face different problems including being heavily overworked, understaffed and under budgeted. There are currently only 23 victim advocate's covering 38 Municipalities and seven regions. For instance, in the Mitrovica region there are only three victim advocates covering 7 municipalities.<sup>113</sup> [sic]

While observing overall progress, VAs also attributed shortcomings in implementing the NSPDV to understaffing. The NSPDV foresaw continuous training and certification of VAs, focused on domestic violence and using approved modules (1.1.5.). According to the VAAO, VAs have been trained continuously on gender-based violence and domestic violence, but this did not involve approved modules and certification, as foreseen by the NSPDV.<sup>114</sup> KWN monitoring suggested that half of the VAs had attended training on domestic violence and half had not. Meanwhile, all but one had attended training on sexual harassment and identifying sexual abuse between partners. Additionally, the NSPDV planned for increasing the number of VAs that speak Serbian, among other minority languages, as well as establishing VA offices where they do not exist, such as in northern Kosovo (2.3.2.). This was partially implemented as two new VAs speak Serbian and Turkish. No new offices were established, and the VAAO observed that since 15 VAs speak Serbian, including one located in North Mitrovica,

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<sup>110</sup> Comment on draft report, 2021.

<sup>111</sup> For examples, please see the section on "[Courts](#)".

<sup>112</sup> For example, at a hearing for a protection order held in June 2020 in the Basic Court of Pristina, the VA did not participate, though invited by the Court (case number 788/2020).

<sup>113</sup> Qosaj-Mustafa, A. and Morina, D. for KIPRED, [Compensation to Victims of Crime: Response to Domestic Violence and Human Trafficking cases in Kosovo](#), 2018.

<sup>114</sup> Comment on draft report, 2021.

no new offices are needed.<sup>115</sup> As per the IC and NSPDV, VAs increased the number of staff providing helpline services in Serbian and Turkish, but not Romani languages (2.3.3.), and they made the telephone helpline available in the north.<sup>116</sup>

While the VA helpline enables victims to report crimes confidentially, as well as to receive information about their rights and existing services,<sup>117</sup> it does not fully meet IC standards. A helpline should be used specifically for forms of gender-based violence covered by the IC; the VA helpline provides support related to various crimes, and not only those that involve gender-based violence.<sup>118</sup> Moreover, Kosovo does not have any helpline which offers crisis counselling.<sup>119</sup>

## Conclusion

VAs tended to use the terms “gender-based violence” and “domestic violence” interchangeably. While usually advising women to report violence to police, some VAs may advise women to remain with perpetrators if they have children, which could place women and children in danger. VAs are not always present at police stations when victims report violence and often are absent from court hearings, due to insufficient human resources. Nor do they always assist victims in filing compensation claims. Otherwise, VAs tend to implement their duties according to SOPs. Related to the NSPDV, the availability of diverse language services can be further enhanced. Helpline services specialized solely for gender-based violence can be expanded, including also professional psychological counselling, as per the IC.

## LEGAL AID

The Kosovo Law on Free Legal Aid has included domestic violence victims in the list of persons entitled to request free legal aid since 2012.<sup>120</sup> Legal Aid Officers (LAO) have a mandate to provide free legal services to vulnerable members of society. LAOs inform and advise victims of all forms of gender-based violence, including domestic violence victims, about their legal rights; engage in legal procedures; compile memos and legal documents; represent them in criminal, civil, administrative, and minor offence proceedings in courts; and coordinate with other institutions.<sup>121</sup> LAOs support victims in child custody procedures, divorce, alimony, and other cases that may arise after a criminal suit has been concluded.<sup>122</sup>

An ongoing challenge for LAOs has been funding; eight offices had to close in 2015, leaving

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<sup>115</sup> Ibidem.

<sup>116</sup> Ibid.

<sup>117</sup> State prosecution website on [VA helpline](#).

<sup>118</sup> Article 24.

<sup>119</sup> “[Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence](#)”, Istanbul, 11.V.2011, pgh. 136.

<sup>120</sup> Article 31.

<sup>121</sup> AGE, [SOPs](#), 2013.

<sup>122</sup> Ibidem.

only five operational.<sup>123</sup> As of 2020, seven regions had Legal Aid Offices, a marked improvement (Prishtina, Prizren, Peja, Mitrovica, Gjiilan, Ferizaj, and Gjakova).<sup>124</sup> Meanwhile, two to three days per week LAOs also visited the municipalities of Fushe Kosove, Drenas, Istog, Deçan, Dragash, Suhareka, North Mitrovica, Skenderaj, Malisheva, Gracanica, and Kamenica. LAOs' poor access to reliable transportation reportedly hindered their work, especially travelling to visit victims in rural areas. Some LAOs have begun offering online counselling sessions, which may help to address this challenge.

In 2020, KWN interviewed six LAOs. They demonstrated some knowledge about gender-based violence, but limited knowledge about economic violence. Most knew about the criminal offence of domestic violence, but they had not seen any cases processed with the new CCK article. LAOs tended to lack knowledge about the NSPDV, and half had not heard of it at all. Respondents indicated that awareness in their institution has remained the same over time. Some acknowledged that their colleagues still view domestic violence as something unavoidable in society, and even as something "funny". One respondent mentioned that "[The colleague] that was with us in the office sometimes says that to slap a woman in the face is normal and shouldn't be reported".<sup>125</sup> LAOs also expressed concern in how to handle the sensitive nature of cases and to have the right approach with survivors. They stated that women do not have property or wealth and have to remain with perpetrators. This suggests that LAOs may not advise victims on all measures potentially available to them. All of these statements indicate a need for further training. Indeed, half the respondents indicated that they had not received any training on domestic violence to date.

Additionally, the NSPDV foresaw that MJ would increase the "free legal aid services provided to domestic violence victims" (2.3.1.). According to LAOs, since July 2018, they opened 14 mobile offices in addition to the seven above mentioned offices.

VAs play an important role in informing victims of their right to free legal aid where they are unable to pay for legal advice and representation. Some confusion could exist regarding the difference between the roles of VAs and LAOs; while VAs advise and support victims immediately, they can refer victims to LAOs for further, long-term support in cases, including related to divorce, child custody, and other matters. Thus, cooperation between LAOs and VAs is important to ensure victims have a complete understanding of the services available to them and their right to access to legal advice and representation when needed.

LAOs also have a free helpline which can be contacted directly by victims. This helpline, however, is not in line with the IC's recommended standards as it does not provide specialized support solely related to gender-based violence; nor do LAOs seem adequately trained to provide such support. Having two helplines could contribute to confusion, and the VA helpline seems better suited to the purpose foreseen in the IC if the aforementioned issues are addressed. In advertising the LAO helpline, clarity of its purpose as different from the gender-based violence helpline would be important.

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<sup>123</sup> Farnsworth et al. for KWN, *No More Excuses*, 2015.

<sup>124</sup> Republic of Kosovo, "[Agency for Free Legal Aid](#)", 2020.

<sup>125</sup> KWN interview with a legal aid officer.



## Conclusion

LAOs had some knowledge about certain forms of gender-based violence but did not understand economic violence. They seemed to have insufficient understanding of the various measures available to support victims economically, which could mean that they may not provide victims with comprehensive information, referral, and assistance. Overall, LAOs lacked sufficient training on domestic violence and other forms of gender-based violence. Poor infrastructure meant that LAOs could not always visit victims in rural areas, but this has improved, and they sometimes provided advice online. Clarifying the role of VAs and LAOs to victims is important for ensuring they understand clearly the services available to them from each actor.

## COURTS

Kosovo has seven basic courts that handle both criminal and civil cases. Basic courts must ensure proper procedural treatment of all parties in legal proceedings.<sup>126</sup> Courts must treat cases with impartiality, upholding the rights and interests of both parties. KJC has appointed judges specialised in and responsible for prioritising domestic violence cases in criminal and civil proceedings, including expediting the issuance of protection orders.<sup>127</sup> In domestic violence cases, both civil and criminal proceedings may be filed simultaneously.

This section analyses the knowledge, attitudes, and performance of courts as per the legal framework, and towards implementing the IC.<sup>128</sup> It first examines their overall knowledge and attitudes regarding gender-based violence, followed by the implementation of the judiciary's legal responsibilities related to the NSPDV. Respective subsections then discuss criminal courts and civil courts, given their different mandates.

### Knowledge, Attitudes, and NSPDV Implementation

The judges interviewed tended to know about the new criminal offences related to gender-based violence in the CCK, but not all judges understood their definitions precisely. For example, degradation of sexual integrity was not always understood correctly; one judge defined it as rape, stating that it is “a form of sexual violence, where the goal is to achieve pleasure.”<sup>129</sup> Another judge seemingly considered female genital mutilation solely within the context of domestic violence or confused domestic violence with gender-based violence, stating: “This is a very serious bodily injury ... domestic violence has all sorts of elements”.<sup>130</sup> Such statements suggest a need for further, mandatory training on gender-based violence.

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<sup>126</sup> Law No. 06/L-054 [on courts](#).

<sup>127</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*; MJ, NSPDV, 2017.

<sup>128</sup> This section draws from existing literature, court monitoring, and KWN interviews with 17 respondents from basic courts (eight criminal and nine civil court judges); two judges from the Court of Appeals; two judges from the Supreme Court; one respondent from the Constitutional Court and the KJC, respectively; and reflections from other institutions.

<sup>129</sup> KWN interview with a civil court judge, 2020.

<sup>130</sup> KWN interview with a judge, 2020.



In defining gender-based violence, the judges interviewed recurrently mentioned physical, psychological, and economic violence, but few mentioned sexual violence. Indeed, only three of the 17 judges interviewed knew that sexual harassment is now a criminal act, as per the CCK. One of these three judges defined sexual harassment as:

When one party looks or touches [another party] and in doing so harms the integrity of the other party, it is harassment. I don't even deal with that [in my personal life]. It is mostly [women] who have to be careful.<sup>131</sup>

This statement acknowledges the gendered nature of sexual harassment, in that women may be disproportionately affected by the offence. However, in doing so, it indicates an inappropriate focus on victims' behaviour, rather than on adequately denouncing the perpetration of such crimes.

Regarding female genital mutilation, some judges did not consider the offence a form of gender-based violence and lacked knowledge about it. A judge mentioned:

I just don't know how much [female genital mutilation is perpetrated] in our society. I don't know of any case, so I think the [inclusion] of it in the new criminal code is unnecessary. It seems to me that [female genital mutilation] characterizes primitive societies. We [in Kosovo] are not animals. I don't know why it got included.<sup>132</sup>

This is illustrative of a recurring trend in opinion that including female genital mutilation as a crime in the CCK was unnecessary because it is perceived to not exist in Kosovo. This statement, as others, indicates that female genital mutilation may be viewed as a cultural phenomenon rather than a human rights violation, which could affect its adequate treatment should cases arise.

As other institutions, judges had more knowledge and experience with domestic violence than with other forms of gender-based violence. The judges interviewed tended to conceptualize gender-based violence as domestic violence, as defined in the CCK. Few understood it more broadly to incorporate other forms of gender-based violence, gendered relations among women and men, or related to the disproportionate effect of such violence on women.

When asked what a victim should do if she experiences domestic violence, a judge suggested that the victim should try to reach an understanding, stating, "when [two parties] have a child together, they also have an obligation to them [the child], not only to themselves. Especially when [children] are minors, they have a social obligation".<sup>133</sup> The same sentiment was echoed by other judges. This underlines findings that judges may encourage couples to reconcile, prioritising this over the safety of the victim, as detailed in a later subsection.

Some judges struggled with how to treat psychological violence. For example, one judge said

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<sup>131</sup> KWN interview with a man judge, 2020.

<sup>132</sup> KWN interview with a judge, 2020.

<sup>133</sup> KWN interview with a criminal court judge, 2020.

that there are complications proving psychological violence, due to its continuous nature. He said that “there is a possibility that females constantly cause psychological violence against males and at a certain moment when the man responds, he responds physically and not psychologically”.<sup>134</sup> This suggests that patriarchal views of violence persevere. Masculine gender norms, which dictate that men should be “powerful, self-reliant, and emotionally controlled” may act as a barrier to men reporting psychological violence, as well as other forms of domestic violence.<sup>135</sup> This may mean that psychological violence against men is underreported. Research has supported the notion that men who have ideologies “related to traditional masculinity have more negative attitudes toward help-seeking”.<sup>136</sup> This, however, does not justify responding with physical violence and certainly should not be considered by a court as a factor to reduce sentencing. GREVIO has explicitly recommended that “psychiatric distress caused by provocation or the unfair actions of the victim or some other person should not be considered as mitigating circumstances in cases of gender-based violence against women.”<sup>137</sup>

Regarding SOPs and the NSPDV, judges across different courts tended to lack knowledge, which could hinder implementation. Nor did they know the extent to which the justice system’s responsibilities had been implemented. The NSPDV foresaw “continuous training and certification of judges focused on DV, on well-defined themes and approved modules” (1.1.4.). According to the Academy of Justice, training was ad-hoc and only offered if judges requested it. KWN’s monitoring corroborated that this was only partially implemented. A recurring trend among the judges interviewed was that they could not attend non-obligatory training due to their heavy caseload.

The NSPDV foresaw that courts would prioritise domestic violence cases as human rights violations (3.1.1.). It was a recurring theme among judges interviewed across different courts that the judiciary are more aware now than in 2017 that domestic violence cases should be treated with seriousness and as a priority. KWN monitoring suggested that this happened sometimes but not always, as detailed later in this section. The NSPDV also called for “avoiding fragmentation of criminal and civil procedures while treating [domestic violence] cases with priority by the office of the prosecutor and the court” by unifying procedures to ensure that the “ordering of a protection order in civil proceeding becomes part of the file of the office of the prosecutor for criminal prosecution” (3.1.4.). Judges stated that this has happened in practice.<sup>138</sup>

KWN did not find evidence that the judiciary is “applying efficiently the declaration on harm (aiming at materialization of the compensation from the accused in criminal proceeding)” (3.1.5.). Rather, judges tended to state that victims “do not want” compensation. The judiciary also was to ensure availability of judges that speak the Serbian language, among others (3.2.6.). All courts seem to have this or translators available, though Turkish and Romani may be limited. Finally, according to the NSPDV, MJ was to draft an Administrative Instruction or Decision of the Prime Minister “on subsidiz-

<sup>134</sup> KWN interview with a civil court judge, 2020.

<sup>135</sup> Bates, A., [“No One Would Ever Believe Me”: An Exploration of the Impact of Intimate Partner Violence Victimization on Men](#)”, *Psychology of Men & Masculinities*, 2020, 21(4), 497.

<sup>136</sup> Ibid. See also Bates, E. et. al., [“What about the Male Victims? Exploring the Impact of Gender Stereotyping on Implicit Attitudes and Behavioural Intentions Associated with Intimate Partner Violence”](#), *Sex Roles*, 2018, 81, 1.

<sup>137</sup> GREVIO, [Baseline Evaluation Report – Albania](#), 2017, p. 51.

<sup>138</sup> The former NCDV corroborated that this has been completed (KWN interview, 2021).

ing businesses for the victims of DV” (4.3.3.), but this does not seem to exist.

## Criminal Cases

Criminal courts determine sentences for perpetrators of crimes involving gender-based violence. This includes punishments for perpetrators of domestic violence, as well as persons violating protection orders.

Although an estimated 10,000 women suffered rape during the war in Kosovo, there have been very few convictions to date.<sup>139</sup> The ICTY convicted two individuals for persecution through sexual violence in Kosovo.<sup>140</sup> According to Amnesty International in 2017, within Kosovo courts “only three prosecutions for war-time rape have been completed; each resulted in an acquittal after appeal, after courts found there was insufficient evidence to identify the alleged perpetrator”.<sup>141</sup> Neither the United Nations Mission in Kosovo (UNMIK) nor EULEX made progress on this issue when they led Kosovo’s judicial institutions.<sup>142</sup> The Government of Kosovo has taken few steps to follow-up to prosecute and try these cases. The absence of justice for war-time rape further demotivates survivors from seeking justice. Generally, courts had limited experience with cases involving gender-based violence other than domestic violence cases.

According to the KCPC, an assigned trial judge should “schedule an initial hearing to be held within thirty (30) days of the indictment being filed”.<sup>143</sup> However, KWN court monitors recurrently encountered delays in the handling of gender-based violence cases. According to a court monitor:

In the Basic Court, Department for Serious Crimes, in Pristina, a defendant was sentenced on 9 September 2019 for a crime of violent rape committed on 19 December 2001. The victim had committed suicide shortly after, in January 2002. The defendant was sentenced to four years’ imprisonment and a fine of €500.

Court monitors also reported observing cases of trafficking and sexual violence dating back to 2001 or 2008 that began trial in 2020.

Although judges indicated during interviews that the judicial system now prioritises domestic violence cases, delays also continued with these cases. The OIK also observed delays in court proceedings related to domestic violence.<sup>144</sup> For example, in the Basic Court of Ferizaj, the Prosecutor’s Office

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<sup>139</sup> For further details regarding the number of women, see Farnsworth, N. for KWN, *Exploratory Research on the Extent of Gender-Based Violence in Kosovo and Its Impact on Women’s Reproductive Health*, 2008, p. 14.

<sup>140</sup> Vlastimir Đorđević in the case of *Prosecutor v. Vlastimir Đorđević* (Case No. IT-05-87/1-A, 27 January 2014) and Nebojša Pavković in the case of *Prosecutor v. Milutinović et al.* (Case No. IT-05-87-T, 26 February 2009). On appeal of the *Milutinović et al.* judgment in 2014, the Appeals Chamber found additional counts of sexual violence against Pavković, and reversed the acquittals of Nikola Šainović and Sreten Lukić for persecution through sexual violence, but refused to enter any new convictions for these charges (*Prosecutor v. Šainović et al.*, Case No. IT-05-87-A, 23 January 2014).

<sup>141</sup> Amnesty International, *Wounds that Burn Our Souls: Compensation for Kosovo’s war time rape survivors, but still no justice*, 2017, p. 7.

<sup>142</sup> Amnesty International wrote: “This report documents the failings of both the United Nations Interim Administration Mission in Kosovo (UNMIK) and the EU-led Police and Justice Mission (EULEX) in investigating and prosecuting cases of conflict-related sexual violence. Rape and other wartime sexual violence was not a priority for either of these international authorities” (ibidem, p. 7).

<sup>143</sup> Article 242.4.

<sup>144</sup> Ombudsperson Institution, *Annual Report No. 18*, 2018, p. 109.

“It usually happens that this may be the first case of domestic violence. It may be that no violence has occurred with very serious consequences, and the victim forgives the perpetrator.”

**- Man, Criminal Court Judge**

“In our courts, victims often forgave perpetrators because they didn’t have the means to separate and live independently.”

**- Civil Court Judge**

“Sometimes judges still try to [reconcile the parties], they say, ‘Oh, well it is your husband. Come on, you have kids’, but with our influence we tell the judge to stop: ‘We are here for a criminal offence.’ It has happened sometimes that they have tried to reconcile [parties].”

**- Man, VA**

filed a case against a man for allegedly committing domestic violence against his wife on 24 July 2019, but the court hearing was not held until 17 July 2020, nearly one year later.<sup>145</sup> Initial hearings of indictments filed in 2019 often did not take place until one year after, particularly in Ferizaj. In addition to delays in holding initial hearings, the main hearing was delayed for months or even years in several cases, KWN monitors reported. Delays have occurred for various reasons, such as the defendant not appearing in proceedings despite regular court summonses, the absence of the injured party, or the absence of the prosecutor at the trial. Moreover, on several occasions, the Basic Court of Peja failed to invite the CSW and VA.<sup>146</sup>

A recurring theme among judges was the fact that victims often “withdraw” their case against the perpetrator. Officials from other institutions similarly observed that judges sometimes do not follow through with a case because victims “withdraw”.<sup>147</sup> In criminal proceedings, the judiciary must pursue *ex officio* charges regardless of the victim’s decision.<sup>148</sup> As a KJC representative emphasised, “if it’s a criminal case, they should follow through with it until the end”. Indeed, reports that this practice continues, as in prior years, is worrying.

In 2017, more than half of all domestic violence-related criminal charges were dismissed. This number remained high in 2018 as well.<sup>149</sup> For guilty verdicts, sentences for perpetrators of domestic violence remain low, even though a definition of domestic violence and its sanctions are included in the CCK. KWN’s research and monitoring also have highlighted remaining shortcomings in appropriate sentencing. A Supreme Court judge observed:

The handling of domestic violence cases is delayed even though they are now a priority again. They [judges] don’t follow through with the issues of sanctioning and sentences. These are

<sup>145</sup> Case PP.II.nr.1139-12/2019. This was relevant to KCC Article 248.

<sup>146</sup> This occurred in C.nr. 174/20 on 24 February 2020; P.nr. 876/19 on 28 February 2020; Nr. 723/20 on 22 July 2020; C.nr. 590/20 on 6 July 2020; P.nr. 849/19 on 6 July; P.nr. 985/19 on 20 July 2020; P.nr. 1041/10 and P.nr. 763/19 on 12 June 2020.

<sup>147</sup> KWN interviews with KJC representative and KP officer, 2020.

<sup>148</sup> CPC Article 363; DPC Article 365.

<sup>149</sup> Qosaj-Mustafa, A. and Morina, D. [Accessing Justice for Victims of Gender Based Violence in Kosovo: Ending Impunity for Perpetrators](#). KWN requested data disaggregated by gender multiple times, but it was not provided, so more recent calculations could not be made.

some of the shortcomings that still need to be addressed.<sup>150</sup>

The respondent continued, expressing displeasure with the low sentencing of perpetrators of domestic violence. A police officer voiced a similar concern: “I have a lot of contact with judges, when we talk about [cases of domestic violence], they say that they sentence perpetrators with one year probation, and they think that is a lot.”<sup>151</sup> This indicates that judges may not even be aware that they are handing down low sentences. VAs tended to agree that judges give low sentences:

There are many reasons given by judges. The one that I have heard the most is: “We can give out harsher sentences. However, when we give out these harsher sentences the familial relationship worsens even more. The goal of punishing these criminal offenders is to educate [them] and bring the family back together, and not to ruin the relationship between husband and wife. It is good if they get back together because they have nowhere to go. Nothing to do.” And the courts analyse this situation and come to these conclusions.<sup>152</sup>

Thus, seemingly, some judges prescribe low sentences with the motive of reconciling the two partners. According to KWN court monitors, judges are sometimes influenced in this regard by requests from victims for lenient sentencing:

At the hearing held on 3 July 2020, the accused party, H.K., was charged with light bodily injury and threat (Articles 188 and 185 of the previous CCK), allegedly perpetrated on 23 February 2018. The injured party, B.K., requested the court to impose a lenient sentence, stating: “If you impose a heavier sentence on my husband, then this sentence will affect the breakdown of our family relations, as we also have economic problems because we live on social assistance.” The state prosecutor allowed the injured party to withdraw the charge of threat. The defendant was ultimately convicted of minor bodily injury and sentenced with a judicial reprimand.

Sanctions for offences covered by the IC must be effective, proportionate, and dissuasive, considering their seriousness and relevant aggravating circumstances.<sup>153</sup> The European Commission has raised concerns about lenient sentencing in cases of gender-based violence in Kosovo.<sup>154</sup> In the domestic violence context, the NSPDV suggested that criminal courts’ punitive policies should be stricter, with longer sentencing requirements, including for those who violate protection orders. The Supreme Court Sentencing Guidelines have attempted to address these issues by giving more detail to judges, hoping that objectivity and consistency may be developed in applying aggravating and mitigating fac-

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<sup>150</sup> KWN interview with a judge, 2020.

<sup>151</sup> KWN interview with the KP, 2020

<sup>152</sup> KWN interview with a VA, 2020.

<sup>153</sup> Articles 45.I and 46, respectively.

<sup>154</sup> European Commission, *Kosovo 2019 Report*, 2019, p. 28.

tors.<sup>155</sup> Unfortunately, the Kosovo Law Institute found in 2019 that there had been “virtually no implementation of the Guidelines,” no consistency in judicial reasoning, and that mitigating and aggravating factors were not applied in accordance with the Guidelines.<sup>156</sup> AGE also expressed concern that when determining cases of domestic violence, judges use “their own practices in the decisions of sentence as their own practice [is] not necessarily in accordance with the Sentencing Policy Guidelines.”<sup>157</sup> This suggests a need for increased attention to the failures of the judiciary to adequately deliver appropriate sentences. The Kosovo Law Institute recommends intensive training for judges, and for the Guidelines to be referenced specifically when imposing sentences.<sup>158</sup>

## Civil Cases

Civil courts should review POs and EPOs in a timely manner, deciding on protection measures within the framework of the LPDV. Civil courts also decide on several cases that have contextual relevance for persons who have suffered gender-based violence, such as issues relating to property, inheritance, divorce, alimony, and child custody.

Civil court judges’ responses were rather ambiguous as to whether they thought that judges were more aware about domestic violence now than in 2017. However, judges tended to agree that victims of domestic violence should immediately report cases. Even so, two judges mentioned that victims should find a place for themselves to live or contact family members rather than report violence immediately. Evidence was found that some judges may advise victims to “reconcile” with perpetrators,

“[When the parties file] for divorce, judges have the obligation to ask them to reconcile. It is obligated by the [Family] Law. In court we often see that women forgive [the perpetrators] because they don’t have the means to separate and live independently.”

**- Woman, Criminal Court Judge**

rather than granting victims’ requests for protection orders. For example, one judge argued that protection orders are effective because “[POs] are repairing the relations between the partners, and I think that the perpetrator of violence will decide to not commit domestic violence anymore.”<sup>159</sup> The judge seemingly held the idea that protection orders are intended to facilitate reconciliation, rather than their clear intent to protect victims.

Perhaps the most concerning finding from this monitoring exercise was the recurring theme of “reconciliation”. Civil court judges seem to still use the lingering, outdated Family Law provision, which encourages spouses to reconcile to save their marriage.<sup>160</sup> However, this same provision

<sup>155</sup> Supreme Court of Kosovo, *Sentencing Guidelines*, First Edition, 2018.

<sup>156</sup> Kosovo Law Institute, “*Sentencing Policy in Kosovo: Analysis on the implementation of the Sentencing Policy Guidance by Kosovo Courts*”, 2019, p. 5.

<sup>157</sup> AGE, “*Assessment of the level of implementation of the Standard Operating Procedures for Protection against Domestic Violence in Kosovo*”, 2019, p. 134.

<sup>158</sup> Kosovo Law Institute, “*Sentencing Policy in Kosovo: Analysis on the implementation of the Sentencing Policy Guidance by Kosovo Courts*”, 2019, p. 246.

<sup>159</sup> KWN interview with a judge at the Court of Appeal.

<sup>160</sup> Article 59.

emphasises the need to avoid any potential risk of harm or violence to spouses or children. Even so, this issue has been observed recurrently since 2008.<sup>161</sup> Judges continue to seek to reconcile couples, stating that either the parents should reconcile for the sake of their children or that violence is a normal part of a relationship. A KWN court monitor recorded one such case:

In the Basic Court in Prizren, during a protection order and child custody hearing, a KWN monitor observed that the judge tried to reconcile the alleged perpetrator and the victim, even though there was overwhelming evidence that violence had occurred, including medical and police reports. Moreover, the accused admitted in court that violence had occurred on the said date. The victim made clear that she did not want to forgive the accused, stating: “He regretted it the last time as well. Then he continued on [being abusive].” The victim stated this after both the VA and the judge told her that the accused seemed to regret his actions. Nevertheless, the judge recommended reconciliation, so that the family would stay intact and the children would remain with their father. The judge said: “You are the ones who decide. Just for the sake of the children, as to not abuse them, you are the ones who have to think about this.” After the victim indicated for a second time that she did not want to reconcile, her request for a protection order was granted.

Such cases, which occurred repeatedly, involved undue pressure on victims by judges, and potential re-victimisation. Another KWN court monitor reported:

In a domestic violence case in the Basic Court in Gjilan, the judge tried to convince the victim and alleged abuser to continue their marriage. Both parties were present in court to settle the administration of evidence, request for alimony, division of property, and child custody issues. The judge said to the VA: “You do not have to come to my office to tell me what to do; they want to get back together.” After the hearing, the judge recommended that both parties “find the strength and be strong for your children; discuss and do not take this decision [to separate].”<sup>162</sup>

Another judge expressed grievances with the legal prohibition on mandatory mediation in cases of domestic violence:<sup>163</sup>

What is wrong with [the procedure] is the fact that mediation is not allowed anymore, that is, we cannot send cases of domestic violence to mediation. I don’t know why they made the law that way, but it would be good to see where there is a possibility that when those cases

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<sup>161</sup> Farnsworth, N. and Qosaj-Mustafa, A. for KWN and AGE, *Security Begins at Home: Research to inform the national strategy and action plan against domestic violence in Kosovo*, AGE: 2008, p. 106; Farnsworth et al. for KWN, *No More Excuses*, 2015, p. 13; Berisha et al. for KWN, *From Words to Action*, 2017, p. 20.

<sup>162</sup> KWN monitors reports, 2020.

<sup>163</sup> *Draft Criminal Procedure Code*, Article 231; and Law No. 06/L-009, Article 2.3.



[come to court] for the first time that they would be sent for mediation. It gives a chance to the spouses to reconcile, to see if they can consolidate and continue their life further together.<sup>164</sup>

Such views were a recurring theme in interviews and court monitoring.<sup>165</sup> KWN monitors repeatedly viewed sessions in which judges pressured couples to reconcile, despite evident risks of violence. In another case in the Basic Court in Prizren, Suhareka branch, involving a request for a protection order on 26 June 2020, the court monitor observed:

The judge was initially insistent that the parties should reconcile, even though the victim had extensive medical reports proving that she had experienced violence. The alleged perpetrator seemed to have repeatedly abused the victim but had been reunited with the victim on multiple occasions with support from the elders in the house. At the end of the hearing, the victim stated clearly that she did not want to be with the perpetrator. Despite this, the judge told the victim, “You have time to think and to reflect until the decision has been taken, to make up with your spouse for the sake of your children”, and “for the sake of your kids, you have to think about this.”<sup>166</sup>

Also in 2018, justice institutions reportedly justified pressuring couples to reconcile because it was necessary for the purpose of “saving the family”.<sup>167</sup> Judges’ traditional views and assumptions regarding the family, and persistent efforts towards reconciliation, may potentially endanger victims. A KWN monitor described one such case:

In the Basic Court in Peja, a victim and abuser had decided to separate. The husband was living in the shared apartment, while the wife was living in a rented apartment with their children. When the abuser took the children for a few days and did not allow his wife to see them, she went to the shared apartment to see the children. Her husband physically assaulted her, and forcibly removed her from the apartment. During the hearing in which the victim requested a protection order, the judge addressed the victim, stating: “Why did you go to the apartment? Why did you insist that you stay in the apartment?” Almost in tears, the protected party stated: “I, judge, had not seen the children for days. [He would not let me] see them.” The judge responded: “It is clear that you are still in love.” With this “evidence” the court decided to reject her request for a protection order.<sup>168</sup>

The judge in this case disregarded the violence that had occurred, the perpetrator’s usurping

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<sup>164</sup> KWN interview with a man judge, Pristina, 2020.

<sup>165</sup> In another case in the Basic Court of Gjiilan, the judge told both the victim and perpetrator to “find the strength and be strong for children; discuss and [do] not make the matter worse” (case nr. 412/2020).

<sup>166</sup> Case nr. 201/2020.

<sup>167</sup> Qosaj-Mustafa, A. and Morina, D., *Accessing Justice for Victims of Gender Based Violence in Kosovo: Ending Impunity for Perpetrators*.

<sup>168</sup> Case nr. 170/20 on 20 July 2020.



of child custody, as well as the victim's request for protection. This decision placed the victim in danger of further violence. Moreover, it completely ignored potential protection order measures that could protect the victim and her children, such as providing her with temporary custody and requiring the perpetrator to pay rent or leave the shared premises. As noted in the section on KP, removing perpetrators from a shared home and enabling the victim to remain should be a priority, as reflected in the IC.<sup>169</sup>

Judges and VAs agreed that domestic violence cases are treated with more priority now than in 2017. However, some judges still do not seem to comprehend the urgency of such cases. For example, in one case monitored by KWN, the Basic Court in Peja received a request for a protection order on 12 July 2019, but the initial hearing did not occur until 3 March 2020.<sup>170</sup> The court did not respect the principle of priority for urgent review of domestic violence cases, nor the LPDV, which states that the court must present a decision within 15 days of receiving the petition for a protection order.<sup>171</sup> Besides violating the law, such delays put the victim at risk of harm. On several occasions, particularly in Peja Basic Court, monitors also observed that the court failed to invite VAs and CSWs to hearings on domestic violence or protection orders, including in instances when the parties had children.<sup>172</sup>

The difficulties of providing and implementing appropriate measures within protection orders remained a recurring theme among research participants from various institutions. First, judges observed that sometimes victims only request a restraining order and no other potential measures that could protect them. Moreover, restraining orders continue not to be respected, given living situations in Kosovo in which several family members reside in the same household. As mentioned, police also observed difficulties in implementing protection orders with measures forbidding approaching the victim in situations where the victim and perpetrator resided together. This issue has been reported consistently by relevant institutions since 2008, illustrating the persistent limited understanding and potentially culturally influenced shortcomings in judges providing other measures foreseen by law. While judges could provide additional measures requiring alleged perpetrators to leave a common residence, pay rent for the victim to live elsewhere, and/or pay alimony, judges reportedly have hesitated to use these measures out of concern of the perpetrator being financially unable to pay. The concern should not be for the perpetrator's economic situation, but rather for the adequate and immediate protection of victims, as required by the IC.

“There are many difficulties in assigning a protection order [especially when] the victim and the perpetrator are under the same roof. We had such a case where it ended in murder. It does not make sense that a perpetrator should stay away from a victim only 200 metres or 100 metres.”

– **Man, Social Worker, Pristina**

<sup>169</sup> “[Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence](#)”, Istanbul, 11.V.2011, pgh. 264.

<sup>170</sup> Case nr. P.nr.670/19.

<sup>171</sup> Article 15.

<sup>172</sup> During sessions involving requests for protection orders on 24 February 2020 (case nr. 174/20) and on 22 July 2020 (case nr. 723/20), respectively, the CSW was not invited. In another session on 6 July 2020, neither the CSW nor the VA were invited (case nr. 590/20).

KWN court monitors also observed cases in which victims withdrew or chose not to pursue protection order petitions. According to a court monitor:

In a hearing to request a protection order in the Civil Division in Peja on 12 March 2020, the protected party withdrew this request for a protection order on the grounds that they had improved relations with the perpetrator of violence, although it was not the first time that the perpetrator had used violence against the victim.<sup>173</sup> Similar cases where requests for protection orders were withdrawn also were observed in the Basic Court in Pristina in February 2020.

Further inquiry should be made into the reasons for victims withdrawing protection order petitions and, in particular, whether such decisions are influenced by pressure from perpetrators, socio-cultural factors, judicial reconciliation efforts, or wider challenges for victims when engaging with the legal system (such as accessing legal advice or delays in determining petitions).

Child custody proceedings can be intimately linked with cases of domestic violence. For example, in one case documented by KWN monitors, based on information from a VA:

[A]n ex-husband took the children, denying their mother custody and her legitimate right to see her children. After a while, he died, and the children continued to live with the parents of their father. The husband's parents still do not allow the mother to see her children. She has filed a case to try to take custody of her children, but the judicial system has only delayed her case. The VA requested a protection order so that the children could be entrusted temporarily to the mother, but the court rejected the request by stating that child custody involved a separate procedure. Claiming custody could take years.

From a structural perspective, given cultural norms according to which it is assumed that child custody should fall within a patriarchal lineage, that is, with their father's family, courts have tended to grant custody to fathers, even when they have been perpetrators of violence.<sup>174</sup> Civil courts have tended to assign custody to fathers also based on the argument that fathers have better chances of supporting the children, which theoretically can hold some probability of truth, given the broader structural discrimination that exists in Kosovo against women regarding property rights, employment, and access to resources. Although this approach is not supported by the legal framework, judges may reinforce traditional social norms that men, as economic breadwinners, should care for children, regardless of whether the father is abusive. Such decisions taken under child custody hearings, related to the Family Law, are not in line with the victim-centred approach and the needs of children, as intended by the IC and Kosovo law. Further, fear of such outcomes may prevent women from seeking protection, reporting violence, or filing divorce proceedings, for fear of losing custody of their children. The Council of Europe has provided the following commentary on custody considerations under the IC:

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<sup>173</sup> Case nr. 284/20.

<sup>174</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

It is in the context of finding holistic solutions which avoid secondary victimisation that the Istanbul Convention requires judges to take into consideration any known incidents of domestic violence when they decide on custody or visitation rights (Article 31). There have been examples of the abusive parent being granted visitation or even custody rights simply because it was considered to be in the best interests of the child to maintain contact. The Istanbul Convention, however, clearly establishes that violence against the non-abusive carer or the child will always need to be factored into decisions on the exercise of parental rights and that the exercise of visitation or custody rights should never jeopardise the safety of the victims or that of their children.<sup>175</sup>

The LPDV foresees that a victim of domestic violence can request temporary custody of children, until the expiration of a protection order and a court decision on long-term child custody rights. However, given the aforementioned traditional social norms and relations, civil court judges reportedly may not always implement these provisions correctly. A judge observed:

[LPDV] Article 6, paragraph 2 states that the custody of the child is temporarily entrusted to the victim of domestic violence while the parental right is [temporarily] taken away from the perpetrator of domestic violence. ... Now, in practice, when there is no violence against children, courts assign regular contact for the father with the child, which contradicts provisions [in the LPDV]. ... With this [LPDV] provision, without considering whether there was violence towards the children, for me, is a way to sanction the parent that behaved badly towards the mother. Usually in these cases, judges assign [children] regular visits with the perpetrator of violence anyway.<sup>176</sup>

This suggests that judges may be imposing visitation rights despite such rights not being foreseen by the LPDV. The OSCE did observe back in 2012 that judges were exceeding their jurisdiction by imposing measures not foreseen by the LPDV.<sup>177</sup> Another interpretation is that some judges may reverse or modify protection orders,<sup>178</sup> which have granted temporary child custody to a victim of violence, by giving perpetrators visitation rights after a protection order had removed the perpetrator's parental right. Further inquiry could investigate this issue and how child custody is handled in relation to protection orders.

Another persistently mentioned issue among interview respondents from diverse responsible institutions was that judges rarely assign the measures foreseen for rehabilitation from drug or alcohol dependency. The University Clinical Centre of Kosovo offers such services seemingly since 2017. CSOs

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<sup>175</sup> Council of Europe, *Children's Rights*, 2019.

<sup>176</sup> KWN interview with a judge, 2020.

<sup>177</sup> OSCE Mission in Kosovo, "[Adjudication of petitions for protection orders in domestic violence cases in Kosovo](#)", 2012.

<sup>178</sup> LDPV, Article 20 provides: "When the circumstances have changed, the protected party or the perpetrator may submit a petition to the court for the modification or termination of a protection order, where the court may decide that the protection order: (1) to remain in force, (2) to be modified, (3) to be terminated, where the Court assesses that all causes on basis of which the protection order was issued have ceased to exist".

“There are not many serious health institutions that work with rehabilitation of people that are addicted to alcohol or narcotics.”

– Man, Social Worker, Pristina

also provide some limited services. Thus, perhaps relevant institutions lack knowledge that these services are available, do not request these measures, or do not consider it necessary to assign these measures. Notably, perpetrators reportedly do not always have access to adequate and helpful rehabilitation services.<sup>179</sup> With such services only available in Pristina, this also may present a challenge for some perpetrators to be able to access them.

## Conclusion

Although judges were cognisant of changes to the CCK and the incorporation of the IC into the Constitution of Kosovo, not all possessed a comprehensive understanding of gender-based violence, particularly various forms of sexual violence. Courts had encountered few cases of stalking, sexual assault, rape, or sexual harassment. Most gender-based violence cases that they had treated related to domestic violence. Judges agreed that domestic violence cases are prioritised now more than previously, but monitoring suggests that delays persist, potentially placing women at grave risk of further violence. The phenomenon of women “withdrawing” their testimonies and criminal charges being dropped seemingly continues, despite clear legal obligations to proceed with *ex officio* prosecution. Sentencing for domestic violence crimes remain low. Some judges still seek to reconcile families, though this is not within their mandate when women and children are at risk of violence. Still few measures are assigned in protection orders, which hampers a comprehensive, victim-centred approach. Further research is needed into the causes of victims withdrawing protection order petitions or seeking lenient sentencing, as well as on child custody in relation to protection orders.

## KOSOVO CORRECTIONAL SERVICES

As per Kosovo law, particularly the CCK, the Kosovo Correctional Service (KCS) is responsible for the rehabilitation of inmates. The KCS mission is to “re-socialize prisoners respecting their fundamental rights regardless of race, language and religion as well as providing a safe environment for staff, inmates and society”.<sup>180</sup> Perpetrators may need psychological support or assistance in recovering from alcohol and/or drug addictions.<sup>181</sup>

In 2017, KCS employees lacked knowledge regarding the legal framework pertaining to domestic violence, as well as their duties and obligations in working with offenders.<sup>182</sup> In 2020, interviews suggested that KCS employees now have more knowledge about the legal framework related

<sup>179</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>180</sup> MJ, *NSPDV*, 2017, p. 20.

<sup>181</sup> Ibidem.

<sup>182</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

to gender-based violence, new CCK, and their legal obligations. They tended to know about the most pronounced forms of violence in Kosovo, including domestic violence, sexual harassment, and gender-based violence generally, but lacked knowledge about sexual assault, incitement to expose intimate parts of the body, rape, female genital mutilation, and stalking. KCS officials tended to lack information about SOPs and the NSPDV, their duties and obligations under these, or how to implement the relevant legislation.

According to the NSPDV, KCS, supported by MJ, was to establish rehabilitation programs and “appropriate infrastructure to work with domestic violence perpetrators”, as per the LPDV (4.4.1.). KCS has special group therapy for perpetrators of violence, but sessions are not mandatory. Thus, KCS officials observed that only offenders who choose to participate attend. KCS still does not have a comprehensive program that works explicitly with perpetrators of gender-based violence. Nor, seemingly, are specific gender-based violence-related rehabilitation measures included in their personal rehabilitation plans. A KCS official observed that the lack of special programs makes rehabilitation difficult: “Some persons have a sense of violence inside, and, at certain moments, it explodes, as if it were something organic. People [we treat] tend to be violent and explode and come back to the same point”.<sup>183</sup> The representative seemed to indicate that violence is something that is inherent to a person, which perhaps could act as some form of justification for domestic violence. KCS should provide services and messaging that emphasises that no excuse exists for violence. As reported in 2017, offenders’ personal rehabilitation plans should include “re-socialization regarding power relations and traditional gender roles” towards transforming traditional gender relations and preventing recidivist violence.<sup>184</sup> In accordance with the IC, Kosovo should consider establishing a rehabilitation program with minimum standards aimed at changing violent behavioural patterns by adopting non-violent behaviour in interpersonal relationships, while maintaining, as the primary concern, the safety, support, and human rights of victims.<sup>185</sup> The NSPDV also foresaw that KCS, supported by MJ, would “monitor the rehabilitation and reintegration of offenders” (4.4.3.). While raised as an issue in 2017 as well,<sup>186</sup> KCS still does not maintain data regarding whether persons treated had perpetrated gender-based violence. Nor does KCS maintain data on its treatment of recidivist cases of gender-based violence. Thus, KCS still has no system that would enable monitoring.

## Conclusion

While KCS officers have more knowledge than in 2017, they still lack understanding pertaining to the relevant legal framework, and their own duties and obligations related to addressing gender-based violence. KCS still does not offer any comprehensive special treatment programs for rehabilitating persons who have perpetrated gender-based violence. While potentially beneficial, special therapy programs for perpetrators of violence are not mandatory and thus seem to have had minimal

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<sup>183</sup> KWN interview with a representative of KCS, 2020.

<sup>184</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>185</sup> Article 16.

<sup>186</sup> Berisha et al. for KWN, *From Words to Action*, 2017, p. 24.

impact. A more comprehensive program is needed to transform behavioural patterns, as per the IC. KCS's data management systems still do not track the types of crimes their clients perpetrated, which impedes appropriate monitoring.

## PROBATION SERVICE

The Probation Service is responsible for the organisation, implementation, and supervision of alternative sentences, as well as the social reintegration of convicted persons. As per the NSPDV, they should supervise and support convicted felons who are on parole by the:

development of individual supervision programs; drafting of reports on implementation of alternative punishments and on parole persons for Prosecutors, Courts and Parole Panel; guiding and supporting convicted persons on completion of their sentence; maintenance of records and registers on implementation of alternative measures and punishments in the electronic data management system.<sup>187</sup>

According to a Probation Service representative, employees' overall knowledge and attitudes towards domestic violence have changed and improved since training.<sup>188</sup> Nevertheless, as in 2017, the Probation Service employees interviewed in 2020 tended to lack knowledge about the NSPDV and these responsibilities.<sup>189</sup> When asked about gender-based violence, respondents did not understand different forms, including sexual harassment, sexual assault, incitement to expose private parts, rape, domestic violence, female genital mutilation, and stalking. Respondents knew that these offenses are punishable under the new CCK but did not understand them as forms of gender-based violence.

According to prosecutors, most gender-based violence cases receive probation sentences. However, the Probation Service does not track such cases. Nor do they have any specific services for persons who have perpetrated gender-based violence. Thus, just as KWN concluded in 2017, "insufficient infrastructure seems to exist for rehabilitating perpetrators of gender-based violence".<sup>190</sup> This suggests that their aforementioned responsibilities as foreseen under the NSPDV have not been implemented.

Generally, the Probation Service does meet parolees. By monitoring probation cases, they said that they try to reduce recidivism. Their main responsibilities include measuring parolees' behaviour, understanding their criminal past, and considering whether the perpetrator is violent. Based on these factors, they assess whether the person is likely to commit another offense. The Probation Service does not seem to have clear guidelines for these assessments that incorporate attention to perpetrators' understanding of gender relations, among other factors. This allows for subjective assessments,

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<sup>187</sup> MJ, [NSPDV](#), 2017, pp. 20-21.

<sup>188</sup> KWN interview, 2020.

<sup>189</sup> Berisha et al. for KWN, [From Words to Action](#), 2017.

<sup>190</sup> *Ibidem*, p. 25.

and such assessments may lack adequate information for a case management plan to prevent recidivist violence. Thus, the Probation Service still does not have adequate systems in place to assist perpetrators in addressing socio-psychological issues that may allow for recidivism.<sup>191</sup>

## Conclusion

Probation Service employees lack knowledge regarding various forms of gender-based violence, and their legal responsibilities under the NSPDV. They still do not have a register for tracking gender-based violence cases, or specific treatment programs that could contribute to decreasing recidivism and preventing violence.

## SOCIAL SERVICES

This section examines various social services overseen by the Ministry of Labour and Social Welfare, including Centres for Social Work (CSWs), shelters, Employment Offices (EOs), and Vocational Training Centres (VTCs). Each subsection on these respective bodies examines their knowledge, attitudes, and services provided, in accordance with their legal responsibilities and the IC.

### Ministry of Labour and Social Welfare

The Ministry of Labour and Social Welfare (MLSW) is responsible for organising quality social services for “persons in need” in Kosovo. Under the Law on Family and Social Services, this specifically includes victims of domestic violence, human trafficking, and families where a parent has been abusive.<sup>192</sup> MLSW oversees the licensing and professional performance of local NGOs that provide services to vulnerable groups, including victims of gender-based violence.<sup>193</sup> MLSW must ensure that social services are available to all residents “without any difference, such as race, ethnicity, gender, language, religion, political opinion, national or social origin, wealth, birth or something else”.<sup>194</sup> Through the municipal Departments of Social Welfare, MLSW monitors the work of various service providers, particularly those engaged in rehabilitation and reintegration services.<sup>195</sup>

Thus, social services are decentralised in Kosovo. Individual municipalities are solely responsible for the provision of social services,<sup>196</sup> and this is reflected in the Law on Local Self Government and the Law on Social and Family Services.<sup>197</sup> However, where a municipality or other organisation providing Social and Family Services continually fails to meet the minimum standards specified by MLSW for

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<sup>191</sup> This was also identified as an issue in Farnsworth et al. for KWN, [No More Excuses](#), 2015.

<sup>192</sup> [Law No. 02/L-17](#), Article 1.3.

<sup>193</sup> [Law No. 02/L-17](#), Article 8; Council of Europe, “[Needs Assessment Report: Quality guidelines for shelters in support of victims of violence against women and domestic violence in Kosovo](#)”, 2019.

<sup>194</sup> [Law No. 02/L-17](#), Article 2.1.

<sup>195</sup> [Law No. 02/L-17](#), Article 2-3.

<sup>196</sup> European Centre for Social Welfare Policy and Research, “[Monitoring and evaluation of social services in Kosovo – policy challenges and recommendations](#)”, Policy Brief, 2019/14.

<sup>197</sup> Law No. 03/L-040 and Law No. 02/L-17, respectively.



the provision of these services, “[MLSW] shall be direct responsible for the delivery of such services, for as long as is necessary to rectify the situation” [sic].<sup>198</sup> While decentralisation is reflected in law, funding and infrastructure are currently insufficient.<sup>199</sup>

Generally, according to the Law on Social and Family Services: “With the aim to enable, municipalities and organizations providing social and family services on its behalf, execution of such functions, [MLSW] will allocate annual funds for such purpose through a public announcement of the purchase of services”.<sup>200</sup> As detailed in the sections that follow, service providers including CSWs and shelters have lacked sufficient budget allocations for performing their legal responsibilities, particularly for human resources, vehicles, and adequate space. A MLSW representative also observed having insufficient funding for implementing SOPs on domestic violence because social workers lacked vehicles for visiting victims.<sup>201</sup> It is the responsibility of MLSW to ensure that enough budget is allocated for these purposes. However, the current financing formula in place for the generally underdeveloped social services is unsustainable, according to a 2019 European Commission report:

Services are financed through national pilot projects for municipalities and the municipalities’ own funds. However, this has proved problematic for many municipalities, particularly small ones, which could not allocate budgets for services at all – especially for services that used to be subcontracted to NGOs. According to [MLSW], there are several municipalities where certain social services and NGO services are entirely absent.<sup>202</sup>

Specifically related to domestic violence, as per the LPDV, MLSW has the responsibility to ensure that CSWs and shelters provide quality social services.<sup>203</sup> A MLSW representative reported that they periodically monitor CSWs and regularly monitor shelters, particularly during the COVID-19 pandemic, albeit in different ways. If monitoring exposes any irregularities in shelters, they can initiate inspections, which result in reports with recommendations for shelters. They also monitor financial expenditures.

MLSW indicated that the Ministry has implemented all of its duties under the NSPDV.<sup>204</sup> The NSPDV foresaw that MLSW would provide “continuous training and certification of employees of CSW, VTC and EO focused on DV, on well-defined themes and approved modules” (I.1.6.). According to MLSW, 161 trainings on domestic violence were held from 2017 to 2020, through which 447 officers were certified.<sup>205</sup> KWN monitoring found that most social workers have received training on domestic violence, but they have not yet had training on sexual harassment or how to identify signs

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<sup>198</sup> [Law No. 02/L-17](#), Article 2.7.

<sup>199</sup> European Centre for Social Welfare Policy and Research, “[Decentralization of Social Services in Kosovo – Policy Challenges and Recommendations](#)”, Policy Brief, 2018/5.

<sup>200</sup> Article 2.10, as amended.

<sup>201</sup> KWN interview, 2020.

<sup>202</sup> Mistafa, A. and Haxhikadija, A. for the European Commission, “[Financing social protection - Kosovo](#)”, 2019, p. 11.

<sup>203</sup> Article 27.

<sup>204</sup> KWN interview with a MLSW representative, 2020.

<sup>205</sup> Data provided to KWN by MLSW, November 2020.



of sexual abuse within a partner relationship. Moreover, some knowledge limitations remained among social workers, as discussed in the next subsection. Nor have all VTC and EO employees attended training, KWN interviews suggest. The NSPDV also planned for “continuous training and certification of NGOs’ employees focused on DV” (1.1.9.). Some NGOs organised and attended training, and regular trainings on domestic violence were held in 2018 and 2019 through AGE and MLSW. The trainings were attended by the Kosovo Police, CSWs, VAs, health workers, and CSO employees.

MLSW also had a responsibility for improving “service standards for domestic violence victims/survivors” (2.1.3.) and adapting “protection services in order for them to be accessible by groups with special needs (such as people with disabilities, LGBT, minorities – provision of service in their language, etc.) in accordance with improved and approved standards based on international ones” (2.3.6.), together with the NCDV. KWN did not identify clear progress on either of these.<sup>206</sup> Interviews suggested that persons with different abilities still face challenges accessing services, and specific protection services for LGBT persons could not be identified.<sup>207</sup> Related to reintegration, MLSW should help ensure “provision of short term and long term psychological-social consulting for domestic violence victims by certified professionals” (4.1.1.). MH stated that seven Mental Health Centres provide psychosocial counselling for victims of gender-based violence, and victims often seek help in these centres. Meanwhile, CSWs do not always have psychologists, which could enhance the availability of services to victims. Overall, KWN’s review of NSPDV implementation suggests that MLSW has implemented partially its responsibilities related to the NSPDV.

## Conclusion

MLSW has not fully implemented its responsibilities related to comprehensive training for all actors providing social services; establishing policies and service standards for appropriate protection and treatment of victims; ensuring an intersectional approach to services that addresses the needs of the most vulnerable, such as persons with different abilities, LGBTQIA+ persons, and minorities; ensuring comprehensive psychosocial services; and, crucially, earmarking sufficient budget allocations for enough human resources and equipment to implement the existing legal framework.

## Centres for Social Work

Centres for Social Work (CSWs) are responsible for providing rehabilitation and reintegration services, particularly for domestic violence victims. They offer social and family services to victims, inform them of available resources such as shelters and psychosocial counselling, and assist victims afterward. As per SOPs, every case should have an appointed case manager who supports the victim in every step of the process and in establishing an individual plan.<sup>208</sup> Prior to making the individual plan, the case manager ensures that the victim has a 48-hour reflection period. The case manager designs

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<sup>206</sup> In monitoring, MJ also reported “no progress” (“First Monitoring Report on the Implementation of the Action Plan of the National Strategy on Protection from Domestic Violence 2016-2020”, 2018).

<sup>207</sup> KWN interviews, 2020.

<sup>208</sup> AGE, [SOPs](#), 2013; [NSPDV](#).

this plan after assessing the situation, including economic and housing needs. CSWs also have the main responsibility for ensuring the wellbeing of children. Social workers must visit families to ensure the health of children and testify in court sessions regarding the best interests of the child.<sup>209</sup> CSWs should coordinate closely with other relevant and responsible institutions, particularly in implementing the rehabilitation plan agreed to with the victim.

CSW employees tended to agree that gender-based violence is violence towards persons because of their gender. They also understood that gender-based violence affects women more. While they tended to identify physical, psychological, economic, and emotional violence as forms of gender-based violence, they lacked knowledge pertaining to female genital mutilation, sexual harassment, and stalking. While social workers knew about these and other articles in the CCK, they tended not to understand their concepts and definitions, except domestic violence. For example, a CSW representative struggled to explain female genital mutilation, incorrectly stating that this includes damage to the genitals as a result of rape. Such comments suggested a need for further training for social workers.

The LPDV was partially known to some CSW employees. Some seemed informed about their aforementioned responsibilities under SOPs or the NSPDV. Meanwhile, others did not even know the NSPDV existed, and therefore could not have known their duties.

Given social workers' legal responsibility to protect the rights and wellbeing of the child during court proceedings, and the previously documented trend of social workers recommending that chil-

“It depends on the financial situation. We cannot choose for the gender [of the parent who is getting child custody].”

– CSW representative

dren remain with abusive fathers, ostensibly for their economic wellbeing,<sup>210</sup> CSW representatives were asked again in 2020 about their recommendations in such cases. Social workers tended to recommend that the child should go to the “more responsible parent”.<sup>211</sup> Some said that children should provide their opinion on parental custody. Some social workers thought that children always should be with their mother, while still others stated that children should be

with the parent who is in a better financial position. The plethora of responses to this question illustrates that social workers may have a rather subjective definition of “responsibility” and “best interests of the child”, which may place children at risk of further violence in some, albeit not all, instances. Notably, the IC and LPDV explicitly state that the child should never be placed with the perpetrator of violence. KWN tried to track down guidelines or SOPs that would assist social workers in formulating recommendations but did not find any such official forms.

When asked what steps a victim suffering from domestic violence should take, several CSW officials believed that the police should be contacted. Others thought that before reporting the case to police, victims should seek help from the CSW. More disturbing and illustrative of the broader, aforementioned trend among officials, some employees believed that the victim should try to reconcile with

<sup>209</sup> Ibidem.

<sup>210</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>211</sup> KWN interview with a CSW representative, 2020.

the perpetrator so that they could stay together. For example, a social worker said:

The problem here is that [the victim] only worried about her own body [not that of her children. Otherwise], she would have decided differently. The first step is to repair her relationship. We try to find a way to talk to both parties so that the man understands her condition. We try to improve the relations between the spouses: reconciliation for couples as much as possible.<sup>212</sup>

With sentiments similar to this, KWN observed a continued trend of trying to “reconcile” cases, even when crimes have been committed. This can place victims at risk of recidivism, as well as place children at risk of violence.

In 2015 and 2017, KWN found that CSWs faced several challenges in carrying out their responsibilities, including insufficient professional staff, failures to properly monitor children’s wellbeing, and poor infrastructure for ensuring a secure environment for assisting victims.<sup>213</sup> Still in 2020 respondents from institutions working with CSWs echoed the same concerns.<sup>214</sup> KWN monitors also observed on several occasions that social workers did not perform their duties appropriately and were unprepared for court sessions (see Box 2).

“I think that first we have to look and find an understanding, depending on who exercised [violence]. If it is the spouse, we have to look at the situation that they are in and find out why they are in that situation.”

- CSW representative

## Box 2. KWN Monitoring of Cases that Involved CSWs

In the Civil Division of the Basic Court of Pristina, a protection order hearing was held on 8 January 2020. M.Sh. had used violence against V.B. several times. This involved documented recidivism, as the victim had reported violence in 2012, as well. According to statements made during the hearing, the CSW official did not go to the scene to talk to the protected party or the accused, even though the violence took place in the presence of children. When asked why, the CSW official declared that a heavy workload and poor division of cases within the CSW hindered her from visiting this family.<sup>215</sup>

During a protection order hearing on 4 June 2020, held in the Civil Division of the Basic Court of Pristina, the CSW was not prepared and could not provide the judge with the requested report (“social anamnesis”) on the children’s living conditions and emotional status.<sup>216</sup>

<sup>212</sup> KWN interview with a CSW representative, 2020.

<sup>213</sup> Farnsworth et al. for KWN, *No More Excuses*, 2015; Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>214</sup> KWN interviews, 2020.

<sup>215</sup> KWN court monitor’s report, 2020.

<sup>216</sup> Case #875/2020. In protection order hearings, courts tend to request that CSWs provide a “social anamnesis”, or report, on the welfare of children affected by the case. Usually, CSWs visit the home of the child and professionally compile this reported based on their observations. Reports may contain proposals regarding child custody.

In the Civil Division of the Basic Court of Prizren, on 26 June 2020, the CSW official did not attend the session in which the victim requested a protection order. Thus, the Court could not receive a timely report on the emotional, spiritual, and health condition of the children to inform the ruling.<sup>217</sup>

In another session when a victim was requesting a protection order in the Basic Court of Prizren, the CSW did not bring the professional social anamnesis report on the child's living conditions. The CSW attributed delays to the COVID-19 pandemic and summer vacation, making the judge call the hearing for the third time. The CSW's failure to provide this report on time contributed to delays in providing the protection order, potentially endangering the victim and children. While the court received the request on 19 June 2020, the last hearing ended on 17 July 2020, and the decision was sent to the parties on 21 July 2020, a month after the initial request. The legal deadline for the completion of such cases, including the drafting of the decision, is 15 days.<sup>218</sup>

In a case concerning a previously requested protection order, scheduled for 19 June 2020, the victim wanted to drop the previously requested protection order because the perpetrator and victim had arrived at an agreement regarding alimony for their daughter. The two parties also had agreed on visitation rights for the perpetrator. Since the case concerned child custody, the court explicitly invited a CSW representative, as per SOPs. However, no CSW representative was present.<sup>219</sup>

"It often happens that these social workers do it over the phone. In one case, the Director of Social Welfare had to intervene, and when the social worker came, [he/she] was negligent and lazy."

**- Shelter representative**

As these examples illustrate and interviews with other institutions attested, CSW officials still sometimes fail to appear in court hearings that involve minors, despite their responsibility to protect the rights of the child in such proceedings.<sup>220</sup> Moreover, hearings on the issuance of protection orders were delayed due to the absence or ill-preparedness of CSW officials. KP officers observed that social workers only report to police stations during regular working hours of 09:00 to 17:00, though domestic violence cases often arrive at night. KP officers also observed that CSW

case managers did not always conduct follow-up visits with victims or families that had suffered domestic violence, which is among their primary responsibilities.<sup>221</sup> In these and other cases, social workers said that they do not have cars and thus cannot travel to police stations or on monitoring visits. Moreover, social workers observed that they still lack human resources for managing all the cases they are assigned, which hinders their ability to implement their duties and provide appropriate case management.<sup>222</sup> Indeed, while CSWs should have encountered, on average, 220 women and at least 200 cases of children per year, as this many were sheltered, they only engaged in monitoring 65 cases per

<sup>217</sup> Case #788/2020.

<sup>218</sup> Case #801/2020.

<sup>219</sup> Case #758/2020.

<sup>220</sup> KWN has documented this issue previously (Qosaj-Mustafa, A. and Farnsworth, N., *More than "words on paper"? The Response of Justice Providers to Domestic Violence in Kosovo*, 2009).

<sup>221</sup> KWN interviews with KP officers, 2020.

<sup>222</sup> Representatives of other institutions like the KP and VAs corroborated this (KWN interviews, 2020). KWN has found that the same problem existed in its prior research (Berisha et al. for KWN, *From Words to Action*, 2017).

year.<sup>223</sup> Moreover, CSWs do not always have a psychologist working on-site, which prevents them from offering services as per SOPs. SOPs state that CSWs are responsible for providing court-ordered protection order measures of “psycho-social treatment”.<sup>224</sup> Without a psychologist available, the protection order cannot be implemented.

A survey of 91 women victims of violence regarding the quality of social services they had received in 2020 suggested that women seemed pleased by the efforts put forth by social workers.<sup>225</sup> Most women said that they were satisfied (66%) with CSWs’ response to their needs. When asked more specific questions, however, it became clear that victims were uninformed of many resources available to them. For example, few women (14%) were aware of what a service plan was. Meanwhile, 27% said that a CSW had made an individual plan to support them, and, of them, only 25% had received a copy of that plan. Few had received information about temporary housing, though many women indicated that they did not require it. Meanwhile, only half knew that they could access psychosocial counselling. Very few knew about vocational education opportunities, and only eight women used these resources (9%). Thus, despite women’s general satisfaction with the work of CSWs, social workers seemingly did not provide sufficient information regarding all available options so that women could select the best course of action for themselves and their families.

As per the NSPDV, CSWs needed to ensure “2.3.5. Enhancement of services for children witnesses of domestic violence with special emphasis on children over the age of 12”. The United Nations Children’s Fund (UNICEF) supported CSWs to establish special rooms in some CSWs for interviewing children who have witnessed or experienced violence. However, still no specialised services seem to exist for protecting boys over age 12 together with their mothers.<sup>226</sup>

## Conclusion

CSW respondents lacked knowledge about gender-based violence, including in the new CCK. Some still recommend that the parent with a better financial situation receive child custody, instead of focusing on the overall wellbeing of the child. Concerning, CSW employees still tended to try to reconcile couples, placing the victim in danger, contrary to the IC, LPDV, and SOPs. These issues all suggest limitations in their professional capacities. Moreover, social workers often are absent from court hearings and do not follow-up with families that have experienced violence. Due to budget restraints, particularly amid decentralisation, CSWs continue to face several resource challenges related to human resources and infrastructure. These constraints make it difficult for them to report to police stations and court hearings. At the same time, these shortcomings demonstrate insufficient accountability on behalf of CSWs in ensuring appropriate professional and human resourcing for protecting the rights of victims and children. Thus, their performance had improved little if at all since 2017.

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<sup>223</sup> KWN calculations based on data provided by MLSW, November 2020. For further data, see Annex 2.

<sup>224</sup> AGE, [SOPs](#), 2013.

<sup>225</sup> From 31 July to 31 December 2020, eight shelters housing women who have survived violence participated in a KWN study, in which staff members surveyed women clients ages 15-50 on the quality of services they had received from CSWs. Primarily Albanian women responded, though Roma and Serbian women participated as well.

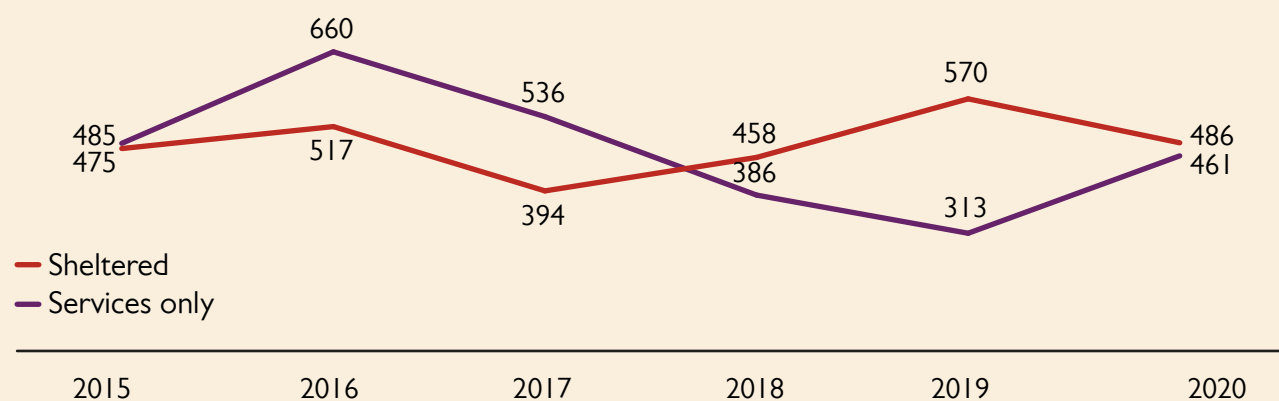
<sup>226</sup> For further information, see the section on shelters below.

## Shelters

Shelters play a vital role in the protection, rehabilitation, and reintegration of victims of domestic violence and trafficking.<sup>227</sup> They should provide a safe place, as well as other services such as clothing, food, healthcare, medication, counselling, psychosocial treatment, legal advice, special treatment for victims with special needs, education, vocational training, and various activities.<sup>228</sup> Shelters should provide victims with information about the services they and other institutions offer. Currently, Kosovo has 14 shelters for people who have suffered gender-based violence, including 12 run by CSOs, as well as a municipality-run shelter in Zubin Potok and a state-run Interim Security Facility for high-risk trafficking cases. Nine shelters deal primarily with domestic violence, while periodically assisting other cases. They are located in Pristina, Gjakova, Gjilan, Ferizaj, Peja, Prizren, South Mitrovica, Novo Brdo, and Zubin Potok. There is also a CSO-led day centre located in North Mitrovica. Two shelters only assist victims of sex trafficking. Two shelters in Pristina care only for children who have suffered various forms of violence, including orphans. This section focuses primarily on domestic violence shelters.

According to SOPs, shelters should contact VAs to provide legal counselling and protection related to court procedures, such as writing requests for POs and EPOs; accompany victims to police, healthcare services, forensics, and court proceedings; and develop needs-based education plans for victims and children.<sup>229</sup> If a victim initially rejects shelter services, they can always request the services at a later date.

**Graph 6.** Number of Persons Sheltered, Assisted, 2015-2017



The duration of stay depends on the shelter. Most allow for a stay up to six months. However, in some cases, shelters have offered their services for up to 12 months. In rare cases, the 12 months have been exceeded.<sup>230</sup> For persons residing in shelters, after the mandatory 48-hour reflection pe-

<sup>227</sup> MJ, *NSPDV*, 2017; OIK, *Annual Report No. 18*, 2018; AGE, *SOPs*, 2013; MJ, *NSPDV*, 2017; Farnsworth et al. for KWN, *No More Excuses*, 2015.

<sup>228</sup> Ibidem.

<sup>229</sup> AGE, *SOPs*, 2013, p. 43.

<sup>230</sup> Krol, et al., *Mapping support services for victims of violence against women in Kosovo*; MJ, *NSPDV*, 2017.

riod, shelters are responsible for mapping out a personal plan for the victim, in cooperation with the CSW case manager. Based on this plan, they offer relevant services. For reintegration, shelters must offer courses and training to improve victims' professional skills, thereby facilitating employment opportunities.<sup>231</sup> While victims are allowed contact with relatives, shelter staff accompany victims when they visit their families, ensuring security. If a staff-member observes a potential threat to the victim, they must immediately contact police or other relevant institutions.<sup>232</sup>

On average, 477 women and children have stayed in ten of the shelters from 2017 to 2020 (see Graph 6).<sup>233</sup> The Government of Kosovo contracts non-governmental shelters to provide services, given their qualifications as demonstrated through a licensing process,<sup>234</sup> established systems for providing these services, and many years of expertise. According to the NSPDV, shelters are funded by the MLSW with additional funds from the municipality; some donors provide supplemental support.<sup>235</sup> Every year, shelters have had to apply for funds from MLSW. Political instability coupled with late adoption of annual budgets sometimes contributed to delays in the delivery of funds, causing shelters to periodically close and place victims at risk of further violence.<sup>236</sup> Additionally, funds have been insufficient for covering all shelter costs to enable them to implement their legal responsibilities. According to a 2018 report by the OIK, MLSW only funded half of shelters' budgets.<sup>237</sup> The fact that shelters are significantly underfunded has been a common thread in several reports.<sup>238</sup> The municipalities of Novo Brdo, Pristina, Gjilan, Gjakova, Prizren, Peja, and Zubin Potok have provided facilities for shelters, while Ferizaj and South Mitrovica shelters continued paying rent.<sup>239</sup> Shelters' continued payment of rent is inefficient when potential state properties exist that could be used and be more sustainable.

As mentioned, following extensive advocacy by KWN, shelters, AGE, and the Security Gender Group, the parliament adopted a specific budget line for shelters in 2019 in the amount of €880,000, though MLSW was delayed in disbursing the funds.<sup>240</sup> The government continued with the same amount in the 2020 budget, and MLSW distributed

"I just need a building, because I have to pay rent, and I need an object that I do not have to pay for. I only want to have a bathroom, and rooms, and a closet for women".

**- Shelter representative**

<sup>231</sup> AGE, [SOPs](#), 2013.

<sup>232</sup> AGE, [SOPs](#), 2013.

<sup>233</sup> For further details, see Annex 2.

<sup>234</sup> The requirements for this are in [Administrative instruction \(MLSW\) No 01/2020 On Licensing Social and Family Services Providers at basic, medium and high level](#), issued pursuant to Law No. 02/L-17 [On Social and Family Services](#). Shelters fall under the classification "high" (see Article 8).

<sup>235</sup> MJ, [NSPDV](#), 2017.

<sup>236</sup> Berisha et al. for KWN, [From Words to Action](#), 2017, p. 28

<sup>237</sup> OIK, [Annual Report No. 18](#), 2018.

<sup>238</sup> OIK, [Annual Report No. 18](#), 2018; OIK, [Annual Report No. 19](#), 2019; OSCE, [Shelters for Victims of Domestic violence in Kosovo](#), 2019; Farnsworth et al. for KWN, [No More Excuses](#), 2015.

<sup>239</sup> OSCE, [Shelters for Victims of Domestic violence in Kosovo](#), 2019. KWN interview with NCDV, 2021.

<sup>240</sup> Law No. 06/L-133 [Law On The Budget Appropriations For The Budget Of The Republic Of Kosovo For Year 2019](#), Table 3.1: Central Budget (in euro), p. 27/67, February 2019. On delays, see: KWN, ["KWN continues to support Shelter's Financing"](#), 31 January 2020.



€600,000 to 10 shelters.<sup>241</sup> This signals a significant improvement. Nevertheless, the need to enshrine shelters' responsibilities in law remains, towards paving the way for a permanent budget line and full coverage of comprehensive services using a victim-centred approach, as foreseen by the IC.

Further funding is needed to address several remaining shortcomings in implementing the IC. Kosovo still does not have enough beds as per the IC. The Convention contains recommendations that states should provide a minimum of one woman's shelter space per every 10,000 inhabitants, with Kosovo's population of 1.81 million, this means at least 181 spaces.<sup>242</sup> However, Kosovo had only 105 spaces as of 2020.<sup>243</sup> Also, as Kosovo's existing shelters focus primarily on domestic violence, they do not have a clear state-funded mandate to provide specialised services for persons who have suffered violence outside domestic relationships, though they have offered such services on rare occasions. The absence of a state-funded, sexual violence referral and rape crisis centres for assisting persons who have suffered sexual violence, in accordance with the IC, is notable. Additionally, still no specialised shelter exists for men or LGBTQIA+ persons in Kosovo. They continue to be referred to shelters located in Albania or Serbia, though existing Kosovo shelters have periodically sheltered lesbian and trans women.<sup>244</sup>

As mentioned, according to MLSW responsibilities, shelters should provide services to victims of domestic violence regardless of "race, ethnicity, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".<sup>245</sup> An activist for the rights of people with different abilities indicated that the shelters do not provide adequate conditions for women with disabilities. Availability of services to diverse persons, without discrimination, also is foreseen by the IC.<sup>246</sup> While shelters would assist persons of all ethnicities, sometimes Serb women, particularly in northern Kosovo, did not feel comfortable accessing these services. Some challenges existed for victims not speaking Albanian to access information in their own languages, even though Serbian is an official language in Kosovo.<sup>247</sup>

As these shortcomings in the availability of shelter services were identified previously, the NSP-DV foresaw establishing "new shelters for addressing the needs of minority communities" (4.1.4.). In 2018, a shelter prioritising services for Serb women in southern parts of Kosovo was opened. In 2020, a shelter was established in northern Kosovo as a joint effort of the municipalities of Leposavic, North Mitrovica, Zubin Potok, and Zvecan, with foreign support. The latter is the only government-operated shelter in Kosovo, aside from the high-risk Interim Security Facility for trafficking victims. These are

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<sup>241</sup> Law No. 07/L-014 [Law On Amending And Supplementing The Law No. 07/L-001 On Budget Appropriations For The Budget Of Republic Of Kosovo For Year 2020](#), Table 3.1: The Revised Budget for Central Level (in euro), p. 27/68, August 2020; on disbursements, AGE, comment on draft report, 2021.

<sup>242</sup> Council of Europe, "[Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence](#)", 2011, p. 33.

<sup>243</sup> The Kvinna till Kvinna Foundation, [Women's rights in Western Balkans, Women in politics, gender-based violence and security for women human right defenders in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia 2020](#), 2020.

<sup>244</sup> OSCE, [Shelters for Victims of Domestic violence in Kosovo](#), 2019; Berisha et al. for KWN, [From Words to Action](#), 2017.

<sup>245</sup> Law No. 02/L-17 [On Social and Family Services](#), Article 2.1; AGE, [SOPs](#), 2013, p. 24; See also, OSCE, [Shelters for Victims of Domestic violence in Kosovo](#), 2019, p. 12.

<sup>246</sup> Article 4.3.

<sup>247</sup> OSCE, [Shelters for Victims of Domestic violence in Kosovo](#), 2019.



marked improvements since the last KWN monitoring report, as concerns over service availability for Serb women and children has been a recurring theme for several years.<sup>248</sup> The shelter in northern Kosovo reportedly has faced licensing problems because Kosovo institutions do not recognise the diplomas and certifications of certain staff, obtained in Serbia.<sup>249</sup> However, these diplomas and certifications can be notarised in Kosovo and used in licensing procedures, though individuals perhaps have chosen not to do this for political reasons.<sup>250</sup> Such politicisation of policies and services arguably places victims at risk.

Another remaining challenge is the fate of boys older than age 12 who have mothers who have suffered violence; they may not enter shelters, given the need to protect the mental and physical wellbeing of other victims residing there. A shelter representative mentioned that recommendations for creating a separate annex for mothers with boys older than age 12 were made, but shelters have lacked financing for this. Currently, boys older than age 12 often must be separated from their mothers and sent to the children's shelter in Pristina, which can contribute to (re)traumatisation.<sup>251</sup> Alternatively, and more alarmingly, KWN and shelters' aforementioned research found that most of these boys were currently living with perpetrators or perpetrators' families. There is still no systematic solution for this issue.

Regarding shelters' ability to provide quality, comprehensive, victim-centred services towards rehabilitation and reintegration in line with the IC and Kosovo's legal framework, the main, recurring challenge shelters have faced has been the aforementioned insufficient and unsustainable state financing for delivering these services. Related, shelters have not had regular, unit-based needs assessments, staff capacity assessments, and quality of service delivery assessments, all of which would contribute to better informed budgeting and services.<sup>252</sup> Meanwhile, shelter staff still need adequate, regular supervision by trained professionals to prevent burnout.

Nor has the state allocated enough funds for implementing case management plans that would enable the rehabilitation and reintegration of women, as foreseen by the IC and NSPDV. Victims' financial independence and housing are two crucial, fundamental issues in need of urgent address to enable them to leave the shelter without returning to a violent relationship. While foreseen by the NSPDV, social housing options remain limited; according to MLSW, only a total of 18 such apartments existed in 2020, primarily in Prizren (17) and Gjilan.<sup>253</sup> As mentioned, while other legal measures could be used such as requiring alimony, removal of the perpetrator from the shared residence, and legal support in claiming property rights via civil proceedings, these remedies remain under-used.<sup>254</sup> The Law on Financing Specific Housing Programmes requires municipalities to conduct housing needs

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<sup>248</sup> Berisha et al. for KWN, *From Words to Action*, 2017, p. 28; Farnsworth et al. for KWN, *No More Excuses*, 2015, p. 77.

<sup>249</sup> OSCE, *Shelters for Victims of Domestic violence in Kosovo*, 2019.

<sup>250</sup> AGE, comment on draft report, 2021.

<sup>251</sup> For example, Hirokazu Yoshikawa has written on the effects of separating children from their parents ("*Developmental Effects of Parent-Child Separation*", *Annual Review of Developmental Psychology*, 2019).

<sup>252</sup> Council of Europe, *Needs Assessment Report, Quality guidelines for shelters in support of victims of violence against women and domestic violence in Kosovo\**, 2019.

<sup>253</sup> KWN correspondence with MLSW, November 2020.

<sup>254</sup> See the prior section on *Courts*.

assessments and prepare social housing programmes every three years.<sup>255</sup> However, according to a European Commission report in 2019, “municipalities have not collected data on victims of domestic violence and have not included victims of domestic violence among potential beneficiaries of their planned social housing programmes.”<sup>256</sup> Women and children victims of domestic violence remain extremely vulnerable to homelessness and housing exclusion, particularly in terms of long-term housing solutions.<sup>257</sup>

Worldwide, an increase in domestic violence cases was reported amid the COVID-19 pandemic and accompanying isolation measures.<sup>258</sup> As a result of the pandemic, Kosovo shelters have faced added challenges. Initially, they had little access to necessary cleaning supplies, personal protection equipment, necessary rehabilitation and reintegration services for victims, and technological supplies for children learning from shelters.<sup>259</sup> Due to the risk that COVID-19 presented for people over age 50, many older shelter staff members did not feel comfortable working. This meant that younger staff members had to pick up extra shifts, working longer hours, and take on added cleaning responsibilities.<sup>260</sup> International agencies like UN Women, UNMIK, and UNFPA, as well as local CSOs like KWN quickly acted to providing emergency supplies. UNW delivered technical equipment to shelters, including towards women’s economic empowerment, as well as technology that enabled children’s uninterrupted education. Shelters received training on safety planning guidelines for emergency situations. UNW also financed two clinical psychologists to support the Safe House in Gjakova, providing individual and group therapy for women and children.<sup>261</sup>

KWN has been working with the Autonomous Women’s Centre in Serbia and shelters, supported by the Balkan Trust for Democracy, to establish secure hardware, software, and protocols for enhanced tele-counselling capabilities, which would enable them to counsel women online and by phone. Such services also could support women living in isolation in the future, after the COVID-19 pandemic ends.

In April, shelters also received professional cleaning support from their respective municipal governments. Additionally, as mentioned, AGE, MH, and MJ, with financial support from UNW and UNFPA, established a temporary shelter to house victims who were COVID-19 positive for two weeks, until they could be safely transferred to a shelter.<sup>262</sup> It also housed victims until they could be tested. This was an important government initiative to protect shelter staff, as well as women and children already residing in shelters from the risk of potential spread of the virus within shelters. MH oversaw the functioning of this shelter, which could house up to 40 individuals. UNW provided hygiene

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<sup>255</sup> Law No. 03/L-164, Article 20.

<sup>256</sup> Haxhikadrija, A. for the European Commission, *National strategies to fight homelessness and housing exclusion – Kosovo*, 2019, p. 13.

<sup>257</sup> Ibid, p. 5.

<sup>258</sup> Campbell, A.M., *An increasing risk of family violence during the Covid-19 pandemic: Strengthening community collaborations to save lives*, 2020; Sharma, A. and Bikash Borha, S., *Covid-19 and Domestic Violence*, 2020.

<sup>259</sup> Farnsworth et al. for KWN, *The Pandemic Knows No Gender? A Gender Fiscal Budget Analysis: The Government of Kosovo’s Response to the COVID-19 Pandemic from a Gender Perspective*, 2020.

<sup>260</sup> KWN’s conversations with shelter staff, 2020.

<sup>261</sup> UNW comment on draft publication, 2021.

<sup>262</sup> UNW, “*Temporary shelters set up to quarantine safely domestic violence survivors in Kosovo*”, 9 May 2020.

packages, clothes, and personal protective equipment. The shelter remained operational in 2021.

## Conclusion

There have been significant improvements in state funding for shelters since 2017. Nevertheless, well-planned, assessment-informed, sufficient, sustainable, and legally protected funding remains an issue for the shelters, particularly towards enabling them to ensure comprehensive, victim-centred rehabilitation and reintegration plans and accompanying services. Kosovo still does not have enough shelter spaces, a shelter for boys over age 12 to be with their mothers, services for LGBTQIA+ persons, and other specialised services for victims of violence other than domestic violence and trafficking, as foreseen by the IC.

## Employment Offices and Vocational Training Centres

Women who are financially dependent and do not have the means to live independently are at higher risk of returning to violent domestic situations.<sup>263</sup> In 2017, victims' economic dependency on perpetrators and weak rehabilitation programs to address this were recurrently identified by respondents as key factors hindering victims' autonomy.

Four institutions have responsibilities to support victims in securing employment, towards financial autonomy. Shelters offer courses to victims. The assigned CSW case manager refers victims to Vocational Training Centres (VTCs) and/or Employment Offices (EOs) (formerly Regional Employment Centres). At VTCs, victims can attend courses to obtain skills and learn about various professions. EOs are responsible for collecting data; registering unemployed persons; providing professional employment consultations and career guidance; mediation in employment procedures; informing registered jobseekers about training opportunities; including jobseekers in professional training; and providing declarations of unemployment. VTCs and EOs must prioritise services for victims.<sup>264</sup>

Generally, EOs have tended to find employment for more men than women; in 2019, 43% of the persons employed were women. Generally, women face more obstacles in securing employment than do men. According to the Kosovo Agency of Statistics, in 2019 the unemployment rate was higher among women (34.4%) than among men (22.6%).<sup>265</sup> Women also are overrepresented among the long-term unemployed, that is persons unemployed for more than a year.<sup>266</sup> Moreover, women have extremely high inactivity rates, suggesting that they are not even seeking work; this relates to broader contextual issues and structural discrimination against women in hiring, promotion, and other areas, given traditional gender norms and women's unpaid care work at home.<sup>267</sup> The situation is compounded for victims of domestic violence who can face additional challenges in securing employment, including added discrimination from employers who do not want "problematic" staff; concern about

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<sup>263</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>264</sup> AGE, *SOPs*, 2013; MJ, *NSPDV*, 2017.

<sup>265</sup> Kosovo Agency of Statistics, *Labour Force Survey 2019*, 2020.

<sup>266</sup> Cited in Farnsworth, N., Guri, N., Selimaj Krasniqi, N., Dushica, E., Maxharraj, A., and Hanna, L. for KWN, *The Pandemic Knows No Gender*, 2020.

<sup>267</sup> Banjska, I., Ryan, D., Farnsworth, N., Demiri, L., Sijarina, L., and Tërshani, A. for KWN, *Gender-based Discrimination and Labour in Kosovo*, 2019.

ex-spouses visiting the workplace; and difficulties accessing safe workplaces, among other issues.<sup>268</sup> Victims of domestic violence may also have emotional trauma, which can make finding and keeping work difficult.<sup>269</sup>

Given these challenges, to identify ways to better assist victims of domestic violence, EOs should attend training.<sup>270</sup> UNDP developed a training curriculum for this purpose that was provided to several EO and VTC representatives in 2015. However, as of 2017, not all respondents had attended such training, and it does not seem to have been institutionalised as obligatory. Nor had respondents in these institutions had any training on domestic violence and the NSPDV since 2017.<sup>271</sup> VTC and EO employees interviewed by KWN still did not display any knowledge in how specifically to assist people who had suffered domestic violence, and some did not know about their obligations under SOPs and the NSPDV.<sup>272</sup> Moreover, EO and VTC officials had no knowledge of articles related to gender-based violence in the CCK, which could hamper their ability to report violence if observed. This suggests that they lacked knowledge and protocols for assisting persons who had suffered gender-based violence.

“In many cases, the other gender, the woman, brings it to the point of violence or causes something like this.”

**- EO employee**

Regarding attitudes, they tended to believe that perpetrators and victims should reconcile and stay together. Evidence also existed of victim-blaming. Some EO officials and a VTC representative indicated that even amid violence, couples must agree because of their children. Meanwhile, other EO officials stated that courts should punish perpetrators.

EO and VTC officials interviewed in 2020 emphasised that nothing had changed in their treatment of cases since 2017. Generally, they tended to assess their cooperation with other institutions treating victims of domestic violence as very good. In total, VTCs assisted 36 women and EOs helped 40 women victims secure employment from 2017 to November 2020. While commendable, it should be observed that this would account for less than 5% of the women sheltered with MLSW support.<sup>273</sup> Thus, although the NSPDV foresaw “prioritizing the

employment of DV victims/survivors” (4.3.7.), it is not clear that this has necessarily occurred given the small percentage of domestic violence cases assisted.

“A woman was hired, and her ex-husband threatened her at work”.

**- EO employee**

As in 2017, among the reasons given for supporting so few women victims was that employers might not want to employ victims because their ex-spouses follow victims and may cause troubles at work. An EO representative stat-

<sup>268</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>269</sup> Ibidem.

<sup>270</sup> Ibid. MJ, *NSPDV*, 2017.

<sup>271</sup> KWN interviews, 2020.

<sup>272</sup> KWN had similar findings in 2017. (Berisha et al. for KWN, *From Words to Action*, 2017).

<sup>273</sup> KWN calculation based on data provided by MLSW, November 2020.

ed that perpetrators escort victims and cause problems.<sup>274</sup> Further training could support EOs in how to deal with such situations in cooperation with other relevant institutions, such as through protection orders and enhanced confidentiality regarding victims' histories. Additionally, the NSPDV planned that EOs, together with MLSW, the Ministry of Trade and Industry, and the Ministry of Economic Development (MED), would "offer incentives (fiscal package) for businesses that employ vulnerable categories of society including the victims of domestic violence" (4.3.6.). Perhaps this could help encourage employers to consider engaging more women. However, KWN did not identify any evidence of such packages existing.

## Conclusion

In conclusion, VTC and EO officials demonstrated limited knowledge about gender-based violence, related CCK offences, their legal responsibilities for assisting victims as per SOPs and the NSPDV, and how to help people who had suffered domestic violence in securing employment. They had not attended training seemingly since 2015. This contributed to insufficient knowledge and capacities in supporting women to secure employment, including to support them in overcoming challenges posed by perpetrators through cooperation with other responsible institutions. As a result, VTCs and EOs have supported very few women in securing employment, and very minimal progress has been made since 2017 in this regard.

## HEALTH INSTITUTIONS

The Ministry of Health (MH), public health institutions, and Centres for Mental Health are responsible for ensuring that quality medical services are provided to persons who have suffered gender-based violence. According to SOPs, victims should receive regular healthcare and mental healthcare for free.<sup>275</sup> In some cases, health institutions may be the first institution a victim of domestic violence visits. Therefore, health institutions play an important role in identifying potential victims of domestic violence.<sup>276</sup> By spreading information about signs of domestic violence, health institutions can make a difference and help prevent domestic violence, as well.<sup>277</sup>

According to the CCK, medical workers are obliged to call police when they have a case of gender-based violence. Further, according to SOPs on domestic violence, after providing treatment to a victim, health institutions "shall immediately inform the Police" if they suspect that injuries were caused by domestic violence.<sup>278</sup> Meanwhile, the "Checklist for Health Institutions" in the SOPs includes: "Police immediately informed *on victim's consent*".<sup>279</sup> This has understandably caused confusion

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<sup>274</sup> KWN interview, 2020.

<sup>275</sup> AGE, [SOPs](#), 2013.

<sup>276</sup> Ministry of Justice, MJ, [NSPDV](#), 2017.

<sup>277</sup> AGE, [SOPs](#), 2013.

<sup>278</sup> AGE, [SOPs](#), 2013, pp. 40 and 68.

<sup>279</sup> AGE, [SOPs](#), 2013, Annex 13.

among medical workers where a victim does not provide consent.<sup>280</sup> This appears to be an error in the SOPs, as it is inconsistent with the obligations of health institutions in the main body of the SOPs, where the obligation to report is not dependant on victim consent. Indeed, requiring victim consent may risk medical workers committing an offence under the CCK if they are aware of an offence, but do not report it.<sup>281</sup> If requested to do so, health institutions must provide a written report on a relevant case to justice officials; however, the patient's medical file may only be released in accordance with the Law on Protection of Personal Data.<sup>282</sup>

While the healthcare personnel interviewed tended to have knowledge about physical violence within a domestic violence relationship, they knew less about other forms of gender-based violence and appropriate treatment of these. For example, a healthcare worker said: "Sexual assault is harassment of a female without her consent. Or [sexual assault] is done in a place that is not appropriate to commit such an act". Healthcare workers lacked understanding of sexual assault, sexual harassment, rape, female genital mutilation, and incitement to expose intimate body parts. For example, one healthcare worker said: "Genital mutilation can occur during violent sex."<sup>283</sup> Healthcare workers stated that they do not have any special protocol for treating female genital mutilation, and they would only use the operative protocol of forensic medicine. In 2013, MH together with UNFPA drafted guidelines for healthcare providers on how to treat different forms of gender-based violence, but these do not include female genital mutilation.<sup>284</sup> For domestic violence, procedures were clearer than for other forms of violence. The medical staff interviewed tended to say that they were able to detect domestic violence, and they knew that they should report such violence to police. However, they lacked knowledge about the LPDV, SOPs, and NSPDV.

The NSPDV foresaw "continuous training and certification of healthcare officials focused on DV, on well-defined themes and approved modules" (I.1.2.). MJ reported that this was completed.<sup>285</sup> However, KWN's monitoring suggested that only a few healthcare workers have attended training, particularly given the aforementioned shortcomings in their knowledge on gender-based violence and the relevant legal framework. The medical workers interviewed tended not to have attended any training on identifying signs of violence, how to communicate with persons who have suffered violence, and the importance of confidentiality.

Healthcare workers said that they always fulfil their duty to report gender-based violence to police. However, they expressed concern regarding recidivism, as one said:

Procedures are not performed as they should be. There are cases, for example, when a mother came to the emergency room 13 times due to violence, and her child asked for help. [An-

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<sup>280</sup> Medical workers raised concerns about this during interviews (KWN, 2020).

<sup>281</sup> Article 378.

<sup>282</sup> Law No. 06/L-082 on Protection of Personal Data.

<sup>283</sup> KWN interview, 2020.

<sup>284</sup> The guidelines were provided to KWN by MH on 23 February 2021.

<sup>285</sup> MJ, "First Monitoring Report on the Implementation of the Action Plan of the National Strategy on Protection from Domestic Violence 2016-2020", 2018.

other case] was when a child was very injured. [The perpetrator] almost strangled him but remains free.<sup>286</sup>

Healthcare workers said they often encountered cases of recidivist violence, and thus felt that other institutions may not be fulfilling their responsibilities. They said other institutions did not communicate the outcomes of such cases with healthcare workers afterwards, which, they said, could help them better treat cases.

Related to rehabilitation services, according to the NSPDV, MH should support the “provision of short term and long term psychological-social consulting for domestic violence victims by certified professionals” (4.1.1.). According to MH, psychosocial counselling is provided in seven regional mental health centres and victims of domestic violence often seek help in these centres. Some doctors and nurses told KWN that health institutions should have these services more available for when victims seek medical attention, as this would help them. MH also should ensure “medical treatment and consulting for DV victims in existing health institutions (Mental health centres, psychologists, psychiatrist)” (4.1.2.). Victims reportedly received such medical treatment. MH also was to establish “counselling centres for victims” (4.1.9.) and train rehabilitation program staff (4.4.2.). According to MH, rehabilitation program staff are trained and certified, but health workers were not informed about these trainings. The fact that the health workers interviewed were unaware as to whether the MH had implemented the NSPDV further suggested that MH has taken few if any steps towards implementing these responsibilities.

Related to the LPDV, health institutions also have the responsibility to provide rehabilitation services for perpetrators.<sup>287</sup> Public health institutions have to execute court-ordered medical treatment for substance abuse among perpetrators. A recurring theme among representatives of diverse institutions was that medical institutions still do not offer proper rehabilitation programs for people needing treatment for substance abuse.<sup>288</sup> As mentioned, the University Clinical Centre of Kosovo has provided rehabilitation services for addictive diseases since 2004; they offer services for treating drugs and alcohol. However, either other responsible actors do not know about these services, or perpetrators live too far away from the services to be able to access the help they need. No treatment programs seem to exist within health institutions for perpetrators to work towards addressing other factors that may contribute to violence, such as psychological treatment related to power relations, anger management, and other mental health issues.

## Conclusion

As in 2017, healthcare workers still lacked knowledge about various forms of gender-based violence other than domestic violence, the LPDV, SOPs, NSPDV, and how best to treat persons who suffered gender-based violence, largely because they had not attended training. Healthcare workers

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<sup>286</sup> KWN interview, 2020

<sup>287</sup> LPDV, Articles 4 and 9.

<sup>288</sup> This was also an issue previously (Berisha et al. for KWN, *From Words to Action*, 2017).



have protocols for treating forms of gender-based violence other than female genital mutilation. They know their duty to refer victims to police and stated that they regularly do so. Physical and mental healthcare is available for victims. Meanwhile, rehabilitation services for both victims and perpetrators can be improved by furthering the professional capacities of healthcare workers, including in treating gender norms, anger, and traditional power relations.

## EDUCATIONAL INSTITUTIONS AND SERVICES

The Ministry of Education, Science, and Technology (MEST) must ensure that schools are preventing violence through education, as well as detecting and referring any identified cases of gender-based violence. Educational institutions also are responsible for educating victims. This section includes subsections examining the prevention of violence and referrals, and educational support to victims, respectively.

### Prevention of Violence and Referrals

In alignment with the IC, the NSPDV foresaw the engagement of education institutions in raising awareness about various forms of violence, how to report them, and addressing the root causes of gender-based violence, towards transforming traditional gender norms. In 2014, MEST published a manual, in cooperation with Save the Children Kosovo.<sup>289</sup> The manual states that children in the eighth grade (approximately 13-14 years old) should learn via creative curricula about different forms of violence and how they can report violence. MEST also has developed curricula on domestic violence, which is taught in schools. Towards increasing awareness about domestic violence, as per the NSPDV, MEST should have reviewed the curricula for Pre-University Education, towards ensuring inclusion of standardized information on domestic violence, types of violence, and how to report violence (I.3.1.). It should have included particular attention to violence against women, children, the elderly, persons with different abilities, LGBT persons, and ethnic minorities. According to MEST, all forms of gender-based violence are now part of school curricula, and some didactic materials addressing cases of domestic violence have been distributed to schools.

The NSPDV foresaw continuous, annual training and certification of teachers, principals, counsellors, psychologists, management committees in schools, parents, and officials in municipal Education Directorates on domestic violence (I.1.7.). Monitoring since 2017, has found that teachers have not attended training as foreseen by the NSPDV; they generally lacked knowledge about the NSPDV and their responsibilities related to it.<sup>290</sup> MEST said that some meetings were held in schools with teachers and psychologists but had no information as to whether trainings on domestic violence were held. In 2020, KWN still found minimal evidence that training had reached teachers and educational profes-

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<sup>289</sup> Arenliu, A., Ibra-Zariqi, Q., Puka, E., and Bahtiri, S., *Manual Didaktik për Parandalimin e Dhunës* [The Didactic Manual for the Prevention of Violence], 2014, p. 55.

<sup>290</sup> Berisha et al. for KWN, *From Words to Action*, 2017; MJ, "First Monitoring Report on the Implementation of the Action Plan of the National Strategy on Protection from Domestic Violence 2016-2020", 2018.



sional sufficiently.

Moreover, KWN interviews with representatives of educational institutions in 2020 suggested that they have minimum knowledge about gender-based violence, including sexual assault, domestic violence, rape, incitement to expose intimate body parts, and sexual harassment. When asked what a woman suffering from domestic violence should do, some agreed that she should stay in the family, especially in cases where they have children, to try to reach an understanding. Such attitudes, coupled with weak understanding of gender-based violence and the structural issues that underpin it, may mean that educators do not appropriately assist victims, including children, as foreseen in the IC and Kosovo's legal framework.

Under the CCK and SOPs, educators have the legal obligation to report domestic violence immediately when they suspect that it is happening to a student.<sup>291</sup> In 2015, the teachers interviewed did not seem to know this responsibility.<sup>292</sup> Since 2013, the Education Information Management System has made reporting potential cases of domestic violence easier. However, in 2017 this program was used only incidentally because the educational staff did not have information regarding the number of reported cases.<sup>293</sup> The situation remained the same in 2020; some educational staff were unaware that there is a platform for reporting cases of domestic violence. MEST stated that cases are still reported online, but staff do not have information regarding the number of cases reported.

Additionally, MEST was to ensure “systematization of pedagogues and psychologists in schools” by employing 80 new pedagogues and psychologists every year (I.2.1.). These psychologists and pedagogues were to help children who struggle with domestic violence. To facilitate the appointment of psychologists and pedagogues, the NSPDV foresaw that MEST would amend the Administrative Instruction for “appointing pedagogues and psychologists” so that it would not limit their appointment based on the number of pupils in a school, but rather enable every school to have its own.<sup>294</sup> According to MEST, the Administrative Instruction was amended, but implementation has been lacking.<sup>295</sup>

As of 2015, only Peja and Gjilan municipalities had engaged psychologists and pedagogues. In 2017, Kosovo had 79 pedagogues and psychologists.<sup>296</sup> In 2018 and 2019, this increased to 84 and 99, respectively. As of 2020, there were 109 in total. Despite progress, this did not meet the NSPDV target of employing 80 new persons per year. Some municipal Directorates of Education indicated that rural areas in particular lack psychologists and pedagogues. They emphasised that more are needed. Some urban areas also seem affected; for example, only nine psychologists and four pedagogues serve all 40,000 students in the Municipality of Pristina, and they are not allocated proportionally across schools. Moreover, the psychologists that do work in schools seemingly have not had adequate training on the topics of domestic violence or how to appropriately assist victims.

The NSPDV also foresaw that MEST would cooperate with Municipal Departments for Edu-

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<sup>291</sup> KCC, Article 378; MJ, [NSPDV](#), 2017.

<sup>292</sup> Farnsworth et al. for KWN, [No More Excuses](#), 2015.

<sup>293</sup> Berisha et al. for KWN, [From Words to Action](#), 2017.

<sup>294</sup> NSPDV action I.2.2. Administrative Instruction 26/2013.

<sup>295</sup> KWN correspondence with MEST, 2021.

<sup>296</sup> Data provided to KWN from MEST, 2021.

cation and GEOs in municipalities for the “production/distribution of information on the legislation in force, the protection that is provided and relevant institutions where they can be referred” (1.2.4.). This information was disseminated broadly, including by CSOs in cooperation with institutions. For example, KWN cooperated with AGE and the OIK, supported by UNW and the Austrian Development Agency, for several physical and social media campaigns explaining where people can access assistance. In some municipalities, school groups visited street exhibitions where students learned more about which institutions to approach.

Also related to education, according to the NSPDV, the Office of Good Governance was responsible for “organizing of national awareness raising campaigns every year, with themes set in accordance with international days /campaigns ... and targeting different groups of individuals who are more affected by domestic violence, such as women, children, the elderly, persons with disabilities, LGBT, RAE communities” (1.3.4.). KWN did not find evidence that the Office for Good Governance had carried out these campaigns. However, several campaigns were organised by others. Most notably, a diverse array of actors have been engaged in the 16 Days against Violence against Women annual campaign with actions aligned through a joint calendar, coordinated by UNW. The total number of participants is difficult to estimate. Campaigns and specific outreach efforts have targeted women, children, persons with disabilities, LGBT, and RAE.<sup>297</sup> However, it was unclear if any campaigns had targeted the elderly specifically.

## **Educational Support for Victims**

Municipal Education Directorates are responsible for providing education for victims of domestic violence and supporting the education of children during their stay in shelters.<sup>298</sup> Educators and psychologists interviewed by KWN said that children who had suffered domestic violence received the same treatment as their classmates and no special services. Meanwhile, they observed that children who have been victims of domestic violence or face domestic violence perform poorly in school. According to educators, they need to work more with these children. However, schools cannot offer such individualised support because classrooms are overcrowded and educational staff “do not have enough time” to work specifically with children who have experienced domestic violence.

According to SOPs, victims should identify relevant educational courses that they want to attend and thus which educational institutions should support them in their aforementioned rehabilitation plans, created together with their case managers from shelters or CSWs.<sup>299</sup> According to SOPs, these plans aim to “develop the professional capacities of the victim, assist in finding employment opportunities and integrate the victim in the society”.<sup>300</sup> Additionally, as per the NSPDV, MEST should have worked towards “inclusion of DV victims in existing education programs for adults” (4.1.3.). MEST reported being in contact with universities to enrol victims over age 18 in bachelor programs.

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<sup>297</sup> For example, supported by UNW, KWN funded three organisations to reach these specific groups in 2020.

<sup>298</sup> AGE, [SOPs](#), 2013.

<sup>299</sup> Ibidem.

<sup>300</sup> Ibid., p. 51.

However, no information existed regarding the planned drafting of education programs based on the Law on Adults Education No. 04/L-143; on the number of victims included in educational programs per year; or on scholarships provided. MEST also has distributed SOPs throughout educational institutions, according to which these institutions should support victims in furthering their education. As per SOPs and the NSPDV, victims reportedly are receiving educational assistance.<sup>301</sup>

## Conclusion

Educational curricula include information on domestic violence, but perhaps less on other forms of gender-based violence and about transforming traditional gender roles. The Education Information Management System has made it easier to report possible cases of domestic violence, but education staff are unaware of it and thus do not use it. Educators had minimal knowledge about various forms of gender-based violence and how to interact with persons who have suffered violence. This coupled with cultural norms may mean that educators do not always report violence when it occurs, despite their legal obligation to do so. This suggests a need for further obligatory training. Schools do not have enough teachers or psychologists for adequately assisting children who need additional assistance. Special government-funded educational programs exist for victims.

## OMBUDSPERSON INSTITUTION

The Ombudsperson Institution of Kosovo (OIK) is responsible for addressing accusations that the state has violated human rights or failed to fulfil its obligations. When persons feel that the state has violated their rights, such as when reporting a crime, the OIK can help them seek justice. Therefore, it is the “last stop” for support when other institutions have failed in their responsibilities. Persons who have suffered gender-based violence, including domestic violence, can approach the OIK for investigation and assistance if they believe that their case has been mishandled by institutions.<sup>302</sup> As the OIK 2019 Annual Report stated, they investigate to ensure “the entire chain of institutions addressing domestic violence functions properly”.<sup>303</sup> The OIK has established a Department of Protection from Discrimination, which deals with issues of gender equality. The OIK has seven regional offices, and every office has a Gender Equality Unit and an Officer for Gender Equality.

OIK annual reports for 2017, 2018, and 2019 do not mention how many complaints they received related to gender-based violence. In 2019, the OIK received 65 cases related to gender equality, and 39 have been opened for investigation, but their report does not specify if these related to gender-based violence.<sup>304</sup> The OIK still does not have an adequate data management system to track quantitatively the types of cases assisted and their outcomes, but planned to develop such a

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<sup>301</sup> KWN interview with MEST official, 2020.

<sup>302</sup> MJ, [NSPDV](#), 2017; AGE, [SOPs](#), 2013; Farnsworth et al. for KWN, [No More Excuses](#), 2015; Krol, et al., [Mapping support services for victims of violence against women in Kosovo](#).

<sup>303</sup> OIK, [Annual Report No. 19](#), 2019, p. 79.

<sup>304</sup> Ibidem.

database.<sup>305</sup> Generally, the OIK has declared that putting domestic violence in the CCK is a positive step, and the fact that more people are reporting violence indicates that they are aware of their rights and can claim them.<sup>306</sup>

The OIK may serve an important role in implementing the due diligence principle under the IC,<sup>307</sup> by highlighting institutional failures in responding to gender-based violence, particularly where inadequate steps were taken to prevent a fatal offence. Relatives of persons who have died may provide consent for OIK investigations.<sup>308</sup> Where the OIK discovers a criminal offence, the relevant competent body is informed to initiate an investigation.<sup>309</sup>

## CIVIL SOCIETY ORGANISATIONS

In addition to shelters, SOPs and the NSPDV foresee that other civil society organisations (CSOs) also can support victims through psychological or legal counselling, awareness-raising, and/or assistance in applying for a TEPO.<sup>310</sup> Several CSOs offer day-time shelter for victims of various forms of gender-based violence, including specific services for LGBTQIA+ persons, women with disabilities, and women who have experienced sexual or other forms of violence during the war.<sup>311</sup> Some CSO respondents indicated that victims of domestic violence seem more comfortable coming to them, instead of police, due to social stigmas surrounding domestic violence.<sup>312</sup> Additionally, CSOs can play an important role in monitoring the government and holding institutions accountable to implementing the relevant legal framework. CSOs also support the government to better implement the legal framework with their expertise.

Given that the NSPDV explicitly foresees that CSOs will engage in supporting its implementation, good practice also foreseen by the IC would involve the state allocating funds to support their efforts in contributing to the implementation of this governmental strategy and action plan.<sup>313</sup> However, the NSPDV did not foresee any budget for CSOs. While some micro-grants may have been given through AGE or municipalities, generally the government has not earmarked funding for engaging and support CSOs in their awareness-raising, service provision, or monitoring roles, other than the aforementioned budget allocations made to shelters.

The CSO respondents interviewed in 2017 tended to lack knowledge about the NSPDV and the role that it foresees CSOs having in its implementation, though some had attended training as per the NSPDV. As some CSOs lacked knowledge about the NSPDV, instances existed of CSOs im-

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<sup>305</sup> KWN interview, 2021.

<sup>306</sup> OIK, *Annual Report No. 19*, 2019

<sup>307</sup> See *Femicide and Due Diligence* above.

<sup>308</sup> Law No. 05/L -019 on *Ombudsperson*, Article 16.6.

<sup>309</sup> Ibidem, Article 16.5.

<sup>310</sup> AGE, *SOPs*, 2013; MJ, *NSPDV*, 2017.

<sup>311</sup> Berisha et al. for KWN, *From Words to Action*, 2017; KWN interviews, 2020.

<sup>312</sup> Ibidem.

<sup>313</sup> For further information on the importance of financing CSOs sustainably, see Farnsworth, N., Guri, N., Morina, D., Kohnen, T., for KWN, *Where's the Money for Women's Rights*, 2020.

plementing the NSPDV without intentionally doing so. For example, several respondents mentioned organising multiple awareness-raising campaigns relating to gender-based violence.<sup>314</sup> Multiple CSOs work with marginalised groups who may find it difficult to seek help from other actors due to fear that state institutions may discriminate against them, or they have little access to available resources. In this way, the CSOs, without knowing, have contributed to the implementation of the NSPDV.<sup>315</sup>

CSOs undertook several initiatives to raise awareness about gender-based violence, particularly domestic violence, thereby contributing to NSPDV objective “1.3. Increase awareness of the society for not accepting and not tolerating domestic violence”. For example, Active Women of Gjakova provided lectures on domestic violence and violence in schools. The Network of Roma, Ashkali and Egyptian Women’s Organisations of Kosovo (RROGRAEK) successfully raised awareness about gender-based violence in these communities, as shown by their pre- and post-campaign research. They engaged and trained young women and men to conduct door-to-door outreach within these communities, informing people about the causes and consequences of gender-based violence and how to report it.<sup>316</sup>

The Centre for Counselling, Social Services, and Research (SIT) organised workshops and trainings to inform people about forms of domestic violence. Supported by UN Women and the Austrian Development Agency, KWN members, including shelters, cooperated to organise an interactive street exhibition that travelled throughout Kosovo, raising awareness about forms of domestic violence and how people can report it, as well as which institutions to contact if people do not receive an appropriate state response. Artpolis engaged people, particularly youth, in the global awareness campaign One Billion Rising, informing people that one billion women suffer from gender-based violence every year and engaging people in rising up against the violence through music and dance. Several organisations have addressed sexual harassment through social media campaigns. The Kosovar Rehabilitation Centre for Torture Victims organised exhibitions, films, and campaigns to raise awareness about sexual violence perpetrated during the war, the benefits available, and to empower victims. Officials observed that CSOs’ many awareness-raising efforts have contributed to increased awareness and reporting of cases, particularly in rural areas.<sup>317</sup>

CSOs also provided referrals and assisted potentially marginalised or vulnerable groups. The Centre for Equality and Liberty which works with LGBTQIA+ persons, supported and referred cases of domestic violence to the specialised shelter in Tirana, as no such shelter exists in Kosovo. The

“Fortunately, lately, violence is not increasing. Realistically, the number of people that are reporting violence is growing. Civil society organisations and the Kosovo Women’s Network have done a lot of awareness-raising campaigns, [and now] a percentage of women are more aware about how to protect themselves.”

**- MJ Representative**

<sup>314</sup> Berisha et al. for KWN, *From Words to Action*, 2017.

<sup>315</sup> Ibid.

<sup>316</sup> Comment made during participant checks, 2021.

<sup>317</sup> KWN interviews with a GEO and MJ representative, 2020.

Centre for Social Group Development, which also works with LGBTQIA+ persons, and the Centre for Equality and Liberty also assisted individuals with reporting violence to police. Similarly, given their close relationship with institutions, RROGRAEK functions as a bridge between institutions and victims of domestic violence. The Centre for Legal Aid and Regional Development offers free legal aid in cases that VAs cannot assist. KWN has referred cases to relevant institutions, monitored state institutions' treatment of cases of gender-based violence, and provided legal aid in cases that could not access institutional support.

Multiple state institutions also mentioned that they have received training on gender-based violence or domestic violence from CSOs. For example, KWN has supported the training of various institutions on their approach to persons who have suffered gender-based violence. SIT also works with institutions towards improving the services they offer, including in rehabilitating perpetrators, which can contribute to preventing domestic violence.

Related to rehabilitation and reintegration, CSOs contributed to implementing NSPDV objectives 4.1. "Establishing of services for rehabilitation and empowerment of domestic violence victims and increase of their efficiency in central and municipal level" and 4.4. "Establish rehabilitation institutions and consultancy centres with mandatory programs for the perpetrators of domestic violence." As state institutions have few such services available, several CSOs provide rehabilitation and reintegration support. The Kosovar Rehabilitation Centre for Torture Victims, Medica Gjakova, and Medica Kosova offer psycho-social treatment for victims of domestic violence and survivors of sexual violence. Artpolis also provides stress-management trainings for victims of domestic violence and shelter staff. CSOs working with people with disabilities provided psychological counselling for victims of domestic violence with disabilities. Additionally, several shelters, SIT, and Medica Gjakova treat perpetrators of violence. During the COVID-19 pandemic, some CSOs had to cut their services, at least from March until May 2020, limiting women's access to important support services during that time.<sup>318</sup>

Overall, CSOs have contributed to implementing the relevant legal framework through raising awareness, referrals, service provision, court monitoring, legal aid, and training institutions, though they rarely have financial support from the government for this work.

## INTERNATIONAL STAKEHOLDERS

Several international actors have worked towards addressing gender-based violence in Kosovo (see Table 1). They have supported the development of the applicable legal framework, supported services, invested in furthering the capacities of various responsible institutions, monitored institutions, and financed improvements to state infrastructure. Their support has helped improve the services available to victims and coordination among institutions in their response to domestic violence, such as through support to CMs. They have provided training for the KP, CSWs, judiciary, and shelters. International stakeholders also financed CSOs' awareness-raising campaigns, the installation of special interview rooms in CSWs and police stations, and body cameras for police.

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<sup>318</sup> UNW, *Impact of the COVID-19 pandemic on specialist services for victims and survivors of violence in Kosovo\*, A proposal for addressing the needs*, 2020.

Notably, the NSPDV foresees that international actors will be responsible for several activities within this governmental plan. While Kosovo perhaps depends somewhat on international financing, plans need to be put in place to ensure long-term state financing for the implementation of legislation and policies pertaining to gender-based violence. The state cannot depend indefinitely on foreign aid, and the roles and responsibilities of institutions, particularly as foreseen by the IC and national law, need to be budgeted for within the permanent budget lines of the budget of the Republic of Kosovo.

Table 1. International Actors' Efforts to Address Gender-based Violence			
Actor	Programs	When	Results
Most all actors below	16 Days of Activism against Violence against Women	2017-2020	Diverse actors partnered to raise awareness about violence against women. UNW coordinated calendar of activities taken by diverse actors.
Council of Europe	Mapping of Services for Victims of Gender-based Violence	2016-2021	Tracked all services for women victims of violence, made recommendations and organised trainings for appropriate institutions, as per the Istanbul Convention.
	Needs Assessment Report on Shelters	2019-2020	Researched the needs of shelters, in compliance with the IC.
	Human Rights Education for Legal Professionals (HELP) course on Gender-based Violence	2019-2020	Translated and adapted the Council of Europe HELP Course for Kosovo and into local languages (Albanian and Serbian). Trained legal professionals (judges, prosecutors, lawyers, victim advocates, and police) with a 12-week course on violence against women and domestic violence, as per IC standards and European Convention on Human Rights.
	Quality Guidelines for Shelters	2020	Aim to assist local authorities in ensuring standards for victims in compliance with the IC.
	Curricula for Prosecutors and Judges on Gender-based Violence	2020	Enhance capacities of legal professionals, primarily prosecutors and judges, to combat violence against women and domestic violence in Kosovo, using a training of trainers' curricula with a Manual and Trainers Resource Guide provided to the Kosovo Justice Academy.



	Treatment Programmes for Perpetrators: Analysis of the Kosovo* legal framework and good practices report	2020-2021	Research assessed the current legal and policy framework concerning perpetrators of gender-based violence to identify needs, and identified existing programs, proposing recommendations as per international standards and guidelines.
	Guidelines for Awareness-raising on Gender-based Violence	2020-2021	Aimed to inform authorities' awareness-raising initiatives and campaigns, as per IC standards.
EU	Support to addressing Gender-based Violence (various activities)	2016-2020	Reviewed draft legislation in accordance with the EU Gender Equality Acquis and advised government on required legal and policy amendments needed to better address gender-based violence. Supported UN Women Implementing Norms and Changing Minds program, including support to the National Coordinator and data management, among other activities. Provided financing for shelters and day centres treating persons who suffered gender-based violence. Support for COVID-19 response included attention to gender-based violence.
EULEX	Monitoring of Gender-Based Violence	Mandate	Increasing awareness and reporting standards related to cases of domestic violence, sexual assault, and human trafficking within police and judicial institutions.
	Supported Shelters		Distributed donations to shelters.
	Increasing Capacity of the Kosovo Police	2019-2021	Capacity-building trainings for police to increase their knowledge on handling cases of gender-based violence, how to recognise signs of abuse, and to properly speak with victims.
	"Speak up on Time" Campaign	2019-2020	Campaign in schools about sexual violence, what to do when a sexual attack happens, and the importance of biological evidence. Visited 33 schools before pandemic and continued with TV and social media ads.



	Support to Commission		Support to the Commission for Verification of Status of Survivors of Conflict-related Sexual Violence.
KFOR	Supporting National and International Actors to address Gender-based Violence	2015-2020	Supported shelters with different essential supplies; held presentations on gender stereotypes at secondary schools; assisted numerous NGOs with humanitarian projects related to gender-based violence; organized an online conference for the 20th anniversary of Resolution 1325.
OSCE	Gender Equality in Schools	2016-2017	Organized 20 information sessions on gender equality and gender-based violence with teachers and school directors in different municipalities throughout Kosovo.
	Support to Inter-ministerial Working Group on Domestic Violence	2017	Provided advice to the Working Group focused on implementing the policy framework on domestic violence.
	Support for Healthcare Providers on Domestic Violence	2017	Provided five workshops on how to identify, refer, and treat victims of domestic violence. 100 healthcare providers and Kosovo Police learned their responsibilities as outlined in SOPs.
	Roundtables on Domestic Violence	2017	Organised roundtables for 24 judges, prosecutors, police officers, CSW representatives, and VAs from selected regions to discuss domestic violence cases, including cultural sensitivities and complexities in prosecution.
	Support for Victims of Domestic Violence	2017-2020	Discussed with institutions improving protection mechanisms and sustainable support for victims of domestic violence in Pristina region.
	Assessment of Judicial Response to Domestic Violence	Mandate	Monitoring and reporting on domestic violence cases and their handling by justice system institutions.
	Supporting Kosovo Forum of Women Judges and Prosecutors	2017	Supported the Forum to organise a series of roundtables on the legal framework related to domestic violence and difficulties with its implementation in practice.
	Trainings for judges and prosecutors	2017- 2020	Supported training on domestic violence for judges, prosecutors, police investigators, VAs, and social workers.

	Gender Equality is Also about Men and Boys	2017-2018	Supported work with boys in schools on ending gender-based violence. Conducted first comprehensive study on men's attitudes and practices towards gender-based violence.
	Survey on Well-being and Safety of Women	2018-2019	Provided detailed data on the patterns of violence against women, attitudes toward gender roles, and the impact of violence on the lives of women affected.
	Shelters for Victims of Domestic Violence in Kosovo	2018-2019	Provided an overview of the current situation in the shelters for domestic violence; outlined the legal framework regulating their functioning; and municipal protection mechanisms.
	Children First: The Role of CSWs in Judicial Proceedings	2019-2020	Investigated the protection of the rights of children involved in the Kosovo justice system. Observations from trial monitoring and interviews with judicial and non-judicial staff analysed in light of domestic and international laws and standards.
	Capacity building of the SOS helpline operators	2020	Building capacities of helpline operators: training on psycho-social support for VAAO and shelter operators
	Awareness raising campaigns on prevention of Gender-based Violence	2020	Organized awareness-raising campaign to inform survivors about services available during the COVID-19 lockdown. Advocated for signing of three MoUs between municipalities and shelters to finance shelters.

	Briefing session with the Assembly of Kosovo Women's Caucus on the IC.	2020	Organized a briefing session on key IC principles and responsibilities prior to voting on the IC in the plenary session.
	Support for Health Care Providers and Social Workers on Domestic Violence	2020	Organized 5 regional workshops for more than 130 health care providers on processing domestic violence cases. Prepared an informative brochure on improving response in addressing cases" in cooperation with UNFPA and IFM.
UN Women	Gender Sensitive Transitional Justice	2015-2020	Support for the establishment and functioning of the Government Commission for the Verification and Recognition of survivors of Conflict-Related Sexual Violence. Supported prosecutors, investigators, and lawyers working on cases.

	Regional Programme in Western Balkans and Turkey: Implementing Norms and Changing Minds, funded by EU	2017-2020	Supported 10 CSOs in holding governments accountable, advocating effective implementation of legislation, and monitoring institutions' response to violence against women, as per CEDAW and IC, including addressing early marriages and discrimination, particularly for vulnerable groups (e.g., women with different abilities, minority women, and LGBT persons). Supported MJ and NCDV, including to establish first national database for gender-based violence. Strengthened capacities of service providers, namely CMs, to increase local managerial efficiency of domestic violence cases, as per IC. Provided specialized training to key institutions. Strengthened the role of the Ombudsperson Institution and people's knowledge about it. Supported shelters during the COVID-19 pandemic. Supported MJ to address gaps in laws, policies, and services. Supported WCSOs advocating for the IC to be in the CCK. Signed MoU with Independent Media Commission to advocate for prohibiting sexist stereotypes. Supported agreement between MJ, KWN, and Retail Network to employ women who suffered violence. Organized regional conference on "Access to Justice for Victims of Domestic Violence and Gender Based Violence" in 2018.
	Joint Justice and Rule of Law Programme	2019 – 2020	Increased knowledge and skills to strategically integrate gender equality and violence against women and girls in local strategies and action plans. Compiled progress report on NSPDV for NCDV. Provided 10 shelters with essential supplies (e.g., clothing, laptops for online schooling, and TVs) amid COVID-19. Engaged in awareness-raising campaign on gender-based violence.

	Assisting Kosovo's Minority Communities and Domestic Violence Survivors during the Pandemic	2020	The KP mobile app for reporting cases was updated to include a feature for reporting domestic violence cases. Information about the new app was broadcast in media. Supported Kosovo shelters to generate income via donated equipment. Increased understanding of shelter staff and CMs of safety procedures during public health emergencies and developed safety protocol.
	Gender-responsive Approaches and Efforts to Combat the COVID-19 Outbreak in Kosovo, supported by Embassy of Canada to Croatia and Kosovo	2020	Provided immediate social protection and psychosocial support to marginalized women and men in Kosovo. Delivered 800 food and hygiene packets to women from Roma, Ashkali and Egyptian communities. Organized discussions for 8 CSOs for women with disabilities to discuss how the pandemic is affecting their constituents.
	Security and Gender Group	2017-2020	Coordinates Security and Gender Group, including joint advocacy and other work related to addressing violence. In 2020, the SGG sub-group on domestic violence was re-activated with AGE as the Chair and UNW as the secretariat.
UNDP, UNW, UNFPA	Rapid Socio-Economic impact assessment of COVID-19 in Kosovo	2020	Conducted two socio-economic <a href="#">impact assessments</a> in May and November 2020 related to COVID-19, which included a question on domestic violence, with information online: <a href="#">Global Tracker</a> . Supported MF to undertake gender analysis to inform budget re-balancing to address COVID-19 impact on women. Supported AGE efforts to implement COVID-19 measure related to women's economic empowerment, and inclusive early childhood education. Provided 10 trainings on multi-sectoral coordinated services in prevention and treatment of domestic violence cases during COVID-19 at local level. Service providers in CMs from 16 municipalities attended.
UNDP	Kosovo Safety and Security Project	2017-2020	Developed relevant legal framework, strategies and action plans focused on small arms control, safer communities, and preventing violent extremism.

UNICEF, UNFPA, UNW	Multiple Indicator Cluster Survey in Kosovo (MICS)	2019-2020	Supported the implementation of the nationally representative household survey with general population and a separate household survey focusing on Roma, Ashkali, and Egyptian communities in Kosovo, which measured attitudes on some forms of violence, including domestic violence.
UNICEF	Analysis of Women and Children's Situation in Kosovo	2019	Conducted situation <a href="#">analysis</a> focusing on children and women in Kosovo.
	Living the Pandemic as a New-born, Adolescent and Youth	2020	Supported <a href="#">assessment</a> of the impact of COVID-19 on children and women in Kosovo.
UNFPA	Policy Development and Advocating for Sexual and Reproductive Health, Gender Equality	Mandate	Supported MH in developing guidelines and protocols on gender-based violence, maternal health, HIV and sexual violence, and revision of sexual and reproductive health rights Law. Supported MEST in developing curricula and building capacities of teachers on Comprehensive Sexuality Education, including gender equality and preventing gender-based violence. Supported CSOs addressing gender-based violence-related issues through health promotion, theatre-based education and awareness-raising. Supported shelters during the COVID-19 pandemic. Supported family planning and sexual and reproductive health with E-Health Services online during COVID-19 in Pristina.
	Capacity-building of Healthcare Providers in Addressing Gender-based Violence	2016 Present	Built institutional capacity of the health sector to address gender-based violence and sexual and reproductive health rights, including cervical and breast cancer prevention in Primary Healthcare through training, curricula and protocols.

	Addressing Gender Equality, Gender-based Violence, Harmful Practices and Discrimination	2016-Present	Engaged with men to change social norms and patriarchal mentality toward gender equality and prevention of gender-based violence, in partnership with faith-based organisations and CSOs via Men Engage and Men Care initiatives. Community-based outreach to increase population awareness on negative and harmful practices such as sex selection and early marriage.
	Research on Healthcare Access for People with Disabilities	2020	Researched access of people with disabilities to sexual and reproductive health-related services, including services to address gender-based violence.
UNMIK	Women, Peace and Security	Mandate	Advocated the adoption of Resolution 1325 on Women, Peace and Security and its implementation in Kosovo. Supported women survivors of sexual violence during the war. Promotes, supports and advocates implementation of Resolution 1325.
	Support to Diverse WCSOs	Mandate	Strengthened capacity of WCSOs. For example, supported INJECT to advocate women's right to property inheritance and the Jahjaga Foundation and Medica Gjakova to empower survivors of conflict-related sexual violence.

	Supporting the Fight Against Gender-based Violence	2017-2020  2018-2020	Supported assessment of institutional responses to gender-based violence cases; supported the NCDV through training on the integrated database; increased the knowledge of legal professionals in reporting, supporting victims, and accountability of perpetrators; enhanced the performance of law enforcement and corrections institutions in accordance with applicable criminal justice and human rights norms and standards; supported the review of SOPs; and participated in campaigns. Strengthened the capacity of Association of Women in Kosovo in Correction Service related to the promotion of gender equality and non-discrimination; supported establishing Legal Aid Centre to provide services to those most in need, including women and minority groups; supported domestic violence police investigators in enhancing their capacities; and, supported the establishment of CMs.
	Advocacy for Women's Property Rights	2018-2020	Enhanced awareness of the link between gender-based violence and access to property rights through documentary and debates, attended by over 1,200 people in 14 municipalities.
	Supported Shelters for Victims of Domestic Violence	2019-2020	Supported shelters in Novo Brdo/Novobërdë and Zubin Potok by providing equipment and refurbishing premises. Provided shelters with equipment for children to attend online lessons during the pandemic. Donated essential items.



UNDP, UNF-PA, UN Women	UN Joint Programme on Domestic Violence in Kosovo	2013-2017	Supported establishment and developed capacities of 10 CMs. Supported Kosovo Judicial Institute to further capacities of judges and prosecutors on gender equality and women's human rights. Supported MJ to develop NSPDV. Supported training of police investigators and community police on prevention and protection of victims. Enhanced awareness among women/girls on domestic violence and women's rights in selected municipalities. Enhanced economic independence of survivors.
U.S. Embassy	Crime Victim's Week	Mandate	Supported the VA and State Prosecution to organize Crime Victims' Rights Week.
	Trainings for Legal Officers	2019-2020	Organised training to increase capacities of prosecutors and VAs.
	Equipment Donation	2020	Donated technical equipment to prosecutors, VAs, and shelters to assist with online services during the pandemic.
USAID	Supporting Diverse WCSOs in Addressing Gender-Based Violence	2017-Present	Increased WCSOs' capacities to prevent gender-based violence and strengthened institutional response. Also supporting programmes on access to justice, including related to gender-based violence.
IOM-UN Migration	Various programs	2019 - Present	Supported shelters with protective equipment during pandemic. Provided Preventing Sexual Exploitation and Abuse training for relevant institutions and partners. Provided grants for women-led businesses towards gender equality.

# RECOMMENDATIONS

## Legal Recommendations

### Thematic Issues

- Integrate an understanding of gender-based violence as a violation of human rights, and recognition of the disproportionate impact of such violence on women, throughout the legal framework, particularly within the LPDV and any future law that seeks to address gender-based violence. Ensure that policy and strategy documents mainstream a sufficient understanding of gender-based violence against women.
- Develop and adopt a comprehensive national strategy on combating all forms of gender-based violence against women, not limited to domestic violence. It should provide an integrated, coherent, and consistent response to such violence considering the measures mandated by the IC. In particular:
  - Develop clear responsibilities, standardised protocols, and guidelines for persons who are likely to engage with victims and for inter-institutional cooperation;
  - Continue to support, institutionalize, and make obligatory where possible both basic and specialised training of all relevant professionals and officials, including multi-sectoral training, towards a coordinated, uniform response to gender-based violence; and
  - Continue efforts to prevent violence, through education and awareness-raising campaigns, sensitising the public to all forms of gender-based violence against women, the legal framework, and how to access support services. Seek to transform traditional gender roles via educational curricula, towards addressing the root causes of gender-based violence.
- Designate fully institutionalised separate official bodies for: (1) coordinating and implementing, and (2) monitoring and evaluating, policies and measures to prevent and combat all forms of gender-based violence under the IC, with adequate human and financial resources to ensure sustainability beyond government mandates. Include experienced CSOs in the monitoring and evaluation body.

### Substantive Law

- Amend the offence of domestic violence in the CCK, and the definitions of domestic and family relationships in the CCK and LPDV, to improve clarity.
- Reframe the LPDV as the Law on Gender-based Violence to expand access to the measures that may be imposed as part of protection orders to all forms of gender-based violence covered by the IC. Ensure that the Law acknowledges the need for special attention to be paid to women victims.
- Expand the aggravating circumstances under the CCK to ensure situations in which crimes are committed by partners and ex-partners who do not live with the victim are included.
- Consider addressing ICT-facilitated gender-based violence in the CCK.

- Adopt the Draft KCPC to strengthen victims' procedural rights.
- Amend the Law on Social and Family Services to include all protection, rehabilitation, and re-integration services foreseen in the IC. As per best practices in gender-responsive budgeting, conduct thorough gender analysis to adequately assess the resources required to implement these services appropriately. Then, based on this analysis, assign adequate budget allocations in annual budgets for implementing these programs. In financing municipalities, include a specific grant for the provision of these social services.
- Empower victims of violence with long-term sustainable housing solutions by developing the legal framework on social housing, inclusive of a gender perspective.
- Repeal inappropriate references to reconciliation in the Family Law.
- Amend Regulation No. 22/2015 on defining the procedures for recognition and verification of the status of sexual violence victims during the Kosovo Liberation War to redefine the period of the war covered, thereby avoiding any potential discrimination on the basis of ethnicity, and to elongate the period of time that victims have to apply for recognition and benefits, as per the recommendations of Amnesty International.

### **Inter-institutional Cooperation**

- Move the coordination of the inter-ministerial group on domestic violence under AGE, as a higher level inter-institutional body than the Ministry of Justice. Redefine its mandate to relate to all forms of gender-based violence. This can contribute to a more comprehensive, victim-centred approach to addressing gender-based violence that is not solely justice-centred, but provides for a more comprehensive, inter-ministerial approach to the long-term reintegration and rehabilitation of victims. Allocate additional state financing for a new, permanent civil servant position at AGE, for a person with extensive expertise related to gender-based violence and the IC. Define clearly in the new Law on Gender-based Violence this National Coordinator's responsibilities related to inter-institutional cooperation and the implementation of future strategies and action plans for addressing gender-based violence.
- Establish a clear legal mandate for municipal coordination mechanisms (CMs), perhaps under the Law on Social and Family Services or a new Law on Gender-based Violence, enshrining their responsibilities in law and ensuring adequate budget allocations for their appropriate, sustainable functioning. Expand their role to address all forms of gender-based violence and provide their members with adequate training.
- Allocate sufficient budget at the central level to expand CMs to municipalities where they do not exist, as well as institutionalise and ensure the appropriate training of their members and coordinators.
- Enforce proper usage of the case management database, inclusive of all forms of gender-based violence covered by the IC.
- In functionalising the Case Management Information System (CMIS), ensure that data is disaggregated by gender and types of violence, enabling analysis of overall cases by external experts.

Engage gender experts specialising in gender statistics in the finalisation to ensure it tracks and produces live reports that the public can use in monitoring the overall treatment of gender-based violence cases, including information on conviction rates.

- While ensuring data protection and confidentiality, use software solutions to inter-link the case management database with the CMIS, enabling relevant actors to make efficient use of their time in data entry.
- Ensure that summary data is publicly accessible through an online interface, as well as submitted at least quarterly to the Kosovo Agency for Statistics in accordance with the Law on Gender Equality.
- Elongate the mandate of the Commission for the Recognition and Verification of the Status of Sexual Violence Victims. Provide free supervision for Commission members, compensated by the state.

### **For the Ministry of Finance**

- Support the establishment of permanent budget lines for treating gender-based violence within the budgets of the responsible institutions.
- Enforce legal requirements for budget organisations to carry out gender-responsive budgeting, inclusive of gender analysis, in informing their budget allocations.
- Allocate regular annual funds for experienced CSOs to provide services, further awareness, and monitor independently government implementation of the relevant legal framework.

### **For Police**

- Request additional funds from the Ministry of Finance to cover victims' emergency costs, as recommended in 2017.
- Oblige more KP officers to participate in basic, advanced, and multi-sectoral training on gender-based violence and the appropriate approach, especially first responders to domestic violence crimes. This should include further training on sexual violence, avoiding blaming the victim, culturally sensitive training (e.g., regarding early marriage and female genital mutilation), and socialised gender power relations.
- Ensure that protection measures are utilised to enable police officers to remove perpetrators from a shared home and enable the victim to remain, as a priority, as reflected in the IC.
- Ensure officers pursue violations of protection orders as criminal offences.
- Better train police officers so that they can undertake more sensitive community policing in Roma, Ashkali, and Egyptian areas, towards improving communities' trust in police. Ensure officers are well-trained.
- Consider providing training on ICT and online violence against women, particularly to the KP Cybercrime Investigation Unit.

### **For the Institute of Forensic Medicine**

- Continue organising awareness campaigns to increase public knowledge about how and when to report sexual violence, in close cooperation with CSOs and other institutions.
- Ensure appropriate use and functioning of SOPs for the IFM's treatment of cases of sexual violence.
- Ensure availability of psychological counselling following examinations, towards preventing re-traumatization of victims.
- Continue providing additional and more advanced training on sexual and other forms of gender-based violence, as well as case management for staff.

### **For the State Prosecutor and the Prosecutorial Council of Kosovo**

- Ensure that all municipalities have a prosecutor available who is specialised in gender-based violence cases.
- Train prosecutors on effective prosecution responses to gender-based violence, and particularly on the utilisation of the CCK offence of domestic violence together with additional relevant charges. Further, include in training the definition of family and concepts of gender-based violence. Consider using case studies in training and guidance from the Kosovo Judicial Council to clarify these issues.

### **For Victim Advocates**

- Request additional budget allocations for more human resources to hire and train more VAs, ensuring that VAs are available and present when victims make statements at police stations (avoiding re-traumatisation), during court hearings, and to further support victims. In recruitment, use affirmative measures as foreseen by the Law on Gender Equality to hire more women VAs, as well as those who speak minority languages fluently (e.g., Serbian, Romani, Turkish).
- Provide further training to VAs in sexual violence, as well as the various measures available through protection orders, which they could recommend to enhance protections and autonomy for victims.

### **For Legal Aid Offices**

- Provide obligatory training for LAOs to enhance their awareness of different forms of gender-based violence and how to ensure gender-sensitive assistance of such cases.
- Consider expanding online counselling, towards making efficient use of limited resources to reach with support services more women in rural areas, with different abilities, and/or women who are isolated. To this end, ensure officers have specialized training on online crisis support and long-term psycho-social support.

### **For the Kosovo Judicial Council and Courts**

- Increase training of judges on the application of aggravating and mitigating circumstances. Require the Supreme Court Sentencing Guidelines to be referenced by judges when imposing sentences, as recommended by the Kosovo Law Institute, and that adequate reasoning is provided in judgments. Ensure that training of judges and any associated guidelines emphasise that the judiciary have no role in, nor legal basis to seek, reconciliation between a victim of violence and a perpetrator. Oblige civil and criminal judges to attend basic, advanced, and multi-sectoral training on socialised gendered power relations, gender-based violence, psychological violence, sexual violence, economic violence, and gender sensitive understanding of domestic violence cases. Monitor judges' sentencing in cases of gender-based violence and use of reconciliation, particularly in criminal court cases.
- Respect and apply the rights of the injured party under Article 62 point 1.5 of the KCPC, which provides: "if a court cannot order restitution from the defendants or defendants due to their inability to pay, absence from the jurisdiction of the court, or death, the injured party has the right for the court to refer the order of restitution to the coordinator of the victim compensation fund."
- Appoint and ensure availability of civil and criminal court judges specialised in ruling on cases of gender-based violence.
- Ensure a timely trial and prioritisation of all gender-based violence cases, as foreseen but not always implemented.
- Conduct further research into the causes of victims withdrawing protection order petitions or seeking lenient sentencing, as well as on child custody in relation to protection orders, perhaps in close collaboration with CSOs specialised in court monitoring.

### **For Correctional Services and Probation Services**

- Require that employees attend training on gender-based violence, SOPs, case management, and appropriate treatment of socialised gender roles, power relations, anger management, and substance addiction.
- Develop suitable rehabilitation programs for perpetrators that aim to transform traditional gender norms and address the underlying causes of gender-based violence, in close consultation with specialised gender equality experts.
- Ensure personal rehabilitation plans include "re-socialization regarding power relations and traditional gender roles" towards transforming traditional gender relations and preventing recidivist violence.
- Develop improved systems for tracking crimes perpetrated by clients, disaggregating by the type of crime perpetrated, towards better planning and providing rehabilitation services, as well as preventing recidivism. Utilise systems to better monitor the rehabilitation and reintegration of offenders.

### **For MLSW and Centres for Social Work**

- Organise training for social workers on the new CCK, SOPs, gender-based violence, and improved case management of gender-based violence cases. Consider recruiting and training social workers specialised in handling gender-based violence cases.
- Create a guide and organise training to support recommendations on child protection in domestic violence and custody cases, including visitation rights; and to address pressure to reconcile couples, towards avoiding recidivism.
- Budget for more human resources and vehicles for social workers to carry out their legal responsibilities more adequately.
- Establish policies and service standards for appropriate protection and treatment of victims; ensure an intersectional approach to services that addresses the needs of the most vulnerable, such as persons with different abilities, LGBTQIA+ persons, and minorities.

### **For MLSW, Employment Offices, and Vocational Training Centres**

- Provide obligatory training on gender-based violence; the CCK and referrals; the specific approach to assisting person who have suffered violence (using the UNDP-developed curricula); and the importance of ensuring confidentiality when assisting cases, including with potential employers.

### **For Shelters**

- Ensure regular psychological supervision and counselling for all shelter service providers by trained professionals, towards preventing burnout.
- Provide training on a feminist approach to assisting and empowering persons who have suffered gender-based violence.
- Ensure an intersectional approach to services that address the needs of the most vulnerable, such as persons with different abilities, LGBTQIA+ persons, and minorities.
- Enhance internal capacities for needs assessment, data management, programmatic planning, professional capacity development planning, and costing.

### **For MEST and Educational Institutions**

- Institutionalise training for educators and psychologists on forms of gender-based violence; how to identify signs of gender-based violence; and how to assist and appropriately refer children who have suffered violence for educators and psychologists.
- Include teaching material on equality between women and men, mutual respect, non-stereotypical gender roles, gender-based violence, and how to report it in educational curricula appropriate to various age groups, as foreseen by the IC.
- Allocate sufficient budget for increasing the number of psychologists in schools.

### **For MH and Healthcare Institutions**

- Provide obligatory training on gender-based violence, new CCK provisions, SOPs, the LPDV, identifying signs of violence, communicating with victims of violence, ensuring confidentiality, and safe referral for healthcare workers.
- Ensure training on and implementation of a special protocol for the treatment of cases of sexual violence, in line with IC requirements.
- In cooperation with CSO experts, shelters, MLSW, and the Institute of Forensic Medicine, establish sexual violence referral and rape crisis centres as foreseen by the IC with comprehensive integrated services, including emergency healthcare treatment, psychological counselling, protection via short-term shelter until relocation is possible, forensic documentation by experienced professionals, and appropriate referral mechanisms. Draw from the experiences and lessons learned in establishing the Lilium Centre in Tirana. Ensure adequate budget allocations for human resources and other costs, including supervision of staff to prevent burnout. Consider establishing the psychological counselling helpline within the same centre, with appropriate, trained human resources.

Build capacities of healthcare workers on clinical management of rape cases.

## **For Municipalities**

- Consider providing basic and multi-sectoral training for government officials working within municipalities on gender equality, gender-based violence, referrals, and municipal obligations to budget for and provide these services.
- Allocate sufficient resources, based on gender analysis and gender-responsive budgeting, for the full implementation of municipal responsibilities related to addressing all forms of gender-based violence. Consider identifying new potential municipal revenues in order to cover costs not funded through the central level.
- Ensure premises for shelters in municipalities where they are unavailable and allocate social housing for persons who have suffered gender-based violence to transition to living autonomously.



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# ANNEXES

## ANNEX 1. INTERVIEW RESPONDENTS

Name	Institution	Position	Municipality
Adem Shabani	Basic Court	Penal Judge	Ferizaj
Adnan Konushevc	Basic Court	Civil Judge	Pristina
Aferdita Sylaj-Shehu	Community Building Mitrovica	Director	Mitrovica
Afijete Sala - Gllogjani	Basic Court	Civil Judge	Gjakova
Afrim Llabjani	Municipal Department of Education	Head	Ferizaj
Afrim Maliqi	Handikos	Director	Pristina
Agim Kuqi	Basic Court	Civil Judge	Pristina
Agim Pula	VAAO	VA	Gjakova
Ahmet Mustafa	VTC	Head	Mitrovica
Amire Hoxha	CSW	Social Worker	Gjilan
Anton Nrecaj	Centre for Legal Aid and Regional Development	Officer	Pristina
Arbenita Kqiku	KP	DVIU	Gjilan
Arbër Nuhiu	Center for Social Group Development	Director	Pristina
Arbër Zhubi	VTC	Head	Gjakova
Arberie Fazliu	Emergency Clinic	Doctor	Pristina
Arbnor Islami	KP	First responder	Gjilan
Ardial Ajvazi	Basic Court	Civil Judge	Ferizaj
Ardiana Bytyçi Besnik Rustemi Ejona Icka	Kosovar Rehabilitation Centre for Torture Victims	Project Manager Social Worker Psychologist	Pristina
Ardita Ramizi Bala	Women's Wellness Centre	Director	Peja
Ariana Shala	SOS Kinderberg	Officer	Pristina
Arsim Gërxhaliu	Institute of Forensic Medicine	Head	Pristina
Arsim Krasniqi	KP, Regional investigations	Head	Mitrovica
Arsim Shala	KP	Head of DVIU	Pristina
Arton Krasniqi	KP	First Responder	Prizren
Bajram Demaj	EO	Director	Peja
Basri Kastrati	VAAO	Head	Pristina
Behxhet Krasniqi	KP	Head of Regional Investigations	Ferizaj
Bekim Ademi	Municipal Department of Social Welfare	Head	Ferizaj
Berlinda Berisha	KP	DVIU	Gjakova
Bernard Frrokaj	Municipal Department of Education	Director	Gjakova

Name	Institution	Position	Municipality
Besa Qarkaxhiu	CSW	Psychologist	Ferizaj
Besa Veseli	Municipal GEO	Head of Department	Mitrovica
Besarta Doli	Basic Court	Penal Judge	Gjakova
Besim Avdimetaj	Municipal Department of Education	Director	Peja
Besmir Salihu	EO	Head	Mitrovica
Besnik Shala	Basic Court	Civil Judge	Peja
Blerina Abazi	Emergency Clinic	Nurse	Pristina
Blert Morina	Centre for Equality and Liberty	Director	Pristina
Bujar Gashi	Department of Health and Social Welfare	Head	Pristina
Bujar Thaqi	Kosovo Institute for Public Administration	Officer	Pristina
Bukurije Ferati	KP	DVIU	Mitrovica
Burhan Maxhuni	VAAO	VA	Mitrovica
Burim Raqi	Police Inspectorate	Head of investigations	Pristina
Dejan Vasić	VAAO	VA	North Mitrovica
Dervish Tahiri	CSW	Head	Gjakova
Deshire Kryeziu	KP	DVIU	Rahovec
Diturie Gashi	Secondary School	Teacher	Pristina
Dren Kukaj	Department of Labour and Social Welfare	Head	Pristina
Dren Meqa	CSW	Social Worker	Gjakova
Drita Kelmendi	CSW	Director	Peja
Driton Kadriu	Kosovo Probation Service	Head	Gjakova
Durim Halilaj	Finance Department	Head	Gjakova
Egzon Jashari	Municipal Department of Education	Head	Mitrovica
Enver Murtezi	Emergency Clinic	Doctor	Gjilan
Enver Peci	Supreme Court	Head	Pristina
Erbolina Dinarama; Nakibe Doli	Safe House	Director; Consultant	Gjakova
Ergita Zajmi	Teacher Secondary School	Teacher	Peja
Erseka Hasanaj	Municipal Department of Health	Head of Department	Mitrovica
Evelina Bardhi	Emergency Clinic	Nurse	Gjakova
Fadil Hoxha	KP	DVIU	Istog
Fane Berdynaj	Free LAO	Officer	Peja
Fatime Dermaku	Basic Court	Penal Judge	Pristina
Fatmire Salihu	VTC	Head	Ferizaj



Name	Institution	Position	Municipality
Fidane Hyseni	Centre for Protection of Women and Children "Raba Voca"	Director	Mitrovica
Fitnete Kelmendi	CSW	Social Worker	Mitrovica
Fjolla Vukshinaj	Women for Women	Coordinator	Prizren
Fjorda Mujolar	Free LAO	Officer	Prizren
Florie Vishaj	CSW	Social Worker	Peja
Gani Leci	VAAO	VA	Gjilan
Gani Mustafa	CSW	Director	Mitrovica
Ganimete Kitmiri	VAAO	VA	Prizren
Habib Zeqiri	Basic Court	Civil Judge	Ferizaj
Hajrie Kutllavci	Free LAO	Officer	Mitrovica
Halime Bytyqi	KP	DVIU	Malisheva
Hashim Qollaku	Court of Appeals	Penal Judge	Pristina
Hasnije Bardhi	Ministry of Finance	GEO	Pristina
Ibrahim Terstena	VAAO	VA	Ferizaj
Ilmi Limoni	Finance Department	Head	Gjilan
Imer Zeqiri	KP	Head of DVIU	Pristina
Ismail Bektashi	CSW	Social Worker	Ferizaj
Ivana Balović	Municipal GEO	GEO	North Mitrovica
Jeton Abazaj	Municipal Department of Finance	Head	Peja
Jeton Vorfi	Emergency Clinic	Doctor	Gjakova
Jozefina Osmani	CSW	Social Worker	Gjakova
Jubilea Kabashi	Centre for sheltering Women and Children	Director	Prizren
Jugo Bogavac	KP	DVIU	North Mitrovica
Kadire Tahiraj	Centre for Promotion of Women's Rights	Officer	Pristina
Kadri Gashi	Centre for Counselling, Social Services, and Research	Director	Pristina
Kadrije Myrtaj	Ministry of Local Government Administration	GEO	Pristina
Kreshnik Gashi	Balkan Investigative Reporting Network	Editorial manager	Pristina
Kujtim Dula	EO	Head	Gjakova
Kumrije Krasniqi	CSW	Director	Prizren
Lavderim Bullatovci	Agency of Forensics	Officer	Pristina
Leonora Kelmendi	KP	DVIU	Mitrovica
Leonora Shemsiu - Kadriu	Regional (Basic) Prosecution	Prosecutor	Gjilan
Lindita Salihu	Municipal GEO	Head	Gjilan
Luljeta Hetemi	Academy of Justice	Officer	Vushtrri

Name	Institution	Position	Municipality
Luljeta Shabani	Basic Court	Judge	Gjilan
Lumnije Shllaku	Municipal GEO	Director	Gjakova
Lumturije Hoxha	Regional (Basic) Prosecution	Prosecutor	Peja
Maida Buljubašić	KP	DVIU	North Mitro- vica
Maja Milovanović	CSW	Social Worker	North Mitro- vica
Makifete Saliuka	Kosovar Judicial Council	Officer	Pristina
Marina Vasić	Department of Education	Head of Depart- ment	North Mitro- vica
Mehreme Hoxha	Regional (Basic) Prosecution	Prosecutor	Prizren
Merita Jonuzi	Ministry of Education	GEO	Pristina
Merita Syla	Ombudsperson Institution	Officer	Pristina
Mevlide Shabani	Basic Court	Judge	Gjilan
Migjen Kastrati	Basic Court	Civil Judge	Peja
Milan Kalaba	Health and Social Welfare Department	Head of Depart- ment	North Mitro- vica
Milena Petrovic	CSW	Social Worker	North Mitro- vica
Miloš Marković	Basic Court	Judge	North Mitro- vica
Mirjana Alagić	Municipal Department of Finance	Head of Depart- ment	North Mitro- vica
Mirlinda Sada	Medica Gjakova	Director	Gjakova
Mirsad Kelmendi	KP	Head of Regional Investigations	Peja
Moiloš Denović	Basic Court	Civil Judge	North Mitro- vica
Mone Syla	Regional (Basic) Prosecution	Prosecutor	Gjakova
Mursel Zymberi	CSW	Director	Gjilan
Nafije Halili	KP	DVIU	Gjilan
Naim Ferati	Municipal GEO	Official	Ferizaj
Naim Gashi	EO	Head	Ferizaj
Naim Gashi	CSW	Social Worker	Pristina
Naim Maliqi	KP	First Responder	Pristina
Naim Rustaj	KP	First Responder	Gjakova
Naime Azemi	CSW	Director	Pristina
Nazan Kerveshi	Municipal Department of Eu- ropean Integration and Social Welfare	Head of Depart- ment	Mitrovica
Nazife Junuzi	Center for Protection and Rehabilitation of Women and Children	Head	Gjilan

Name	Institution	Position	Municipality
Nazim Gagic	Municipal Department of Education	Head	Gjilan
Nazmie Rruqiqi	Kosovo Police	First Responder Police	Drenas
Nazmije Kajtazi	Ministry of Health	GEO	Pristina
Nevruz Hasani	KP	Head of Regional Investigations	Pristina
Nora Bllaca	Court of Appeals	Civil Judge	Pristina
Nora Dobruna	Free LAO	Officer	Gjakova
Olgica Vuletić	KP	DVIU	North Mitrovica
Petrit Loci	Department of Health and Social Welfare	Head	Peja
Premtime Preniqi	Municipal GEO	GEO	Pristina
Rasim Mulaj	KP	DVIU	Peja
Razë Malaj	Emergency Clinic	Nurse	Peja
Remzi Azemi	KP	Head of Regional Investigations	Gjilan
Reshat Nimani	KP	First responder	Mitrovica
Resmija Rahmani	Organization of Persons with Muscular Dystrophy of Kosovo	Director	Prizren
Rexhë Gashi	VTC	Director	Peja
Riqard Marku	KP	First Responder	Gjakova
Sadete Jellqi	KP	Head of Regional Investigations	Prizren
Sadulla Salihu	Free LAO	Officer	Gjilan
Saibe Shala	KP	DVIU	Klina
Saniye Sekiraqa	Emergency Clinic	Doctor	Mitrovica
Saranda Bogaj	Basic Court	Penal Judge	Pristina
Sebahate Ajeti - Sadiku	Finance Department	Head	Ferizaj
Sebahate Beqiri	Down Syndrome Kosova	Director	Pristina
Sebahate Potoku Qorkadiu	Municipal GEO	GEO	Peja
Sebahate Sinani	Regional (Basic) Prosecution	Prosecutor	Ferizaj
Sefedin Fazliu	Emergency Clinic	Doctor	Ferizaj
Selami Xhemajli	Municipal Department of Health & Social Welfare	Head	Gjilan
Selvete Krasniqi	KP	DVIU	Pristina
Sevdije Bunjaku	Center for Protection of Women and Children "My Home"	Head	Ferizaj
Sevdije Morina	State Prosecutor	Deputy Chief Prosecutor	Pristina
Sevdije Spahiu	National Institute for Public Health	Officer	Pristina

Name	Institution	Position	Municipality
Shabi Idrizi	Basic Court	Penal Judge	Ferizaj
Shaq Curri	Basic Municipal Court	Penal Judge	Peja
Shemsie Jonuzaj	KP	Coordinator of DVIU	Prizren
Shenaj Berisha	Basic Prosecution	Coordinator	Pristina
Shkendije Kurti	KP	DVIU	Prizren
Shpresa Shala	Municipal Department of Education	Head	Pristina
Shukri Gashi	Finance Department	Head of Department	Mitrovica
Shukri Sylejmani	Supreme Court	Civil Judge	Pristina
Shukrije Gashi	Partners Kosova	Director	Pristina
Tahire Haxholli	KP	Head of Department of Trainings and Educational Support	Pristina
Teuta Abrashi	Center for Protection of Victims and Prevention of Trafficking in Human Beings	Director	Pristina
Teuta Gashi	KP	DVIU	Suhareka
Tijana Simic	Žensko Pravo (Women's rights)	Director	North Mitrovica
Valbona Doli-Rizvanolli	Active Women of Gjakova	Director	Gjakova
Valbona Gashi-Maliqi	Emergency Clinic	Nurse	Gjilan
Valbona Salihu	Lawyers Association Norma	Representative	Pristina
Valmira Sejdiu	LAO	Officer for Free Legal Aid	Ferizaj
Venera Kabashi	Constitutional Court	Officer	Pristina
Vepror Shehu	Medica Kosova	Director	Gjakova
Veton Ademaj	Basic Court	Civil Judge	Peja
Vildone Haliti	KP	First responder	Mitrovica
Vjollca Krasniqi	Municipal GEO	Head	Ferizaj
Vjollca Zymberi	Teacher	Teacher	Gjilan
Xhevat Aliu	EO	Head	Gjilan
Xhevxhet Hasani	KP	First Responder	Prizren
Xhulieta Devolli	Network of Roma, Ashkali and Egyptian Women's Organizations of Kosovo	Project Manager	Pristina
Zana Asllani	Center for Protection of Women and Children	Director	Pristina
Zana Hoxha	Artpolis	Director	Pristina
Zylkifli Obertinca	EO	Director	Pristina
Zyrafete Imeraj	Correctional Services	Officer	Pristina

Name	Institution	Position	Municipality
Zyrafete Murati	Ministry of Public Administration	GEO	Pristina

## ANNEX 2. GENDER-BASED VIOLENCE DATA FROM INSTITUTIONS

KWN sent several data requests to various actors engaged in providing services related to addressing gender-based violence. While KWN requested gender-disaggregated data, this still was not always available. This annex contains data that KWN was able to secure, primarily for the period of 2017 to 2020.

### Police Data

This data is from the KP Informative System. It shows the number of people that were victims of each criminal offence crimes by year for 2017-2020, disaggregated by the gender of the victim. The table includes crimes under the prior and current criminal code as explained in footnotes, including both attempted crimes. Percentages have been rounded for display.

Total	Crime	2017	2018	2019	2020	2017	2018	2019	2020	Total # of Women	% Women	Total # of Men	% Men
528	Murder <sup>1</sup>	12	13	9	7	144	140	98	105	41	8%	487	92%
155	Aggravated murder <sup>2</sup>	10	8	5	10	31	41	18	32	33	21%	122	79%
54	Sexual harassment			24	25			4	1	49	91%	5	9%
407	Harassment	119	135	42		41	54	16		296	73%	111	27%
6219	Light bodily injury	735	821	223		2,054	1,842	544		1,779	29%	4,440	71%
667	Serious bodily injury	33	29	16		279	235	75		78	12%	589	88%
40	Coercion <sup>3</sup>	8	3	3	6	11	2	5	2	20	50%	20	50%
14	Ill-treatment in the exercise of official duty or public authority <sup>4</sup>	1		1	2	4	3	2	1	4	29%	10	71%
169	Rape <sup>5</sup>	29	31	40	52	5	4	7	1	152	90%	17	10%
175	Sexual Assault <sup>6</sup>	41	33	46	43	1	3	4	4	163	93%	12	7%
11	Degradation of sexual integrity <sup>7</sup>	2	1	4	2		2	2		9	89%	4	36%
2337	Domestic Violence			741	1081			196	319	1822	78%	515	22%

■ Women   ■ Men

<sup>1</sup> As per Article 172 in the new CCK in addition to 178 in the prior CCK.

<sup>2</sup> As per Article 173 in the new CCK in addition to 179 in the prior CCK.

<sup>3</sup> As per Article 192 in the new CCK in addition to 195 in the prior CCK.

<sup>4</sup> As per Article 195 in the new CCK in addition to 198 in the prior CCK.

<sup>5</sup> As per Article 227 in the new CCK in addition to 230 in the prior CCK.

<sup>6</sup> As per Article 229 in the new CCK in addition to 232 in the prior CCK.

<sup>7</sup> As per Article 230 in the new CCK in addition to 233 in the prior CCK.

Protection orders monitored by KP by year and municipality									
	Pristina	Gjilan	Ferizaj	Peja	Prizren	S. Mitrovica	N. Mitrovica	Gjakova	Total
2017	7	2	22	61	11	11	5	18	137
2018	16	5	13	9	23	25	9	22	122
2019	7	3	5	0	6	17	6	24	68
2020	11	4	2	47	8	7	14	12	105

## Victim Advocates

Number of protection orders requested by VAs, yearly, by type of order				
	Protection order	Emergency Protection Order	Temporary Emergency Protection Order	Total
2017	525	79	1	605
2018	553	66	1	620
2019	574	52	-	626
2020	569	42	2	613

Number of protection orders issued, refused, or withdrawn, as observed by VAs, yearly			
	Protection orders issued by courts	Protection orders refused by courts	Protection orders withdrawn by parties
2017	421	21	123
2018	No information	No information	No information
2019	272	11	105
2020	399	62	26
Total	1092	94	254

## Prosecution

Number of protection orders that were requested								
#	Pristina	Gjilan	Ferizaj	Peja	Prizren	Mitrovica	Gjakova	Total
2017	116	14	19	95	37	189	127	597
2018	126	33	17	93	41	210	116	636
2019	156	52	5	95	56	209	95	668
2020	64	24		45	17	53	53	256

Number of cases of domestic violence that were treated with priority by the prosecution and courts								
#	Pristina	Gjilan	Ferizaj	Peja	Prizren	Mitrovica	Gjakova	Total
2017	269	168	114	1586	181	175	63	2556
2018	147	241	137	1190	254	122	87	2178
2019	280	250	230	1010	303	174	123	2370
2020	112	105	78	356	83	94	71	899

<sup>8</sup> Information provided by KP to KWN in November 2020.

<sup>9</sup> Data from bulletins published by VAAO each year. For 2017 and 2018, the reporting period starts in September and ends the following year, in August. In 2019 and 2020, it begins from October and ends the following year in September.

<sup>10</sup> Ibidem.

<sup>11</sup> Information provided to KWN by the Prosecutorial Council in September 2020.

<sup>12</sup> Ibidem.

## Kosovo Judicial Council

The tables below represent cases that were handled in the period from 2017 until 2019 by basic courts in all regions of Kosovo. The first column states the crime with the relevant article in the prior and current criminal code; the second column indicates the number of unsolved cases at the beginning of the reporting period of the courts; the third column indicates the cases that are still ongoing; the following nine columns indicate the cases that are solved, with the following outcomes respectively: imprisonment, with fine, conditional sentencing, other penalties, acquitted, refused, relative and absolute expired statute of limitations, or solved differently; the thirteenth column indicates the total sum of solved cases, after which comes the cases that are still in the courts competence. The last column indicates the number of unresolved cases during the reporting period.

There are various types of sentencing. “Conditional sentencing” entails a probation period, if in that period the perpetrator commits another crime, they will be sentenced to jail-time. “Other penalties” may include mandatory rehab, or psycho-social treatment for the perpetrator. “Acquittal” and “Refused” indicate the number of released perpetrators, they were acquitted from the crimes they were alleged to commit, or the court refused to hear the case. In the “Expired statute of limitations” column, there are two different ways the statute of limitations could expire, respectively: “Absolute” and “Relative”. In the cases of absolute expired statute of limitations, there has been some work done on the case, but the case was dropped after two years. In the relative cases, a case has been open for a year, but no work has been done, and it is closed without a trial. The column for cases that are “solved differently” indicates, for example, that cases are settled by reaching a settlement, or one of the parties have passed on.<sup>13</sup>

The data provided by the KJC was not divided by the gender of the victim or perpetrator. Therefore, it cannot be said with certainty what the percentage of women or men victims is, toward examining the judicial response to gender-based violence. Considering that gender-based violence usually is directed towards women rather than men, it may be suggested that most of the sexual violence cases involved women victims. Therefore, as no conclusions could be drawn from the other data, KWN has removed them and provided data only related to sexual violence. Notably, although the CCK was amended in 2019 to include domestic violence and sexual harassment as standalone crimes, KJC did not provide data related to these two articles. Every case is of course unique due to its own specifics and the volume of evidence provided by both parties. Thus, absolute conclusions cannot be drawn regarding the KJC’s handing of cases based on this data.

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<sup>13</sup> Berisha et al. for KWN, *From Words to Action*, 2017.



## Basic Courts, General Department

Criminal Code Article	Unsolved cases at beginning of reporting period	Cases that are ongoing	Total cases ongoing	Cases Solved								Total solved cases	Cases in court's competence	Unsolved cases during reporting period	
				With Charge				Acquitted	Refused	Expired Statute of Limitations					Solved differently
				Completed cases, by type of penalty						Relative	Absolute				
				Imprisonment	With fine	Conditional sentencing	Other penalties								
2017															
230/193 Rape	2	0	2	0	0	1	0	0	0	0	0	0	1	0	1
232/195 Sexual Assault	51	23	74	4	7	5	0	0	3	0	4	2	25	0	49
2018															
230/193 Rape	1	3	4	0	0	0	0	1	0	0	0	0	1	0	3
232/195 Sexual Assault	51	27	78	3	13	3	0	1	1	0	4	3	28	0	50
2019															
230/193 Rape	3	16	19	5	0	0	0	0	0	0	0	0	5	0	14
232/195 Sexual Assault	50	20	70	2	5	3	0	0	1	0	2	2	15	0	55

## Basic Courts, Department for Heavy Crimes

Criminal Code Article	Unsolved cases at beginning of reporting period	Cases that are ongoing	Total cases ongoing	Cases Solved								Total solved cases	Cases in court's competence	Unsolved cases during reporting period	
				With Charge				Acquitted	Refused	Expired Statute of Limitations					Solved differently
				Completed cases, by type of penalty						Relative	Absolute				
				Imprisonment	With fine	Conditional sentencing	Other penalties								
2017															
230/193 Rape	123	19	142	9	2	4	0	4	4	0	1	5	29	3	110
232/195 Sexual Assault	28	4	32	2	2	0	0	3	1	0	0	0	8	0	24
2018															
230/193 Rape	110	25	135	8	2	4	0	8	8	1	1	5	37	1	97
232/195 Sexual Assault	24	8	32	0	1	2	1	0	2	0	0	3	9	0	23
2019															
230/193 Rape	96	23	119	9	3	5	1	10	15	3	1	1	48	1	70
232/195 Sexual Assault	23	11	34	3	0	0	1	0	3	2	1	0	10	1	23

## Centres for Social Welfare

The following tables present data on services provided by CSWs', based on MLSW data. CSWs may have provided services not reported by MLSW. The tables present the number of children whose domestic violence cases social workers monitored; the number of persons sheltered, as monitored by MLSW; and the number of people who suffered domestic violence who received social services, respectively.

Number of children affected by domestic violence whose cases social workers monitored yearly, by children's gender and municipality. <sup>14</sup>										
	# of girls	# of boys	Pristina	Gjilan	Ferizaj	Peja	Prizren	Mitrovica	Gjakova	Total
2017	12	11	0	-	-	22	23	-	-	45
2018	25	25	29	-	-	20	21	-	-	70
2019	48	34	63	-	-	18	19	-	-	100
2020	21	21	24	-	-	5	18	-	-	47
Total	106	91	116			65	81			262

Number of persons sheltered, yearly, by gender <sup>3</sup>				Municipalities where victims received services. <sup>15</sup>							
	# of women	# of girls	# of boys	Pristina	Gjilan	Ferizaj	Peja	Prizren	Mitrovica	Gjakova	Total
2017	215	94	89	0	79	89	79	36	47	68	398
2018	231	123	82	55	85	45	68	45	63	75	436
2019	243	191	116	114	67	46	94	37	75	118	550
2020	192	120	81	61	53	30	63	29	77	79	393

Number of people who suffered domestic violence that received social services yearly, by gender <sup>16</sup>												
	# of women	# of girls	# of men	# of boys	Pristina	Gjilan	Ferizaj	Peja	Prizren	Mitrovica	Gjakova	Total
2017	16	-	-	-	-	-	-	-	12	4	-	16
2018	3	-	-	-	-	-	-	-	17	3	-	20
2019	17	-	-	-	-	-	-	-	15	2	-	17
2020	13	-	-	-	-	-	-	-	10	3	-	13
Total	49	-	-	-	-	-	-	-	54	12	-	66

<sup>14</sup> Information provided to KWN by MLSW in November 2020.

<sup>15</sup> Ibidem.

<sup>16</sup> Ibidem.

## Shelters

The following table illustrates persons sheltered, as well as services provided to persons not sheltered (“only services”) for 2015-2020 for most of Kosovo’s shelters for various forms of gender-based violence. Notably, a shelter could shelter the same persons over multiple years, so totals have not been included for the time period.

Year Organization	2015 Sheltered	2015 only services	2016 sheltered	2016 only services	2017 sheltered	2017 only services	2018 sheltered	2018 only services	2019 sheltered	2019 only services	2020 sheltered	2020 only services
<b>Total</b>	<b>475</b>	<b>485</b>	<b>517</b>	<b>660</b>	<b>394</b>	<b>536</b>	<b>458</b>	<b>386</b>	<b>570</b>	<b>313</b>	<b>486</b>	<b>461</b>
Gjakova Safe House	76	12	75	15	75	10	85	11	118	17	86	22
Gjilan Liria	95	408	93	571	79	482	85	308	67	223	66	278
Mitrovica South “Raba Voca”	61	0	80	0	47	0	63	0	67	8	84	4
Pristina Centre for Protection of Women and Children	61	19	72	28	Shelter was closed	shelter was closed	55	17	114	22	74	35
Prizren Centre for Protection of Women and Children	44	0	51	0	36	0	45	0	37	0	32	0
Nas Dom (Novobardo)											22	82
Peje Women’s Wellness Centre	75	23	74	29	79	33	68	42	94	27	79	29
Protecting Victims Preventing Trafficking	27	23	19	17	14	11	17	8	14	16	10	11
Interim Security Facility for trafficking	14		31		35		17		25		9	
Hope and Homes for Children	22		22		29		23		34		24	

## ANNEX 3. IMPLEMENTATION OF THE NSPDV

Drawing from the research findings, the following table summarizes progress made in implementing the NSPDV from 2017 to 2020. This table is an exact copy of the table included in the NSPDV Action Plan and in KWN's prior report *From Words to Action*.<sup>1</sup> Any changes that KWN has made to the original table to illustrate its assessment are made visible using purple font type. This includes indication of any allocated budget identified in the "Financing Budget" column, where "secured" refers to what was identified as secured and does not indicate that it was entirely secured.<sup>2</sup> The last two columns in grey colour have been added by KWN, illustrating KWN's assessment of NSPDV implementation. KWN has used the same scoring system as in 2017 to assess implementation: "0" indicates that it is not implemented, "0.5" indicates partial implementation, and "1" means that it has been implemented fully. Since the current NSPDV expired in 2020, the table estimates the extent to which it has been implemented overall in the last column, though KWN's findings from 2017 are presented in the second to last column for comparison.

Not all institutions could provide information related to their activities. It was particularly difficult to secure information about progress at the municipal level as no single information centre existed with this information.<sup>3</sup> KWN thus has tried to estimate implementation based on the information available.

A review of the NSPDV's implementation illustrates that some of the indicators perhaps were too ambitious to attempt to monitor because the government did not have systems in place yet for tracking progress. It is KWN's opinion that some indicators at the objective level were overly complicated or too many in number to efficiently and accurately measure change. Moreover, for several indicators no baseline or target were set, which makes it difficult to accurately evaluate change. Perhaps lessons learned include that each action could have one or two indicators, the indicators for objectives could be simplified, and baselines and targets should be set for each.

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<sup>1</sup> KWN has only adjusted some acronyms from the original so that they are consistent with the rest of this report and within the table (as the original also had differences in its use of acronyms).

<sup>2</sup> During research it became apparent that there were some differences in the translations of the NSPDV. Certain actions were budgeted differently in the three different languages. To avoid further confusion KWN decided to use the budget of the Albanian version, since the strategy was originally written in Albanian.

<sup>3</sup> MJ, "First monitoring report on the implementation of the action plan of the national strategy on protection from domestic violence 2016-2020", Pristina, Kosovo: 2018.

## PILLAR 1: PREVENTION AND AWARENESS RAISING

**STRATEGIC OBJECTIVE 1: Until 2020, decrease of judgmental stances and behaviour that support domestic violence, through information, education and schooling and continuous awareness raising of professionals, community and the whole society. → Overall, some progress observed in fewer judgemental stances and behaviours, though these do still exist.**

### OBJECTIVES:

1.1. Enhance professional capacities of professionals that provide basic services for prevention of domestic violence (such as: employees in the police, prosecutors, teachers, educators, doctors and other health workers, psychologists, social workers, attorneys of the victims, etc.); → Partially implemented: Some progress observed, though it can be further enhanced (see expected result 1.1.a. and indicator 1.1.a.1.).

1.2. Encourage individuals to report domestic violence cases and increase of their trust in respective institutions. → Some progress has been made in reporting domestic violence cases, as illustrated by the rise in cases reported, as well as interviews with various institutions (see expected result 1.2.a. and indicator 1.2.a.1.).

1.3. Increase awareness of the society for not accepting and not tolerating domestic violence → Increased awareness is observable, as shown by the increase in diverse women and men's engagement in public demonstrations, online discussions, and in reporting domestic violence (see expected results 1.3.a. and indicator 1.3.a.).

### EXPECTED RESULTS:

1.1.a. Basic services professionals (such as: employees in police, prosecutor's office, teachers, educators, doctors, psychologists, social workers, defenders of victims, etc.), trained to identify and deal with and treat professionally and without prejudice cases of domestic violence. → Partially achieved: some trained, and some not. In most institutions, further training required to ensure comprehensive understanding of gender-based violence, professionalism, and absence of prejudice.

1.2.a. More domestic violence victims and members of society encouraged to trust in relevant institutions and more domestic violence cases reported. → Seemingly achieved, as shown by the increase in cases reported (see 1.2.a.1.).

1.3.a. A higher percentage of society is aware of [and] challenge violent behaviour, because they believe that violence is intolerable. → Society seems more aware, but comparable survey data is unavailable at present to accurately measure change.

## INDICATORS AT THE OBJECTIVE LEVEL:

I.1.a.1. Increase by 50% until 2020, of the number of professionals in basic services who are trained and evaluated for treating professionally domestic violence cases. {Unit of measure: percentage. Disaggregated by: the type of professionals, municipalities where they work, number of trainings provided every year, number of conducted assessments and if possible the evaluation they received for example in a scale from 1-5. Means of verification: official data, for everything specified above, sent by each implementing institution by the end of the year to National Coordinator against DV [domestic violence]; annual monitoring report on implementation of the strategy, which will be prepared by the National Coordinator against DV based on M&E [Monitoring and Evaluation] system that is drafted in the frame of the implementation of this strategy} → While comprehensive data was unavailable, based on the sample interviewed by KWN, this seems partially implemented. There is no database for training registration.

I.2.a.1. Increase of at least 10% until 2020 of the number of reports of domestic violence cases, as a result of increase of individual's trust to responsible institutions that provide protection and treatment of these cases. {Unit of measure: percentage. Disaggregated by: gender, age, special skills, education, living place, civil status, year, the institution where the reporting takes place. Means of verification: official data, for everything specified above, sent by each implementing institution by the end of the year to National Coordinator against DV; or the reports that will be produced by the database system which is expected to be established in the frame of implementation of this strategy; annual monitoring report on implementation of the strategy, which will be prepared by the National Coordinator against DV based on M&E system that is drafted in the frame of the implementation of this strategy, nation-wide study that will be conducted again by KWN in 2017 – from which the baseline for 2014 has been taken} → Seemingly achieved, as shown by the increase in domestic violence reports made to KP, by 12% annually.<sup>4</sup> Disaggregated data was not provided, and the system seemingly does not yet function to produce such reports. Trust in institutions not measured, as KWN did not conduct survey, based on agreement with other actors.<sup>5</sup>

I.3.a.1. Increase of at least 20% until 2020 of the number of individuals of society sensitized on different forms of violence and who believe that domestic violence is intolerable. {Unit of measure: percentage. Disaggregated by: gender, age, special skills, education, living place, civil status, year. Means of verification: nation-wide study that will be conducted by KWN in 2017 and maybe in 2019} → Quantitative data unavailable at present but qualitative data suggest an increase.

<sup>4</sup> KWN calculation of average increase, based on data provided by KP.

<sup>5</sup> Since OSCE decided to conduct its study, Survey on violence against women: Well-being and Safety of Women (2019), in consultation with other actors, it was decided that KWN would not conduct a survey, so as to avoid over-surveying the population and to prevent re-traumatization. While some data can be derived from the OSCE study, it does not include questions pertaining to all relevant indicators. The Kosovo Agency of Statistics plans to conduct a study in 2021 or 2022 which could perhaps provide data for further assessing progress if these questions are included.

Activities	Target Groups	Implementing Institutions	Supporting Institutions	Year	M&E	Financing Budgeted Secured	Possible Sources	Requested	Implementation 2017	Implementation 2020
							Financed (€)	Funds (€)		
Objective 1.1 Enhance professional capacities of professionals that provide basic services for prevention of domestic violence (such as: employees in the police, prosecutors, teachers, educators, doctors and other health workers, psychologists, social workers, attorneys of the victims, etc.)										
I.I.I. Continuous training and certification of police officials focused on DV, on well-defined themes and approved modules	Police officials	Kosovo Institute for Public Administration and Kosovo Police	MIA Donors	2016-2020	Number of approved modules with special topics for DV; Approved annual training plan; No. of police officials certified each year; Register with data on trained officials, updated on the basis of the offered training and certification of each official.	Total 78,974 <sup>6</sup>  Secured from OSCE, UNDP, EC (precise amounts not shared).		Donors 78,974	0.5: Some police trained, others not; unclear if trainings always enhance professional capacities. Unclear if they have developed a set module.	0.5: Completed according to MJ monitoring report 2017-2018. <sup>7</sup> Yet, KWN monitoring suggests that all officers participate in domestic violence training but only DVIUs receives regular training on this; unclear if trainings always enhanced professional capacities.

<sup>6</sup> All numbers in the table rounded to the nearest Euro by KWN to facilitate presentation of findings, and adapted to English presentation of numbers.

<sup>7</sup> MJ, "First Monitoring Report on the Implementation of the Action Plan of the National Strategy on Protection from Domestic Violence 2016-2020", 2018.

I.1.2. Continuous training and certification of healthcare officials focused on DV, on well-defined themes and approved modules	Health-care officials	Ministry of Health	Family Medicine Centres, UNFPA	2016-2020	Number of approved modules with special topics for DV; Approved annual training plan; No. of health officials certified each year; Register with data on trained health officials, updated on the basis of the offered training and certification of each official.	Total 56,879		Government 28,416 Donors 28,463	0: KWN found no evidence of such training.	0.5: Completed according to MJ monitoring report, but only a few healthcare workers trained. <sup>8</sup> Only a few certified by the Doctors Chamber. KWN monitoring suggests knowledge among several remains lacking.
I.1.3. Continuous training and certification of prosecutors focused on DV, on well-defined themes and approved modules	Prosecutors	Kosovo Judicial Institute in co-operation with Prosecutorial Council and Judicial Council	Donors and International Organisations (IOs)	2016-2020	Number of approved modules with special topics for DV; Approved annual training plan; No. of prosecutors certified each year; Register with data on trained prosecutors, updated on the basis of the offered training and certification of each prosecutor.	Total 11,992		Donors 11,992	0.5: There have been some trainings, but training is not yet institutionalized.	1: Completed according to MJ monitoring report and NCDV. 73 prosecutors participated in domestic violence trainings and were certified. <sup>9</sup>

<sup>8</sup> KWN interview with NCDV, 2021; information from MH, 2021.

<sup>9</sup> Information provided by Prosecutorial Council of Kosovo, for the period of 2017 to 2020.



I.1.4. Continuous training and certification of judges focused on DV, on well-defined themes and approved modules	Judges	Kosovo Judicial Institute in co-operation with Prosecutorial Council and Judicial Council	Donors and IOs	2016-2020	Number of approved modules with special topics for DV; Approved annual training plan; No. of judges certified each year; Register with data on trained judges, updated on the basis of the offered training and certification of each judge	Total 9,732		Donors 9,732	0.5: There have been some trainings, but they do not seem to be institutionalized.	0.5: Training ad-hoc and only offered if judges requested it, according to the Academy of Justice.
I.1.5. Continuous training and certification of victims' advocates focused on DV, on well-defined themes and approved modules.	Victims' Advocates	State prosecution	Donors and IOs	2016-2020	Number of approved modules with special topics for DV; Approved annual training plan; No. of VA certified each year; Register with data on trained VA, updated on the basis of the offered training and certification of each VA.	Total 16,702		Donors 16,702	0.5: They have attended training, but it is unclear if particular modules have been approved and training institutionalized.	0.5: VAs attended training continuously but did not receive certification.

I.1.6. Continuous training and certification of employees of CSW, VTC and EO focused on DV, on well-defined themes and approved modules.	Social workers, GEO, CSW, VTC, EO officials	Ministry of Labour and Social Welfare	CSW VTC EO Municipalities, MED	2016-2020	Number of approved modules with special topics for DV; Approved annual training plan; No. of officials certified each year; Register with data on trained officials updated on the basis of the offered training and certification of each official.	Total 38,682		Donors 38,682	0.5: A module was developed; some employees attended some training. However, training ad hoc and not yet institutionalized.	0.5: 161 trainings on domestic violence held from 2017 to 2020, through which 447 officers were certified. KWN monitoring suggested some knowledge limitations; VTC and EO have not all attended training.
I.1.7. Continuous training on an annual basis, as well as certification of all professionals (such as teachers, teachers, principals, counsellor, psychologists, management committees of schools, parents, officials from the municipal Education Directorate) focused on DV, with special themes and approved model	Psychologists Teachers and Professors	Department for professional development of teachers MEST	Regional Education Offices, Directors of schools, NGO	2016-2020	Number of approved modules with special topics for DV; Approved annual training plan; Number of certified on an annual basis (4 groups of 80 participants); Register with data on trained officials, updated on the basis of the offered training and certification of each official.	Total 25,057 Spent: 30,400		Donors 25,057	0	0.5: According to MJ monitoring report, there is progress, and MEST stated it was completed. However, KWN found minimal evidence of reach.

I.1.8. Continuous training and certification of journalists and media officials on the ways to use the media as a DV prevention tool.	Journalists Media leaders	MLGA, AKJ (Association of Kosovo Journalists)	MLSW	2016-2020	Number of approved modules with special topics for DV; Approved annual training plan; No. of certified each year; Register with data on trained officials updated on the basis of the offered training and certification of each official.	Total 9.494		Donors 9.494	0	0.5: Council of Europe and OSCE have worked with media
I.1.9. Continuous training and certification of NGOs' employees focused on DV, on well-defined themes and approved modules.	NGOs' officials	MLSW, Municipality, AGE	NGO, Municipality Donors	2016-2020	Number of approved modules with special topics for DV; Approved annual training plan; No. of certified each year; Register with data on trained officials updated on the basis of the offered training and certification of each official.	Total 17,189 No info on budget		Donors 17,189	0.5: Some NGOs organized capacity building on legal framework, types of DV. However, there does not seem to be any approved module and institutionalized training.	I: Regular training on domestic violence was held in 2018 and 2019 through AGE and MLSW. Some NGOs organised and attended training.

Objective 1.2. Encourage individuals to report domestic violence cases and increase of their trust in respective institutions.										
I.2.1. Systematization of pedagogues and psychologists in schools (every year 80 new pedagogues & psychologists)	Schools	MEST	MF, Municipalities	2017 - 2020	Number of pedagogues and psychologists who are appointed each year; Number of information collected from them for DV cases; The number of cases that psychologists and pedagogues report to Mechanism for Coordination (in municipalities where it exists) or to the police.	Total 2,016,000  No info on budget	Government 2,016,000		0	0.5: 50 pedagogues and 59 psychologists have been employed in schools. The number has increased, but not met the target. <sup>10</sup> (2017 = 79; 2018 = 84; 2019 = 99; 2020 = 109). Number of cases reported unclear.
I.2.2. Supplementing the Administrative Orders for appointing pedagogues and psychologists (So amendments to AO. 26/2013 - selection of officials – not limited to the number of pupils for the existence of the pedagogue or psychologist, but each school has its own pedagogue and psychologists).	Pedagogues, psychologists, school	MEST	Education Departments MLSW	Last quarter 2016	Amended Instruction	Total 280	Government 280		0	0: The MJ monitoring report indicated progress, but no specific information was provided. MEST stated this has not progressed.

<sup>10</sup> Based on KWN interviews with officials at the municipal level: in Pristina for 40,000 students there are 9 psychologists and 3 or 4 pedagogues, and only 9 schools have a psychologist. In Ferizaj, in rural areas there are no psychologists or pedagogues, but primary schools in the city have 7 psychologists, 4 pedagogues, and 2 sociologists and high schools have 4 psychologists. In Gjakova, rural areas also do not have psychologists or pedagogues. In Gjiilan, the representative of the Municipal Department of Education did not have information regarding the number of psychologists and pedagogues in schools. In Mitrovica, the representative claimed that schools with at least 1,000 students had a psychologist or pedagogue, but more detailed information was unavailable. In Peja, the representative said that every school had a psychologist, but did not have accurate information.

I.2.3. Informing the public through media on the legislation in force, the protection that is provided and relevant institutions where they can be referred to.	General public (special focus on women)	Independent Media Association	Media, Police, VA, CM, Municipality, donors, IOs	2016-2020	Number of television or radio programs that are organized. Number of TV spots produced and presented (the frequency of their presentation is also very important)	Total 87,039 Secured: Difficult to assess as many actors engaged; AGE spent €5,860 in 2019 for prevention. <sup>11</sup>		Donors 87,039	0.5: During the 16 days of activism against violence against women, several stakeholders promoted legislation on TV.	I: Completed according to MJ monitoring report and NCDV. Evidence also exists of television, radio, and social media programs and spots.
I.2.4. Production/ distribution of information on the legislation in force, the protection that is provided and relevant institutions where they can be referred to (leaflet).	General public (special focus on women)	MEST, Municipal Departments for Education, GEOs in municipalities	Respective ministries Members of CM, Donors, IOs	2016-2020	% of the population who are more familiar with the laws in force, the protection offered from the institutions which they can ask for; Diversified models such as (brochures, posters, etc.). Number of prepared materials that are distributed each year detailed by themes, municipalities and institutions that prepared those	Total 61,700 Secured: Difficult to assess given many actors engaged.		Donors 61,700	0.5: During the 16 days, some actors produced information on legislation and protection available.	I: Information has been disseminated broadly. The % of population reached cannot be assessed, but that is arguably an objective level indicator. MEST did not have information and the NCDV said further work was needed.

<sup>11</sup> This may not have been relevant only to this budget line; it may have related to additional budget lines as well.

I.2.5. Responsible and professional implementation of SOPs	KP, CSW, MH, VA, Shelters	Each institution specified in SOP	Respective institutions and NGOs	2016-2020	No. of complaints for non-implementation of SOPs submitted to NCDV, detailed by institutions that have not implemented the SOP. Number of undertaken measures by NCDV in cooperation with respective ministries, for institutions against which the complaints were directed. Number of persons trained regularly every year on SOP. Number of schools equipped with forms for the SOP as well as for evaluating DV. The number of forms that are distributed by educational institutions to prevent DV as well as for the implementation of the SOP	Total - AGE spent on SOP training: €8,339			0: No complaint has been submitted. NCDV not yet appointed. Schools unfamiliar regarding SOPs and reporting.	0.5: The institutions that have responsibilities according to the SOPs have knowledge about the SOPs and how to implement them. Some but not all were trained on SOPs. No complaints were identified, measures taken, or information on the equipping of schools with complaint mechanisms found. MH and MEST have no data. AGE held a training on SOPs and certified 218 officials.
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Objective 1.3. Increasing awareness of the society for not accepting and not tolerating domestic violence										
I.3.1 Review of Kosovo Curricular Framework (KCF) for Pre-University Education (PUE) and inclusion of standardized information on DV, and distribution of information on DV, working groups for preparation of the subject - categorized on the basis of all the groups to which can be carried out violence (women, children, the elderly, persons with disabilities, LGBT, ethnic minorities, etc.), the type of violence and where to report cases of violence.	Pupils, teachers	MEST	AGE, NGOs MF	2016 -2017	Number of reviewed curricula detailed by themes and years. Number of included programs, detailed by groups that suffer domestic violence.	Total 18,789	Government 18,789		0	I: All forms of gender-based violence are now part of the school curriculum. Some didactic materials addressing cases of domestic violence have also been distributed to schools. No information available about the budget.
I.3.2. National periodic research on the phenomenon, the level, the profile of domestic violence perpetrators/victims, etc.	Public	NCDV	AGE, Line ministries, Local institutions, NGOs Donors, IOs	2017 - 2020	Published studies	Total 26,690  ADA/ KWN 50,000 <sup>12</sup>	Government 13,345  Donors 13,345		0: during this period	0.5: No reports from the NCDV. OSCE report and KWN's present report contains some of this information.
I.3.3. Publishing of yearly statistical bulletins on the number of reported cases and cases treated in multidisciplinary manner.	Professionals of different areas	NCD, AGE, Municipality	Line-ministries Local institutions, CM; NGO, Donors, IOs	2017-2020	No. of statistical bulletins published every year, in a central and local level, including their publishing on internet	Total 47,932	Government 47,932		0.5: VA's publish regular bulletins (also online). Others have not published data but provide it when requested.	0.5: While individual institutions have this data, it was not published online and data on the multidisciplinary approach was not published by the NCDV.

<sup>12</sup> Supported by the Austrian Development Agency (ADA), KWN has spent approximately 50,000 related to research on all forms of gender-based violence during this period.

I.3.4. Organizing of national awareness raising campaigns every year, with themes set in accordance with international days / campaigns organized for the same purpose, and targeting different groups of individuals who are more affected by domestic violence, such as women, children, the elderly, persons with disabilities, LGBT, RAE [Roma, Ashkali and Egyptian] <sup>13</sup> communities.	General public	Office for Good Governance	Line ministries, Local institutions, members of CM, Municipality, NGO, Donors, IOs, VAAO	2016-2020	No. of organized campaigns; Coordinated calendars of activities. Types of developed activities, no of participants in those activities, detailed by groups to which they belong. Number of annual activities of MEST (with the theme "I want a happy life in my family-children do not want violence in the family). Number of activities held with pupils and parents in some subjects. (Albanian language, civic education, art, etc.) <sup>14</sup>	Total 104,081  AGE awareness campaigns, including trainings and subventions: €10,680 <sup>15</sup>  ADA/ UNW/ KWN 20,00 <sup>16</sup>		Government 42,873  Donors 61,208	0.5: During 16 days of Activism, coordinated campaign with several activities. Unclear if targeted particular groups, or if MEST has continued its activities, including with pupils and parents in an institutionalized manner.	0.5: The Office for Good Governance did not, but campaigns organised by other actors. 16 Days calendar coordinated by UNW. Number of participants difficult to estimate. Campaigns seem to have targeted women, children, persons with disabilities, LGBT, and RAE, but unclear if the elderly were targeted. MEST had no info.
I.3.5. Involvement of politicians in awareness raising activities by conducting messages set by NCDV for raising the awareness of the population against domestic violence.	Politicians Women MPs [Members of Parliament]	The assembly	AGE, Municipal assemblies, NGOs	2016-2020	Number of organized activities, Number of participating politicians, detailed by gender, political party, etc.	Total 13,010		Government 13,010	0	0.5: Sometimes politicians appeared in awareness-raising materials.

<sup>13</sup> Please note that this acronym is used in the official NSPDV and thus is used here. For KWN, it is not meant to suggest that Roma, Ashkali, and Egyptians are a homogenous group. Rather KWN respects that these are three different ethnic groups.

<sup>14</sup> As a lesson learned, in KWN's view this is too many indicators for an activity and very difficult to monitor and track at a national level. Perhaps these could be simplified in the future NSPDV.

<sup>15</sup> AGE provided information generally related to awareness-raising, which amounted to this in 2019. However, other budget lines may have contributed to this as well.

<sup>16</sup> Supported by ADA and UNW, KWN has spent approximately 20,000 on various forms of awareness-raising, which also involved media and outreach to vulnerable groups.



1.3.6. Holding of continuous lectures every year by judges and prosecutors for raising awareness of young professionals with regard to treating domestic violence cases (example: Lectures with students and internships, which are held every year by the Forum of Women Judges and Prosecutors).	Students from Faculties of Law and Social Sciences	State Prosecutor Office, Basic Courts	MJ, municipalities, AGE, NCDV	2016 - 2020	Number of lectures held every year, detailed by themes and institutions that have organized them (courts, office of the prosecutor) and municipalities where they were held Number of participants, detailed by gender, age, faculty, municipality, etc.	Total 5,000  Secured: Amount not shared with KVN.	Government 5,000		0.5: Done with support from USAID, and EULEX. Continuous.	1: Held every year, according to the Prosecutorial Council.
1.3.7. Inclusion of reintegrated domestic violence victims as models of empowerment, in awareness raising campaigns (with their good will and their full approval)	Vulnerable groups	Municipalities, MJ, AGE	MJ, AGE, NGOs	2018-2020	No. of organized activities in the presence of reintegrated victims, no. of participants, etc.	Total 16,000	-	Donors 16,000	0	0.5: In one example identified, this was done.

## PILLAR 2: PROTECTION AND COORDINATION

**STRATEGIC OBJECTIVE 2: Until 2020, ensure inclusive and efficient mechanisms for quick reaction against domestic violence cases, as well as liable inter-institutional cooperation between central and local level actors, for the protection and management of these cases.**  
**→ Only partially implemented; evidence identified of slow response and remaining weaknesses in inter-institutional cooperation and case management, though some improvements notable with new CMs.**

### OBJECTIVES:

2.1. Advancing of inclusive policies in the frame of protection of domestic violence victims. → Initial steps taken with incorporation of IC in Constitution and adoption of amended CCK, but several policies and standards still to put in place.

2.2. Increase of the functioning of the existing coordinating mechanisms in local level as well as establishing of new mechanisms in municipalities where they do not exist. → Improvement observable, but CMs not established and functional throughout Kosovo.

2.3 Improvement of inter-institutional coordination and cooperation between central, local level and civil society organisations, for protection of victims by clarifying the roles, tasks and responsibilities of each institution in providing adequate services. → Partially implemented: Coordination seems to have improved among some CMs, but limited services remain available, which is related to limitations in the national legislation.
Expected results:
2.1.a. Comprehensive policies and advanced standards applied with responsibility, for protection and safety of domestic violence victims. → Initial steps taken towards with incorporation of IC in Constitution and amendment of CCK, but several policies and standards still to put in place. Further implementation needed.
2.2.a. Functional and efficient coordination mechanisms, established at the whole territory of Kosovo. → Improvement observable, but CMs not established and functional throughout Kosovo and not always efficient.
2.3.a. More inter-institutional services coordinated between central and local level for protection of domestic violence victims established throughout Kosovo specialized and diversified as per requirements and standards foreseen by national and international legislation. → Partially implemented: Coordination seems to have improved among some CMs, but limited services remain available, which is related to limitations in the national legislation.
<b>INDICATORS ON THE LEVEL OF THE OBJECTIVES (€)</b>
2.1.a.1. Percentage of improved policies and standards applied for protection of domestic violence victims, increased at 50% by 2020 {Unit of measure: percentage. Disaggregated by: the type of improved policies or standards approved every year, and are implemented regularly by institutions, by municipalities. Means of verification: official data, for everything specified above, sent by each implementing institution by the end of the year to NCDV; annual monitoring report on implementation of the strategy, which will be prepared by the NCDV based on M&E system that will be created in the frame of the implementation of this strategy} → Difficult to measure as a percentage as per the indicator, but some new policies and standards adopted as detailed in this report. Implementation requires further work. <sup>17</sup>
2.2.a.1. Increase of efficiency of functioning of 14 existing Coordination Mechanisms by at least 50%, from 2017 to 2020. {Unit of measure: percentage. Disaggregated by: municipalities where CMs exist. Means of verification: official data, for everything specified above, drawn from the evaluation on functioning of CMs which can be conducted during 2016} → Seemingly partially implemented following training, but improved efficiency not necessarily clear. <sup>18</sup>

<sup>17</sup> In KWN's view this indicator was unnecessarily complicated and difficult to measure. Perhaps a simpler indicator would be the number of new policies and standards applied, with clear baselines and targets set.

<sup>18</sup> In KWN's view, this indicator was difficult to measure, particularly as the meaning of efficiency was not clearly defined and data did not seem to be available.

2.3.a.1. Establishment of eight new Coordination Mechanisms yearly in municipalities where they are lacking, starting from 2017 {Unit of measure: number. Disaggregated by: municipalities, institutions that support establishing of CMs, year of establishment, number of participating institutions, etc. Means of verification: official data, for everything specified above, sent by each implementing institution by the end of the year to NCDV; annual monitoring report on implementation of the strategy, which will be prepared by the NCDV based on M&E system that will be created in the frame of the implementation of this strategy} → Partially implemented. 6 new CMs established in total (not yearly), located in: Ferizaj, Hani i Elezit, Obilic, Mamusha, Malisheva, and South Mitrovica. This included three in 2018, two in 2019, and one in 2020. Other information not readily available.

2.4.a.1. Increase by at least 3% of inter-institutional and coordinated services for protection of DV victims, starting from 2018. Services should be diversified according to standards required by national and international legislation. → Partially implemented: While the method of measurement is unclear and thus difficult to measure, coordination seems to have improved among some CMs. Limited services remain available, however, which this is linked to remaining limitations in the national legislation.

**Objective 2.1. Advancing comprehensive policies in the frame of protection of domestic violence victims**

2.1.1. Revising and reviewing of existing policies and programs	Victims, perpetrators	NCDV	AGE, line ministries, IOs, NGOs	2016-2020	Number of reviewed programs and number of prepared proposals; Number of approved changes	Total 5,866 AGE 56,892 <sup>19</sup>	Government 5,866		0	0.5: AGE conducted an evaluation of SOPs, but no policies and programs seem to have been revised.
2.1.2. Review of needs for supplementing and amending the SOP forms	Victims	AGE	line ministries, IOs, NGOs	2017 - 2018	Number of new forms for reporting proposed; The number of new forms for reporting that are used	Total 392 AGE 5,821	Government 392		0	0.5: AGE reviewed the needed amendments for SOPs, including via 5 workshops, but could not propose changes and new forms until new relevant laws are adopted.

<sup>19</sup> Related to this Activity 2.1.1., AGE wrote on the draft report that they have spent 14,352 in 2018 and 42,540 in 2019 related to reviewing and amending existing policies and programs, as well as on training and subventions for the NSPDV. Therefore, this total amount may relate to other activities and budget lines as well, but is included here in total.

2.1.3. Improvement of service standards for domestic violence victims/survivors	Victims and potential victims	MLSW	AGE, NCDV, NGOs, IOs, MH, Medical Centres, Municipal Departments of Healthcare	2018 – 2020	No. of new proposed standards No. of standards that are improved/ approved	Total 157	Government 157		0	0
<b>Objective 2.2. Increase of the functioning of the existing coordinating mechanisms in local level as well as establishing of new mechanisms in municipalities where they do not exist</b>										
2.2.1. Increase of responsibilities of GEOs to include also the task as Local CM Coordinator, as well as the adequate compensation in accordance with the added responsibilities	GEOs and CM	Municipality	MLSW, Donors	2016 - 2020	GEOs job description includes their responsibility as Coordinator of CM. Harmonized salary in accordance with the responsibilities.	Total 66,000  No clear budget allocated for DV.	Government 66,000		0	0.5: In municipalities monitored, GEOs now coordinate CMs, except in Ferizaj where the Deputy Mayor was appointed. KWN found no indication of inclusion in job descriptions or increased compensation.
2.2.2. Establishing of data management system for treated cases in a coordinated way by CM	Members of CM	Municipality, NCDV	Line ministries, KP, members of CM, Basic Courts, Offices of the Prosecutor, Judicial Council, Donors, IOs	2016-2020	Established system (Database) Drafted periodic reports submitted to CM members as well as to NCDV	Total 56,632  UNW	Government 13,832	Government 7,600 Donors 35,200	0	0.5: There is a functioning database where relevant institutions enter data. However, not every institution consistently enters all data, and periodic reports were unavailable.

2.2.3. Training of CM members on inter-institutional cooperation and on the use of data management system for cases which were resolved in a coordinated manner by the CM	Members of CM	KIPA and other institutional mechanisms that provide trainings	Municipality, Members of CM, Donors	2016-2020	% members of CM trained in the use of a data management system for the items that were addressed in a coordinated manner by the CM; Improved capacities, demonstrated through the effective use of data management systems	Total 43,980		Donors 43,980	0	0.5: Some institutions received training on how to use the database. However, not all are entering data consistently, which suggests only partially improved capacities.
2.2.4 Extension of municipal CM in municipalities where they are lacking	Victims and their children	MLGA	Responsible institutions members of CM	2016 - 2020	Number of newly established CM  Number of signed Memorandums of Understanding	Total 199,991  No known budget allocated for CMs.	Government 199,991		0: The number of municipalities with CMs remains the same as prior to adoption of the strategy ((12).	0.5: There are 6 more CMs, but not in all municipalities where they are lacking. This seems to have been financed by international actors and not via institutionalised government financing. 17 MoUs signed.
2.2.5. Establishing of a budgetary line for the Office on gender and for supporting the functioning of CM	CM	MLGA	Responsible institutions members of CM	2017 - 2020	No. of municipalities that create budgetary lines for supporting the functioning of CM, each year	Total -			0: Most municipalities still lack specific budget lines.	0: Municipalities have budget lines for gender equality offices, but it is unclear whether these lines finance the functioning of CMs. Permanent budget lines not established in Law on Financing Local Government or in budgets.

<b>Objective 2.3. Improvement of inter-institutional coordination and cooperation between central level, local level and civil society organisations, for protection of victims by clarifying the roles, tasks and responsibilities of each institution in providing adequate services.</b>										
2.3.1. Increasing free legal aid services provided to domestic violence victims	Victims, family	MJ	Court, Chamber of Advocates, NGO	2016 – 2020	No. of new services of free legal aid increased every year (the target can also be the extent in the Municipality)	Total 229,545  No known budget allocated.	Government 229,545		0	0.5: Since July 2018, opened 14 mobile offices and offers free legal aid through 7 offices for free legal aid. Some new services offered.
2.3.2. Increasing Serbian speaking VAs (as well as other languages of minorities living in Kosovo) in existing offices, as well as establishing of offices for VAs (wherever they are lacking them, ex. in the North).	Victims and their children	State Prosecutor's office, VAs	NCDV, Donors, VAs	2016-2020	No. of Serbian speaking VAs (as well as other languages of the minorities living in Kosovo) added in the existing offices. No. of new offices established each year (target geographic extent)	Total 251,400  No known additional budget allocated.	Government 251,400		0	0.5: 15 new VAs added, including two speaking Serbian, two Turkish, and one Bosnian. None speak Romani. No new offices established, but not needed according to VAAO.
2.3.3. Increased number of staff of the existing phone line with Serbian speaking employees (as well as other languages of minorities living in Kosovo) as well as the extension in the areas where it is missing (ex. in the North).	Victims and potential victims	Office of the State Prosecutor	NCDV, MJ NGOs, IOs, Municipalities, Donors	2016 - 2017	Number of Serbian speaking staff added to existing service of telephone assistance line (as well as speakers of other languages of the minorities living in Kosovo). Established services wherever its missing	Total 198,720  No known additional budget allocated.	Government 198,720		0: They have not increased the number of staff. However, VAs said that they speak the local languages.	0.5: No increase in the number of VA helpline staff. However, staff speak Albanian and Serbian. Two helplines available in north Kosovo.

2.3.4. Establishment of inter-municipal partnership (regional) for identification, referring, sheltering, rehabilitation, and empowerment of DV victims.	Victims and their children,	Municipalities, MIA, MLSW	CSW, shelters, Regional Police NGO, IOs	2016 - 2020	No. of regional agreements signed; % of municipal budgets transferred for this purpose	Total -			0.5: This exists in some municipalities, but not in others.	0.5: 64 Regional partnerships exist. However, only four municipalities have shared budgets.
2.3.5. Enhancement of services for children witnesses of domestic violence with special emphasis on children over the age of 12	Children, Boys over 12 years of age	CSW	Municipality, NGO	2016 - 2020	No. of established services for children witnesses of domestic violence; No. of centres that enable protection and treatment of boys over 12 years of age	Total 97,915 No budget allocated	Government 97,915		0	0.5: There are special rooms in some CSWs installed to interview children (by UNICEF). Still no specific space for boys over 12 with mothers, though Hope and Homes for Children and SoS Kinderberg continue to treat boys individually.
2.3.6. Adapting of protection services in order for them to be accessible by groups with special needs (such as people with disabilities, LGBT, minorities- provision of service in their language, etc.) in accordance with improved and approved standards based on international ones.	DV victims, especially those with disabilities or from special groups	MLSW, NCDV and other actors	Municipality, NGO	2017-2020	Number of protection services adapted also for treating categories with disabilities <sup>20</sup>	Total <sup>21</sup>			0	0: There are still complications with accessibility for people with different abilities. Unclear whether protection services reach LGBT persons. New services available for Serbian minority, but unclear whether available for others.

<sup>20</sup> Notably, although referenced in the action, the indicator does not include or measure services for LGBT or minority persons.

<sup>21</sup> While no budget was foreseen, arguably establishing new services would involve costs.

2.3.7 Increase of resources and staff to the office of the National Coordinator against Domestic Violence, who will have in their job description specific responsibilities for supporting the implementation and monitoring of the National Strategy on Protection against Domestic Violence.	NCDV	MF		2017-2020	% of added budget to NCDV Number of staff added to NCDV (at least 1 additional staff member)	Total 32,256	Government 32,256		0	0: No permanent state budget or staff added.
2.3.8. Establishing of consolidated monitoring and evaluation system in the frame of implementation of this Strategy	Institutions responsible for implementation	NCDV, AGE	UNW, Donors	2017	Established system	Total 4,500		Donors 4,500	0	I: Completed according to MJ monitoring report.
2.3.9. Creating a common database of cases held by the police, prosecution, judiciary and training of staff to use this database	KP, Prosecutors Office, Court, CSW, VA, shelters	Judicial Council, Prosecutorial Council, KP	Donors, MJ, MIA	2017	Created database; The number of reported cases each year; Reports sorted by gender, age of the victims and the perpetrator, a type of violence and relationship between the victim and the perpetrator as an indicator based on the data	Total 81,638 Secured from UNW. No amount shared with KWN.	Government 27,488	Government 16,800 Donors 37,350	0	I: Created and functioning (not all institutions are providing data yet, as indicated above so data unavailable). Training of staff completed and institutionalised.



## PILLAR 3: LEGISLATION, INVESTIGATION AND PROCEEDING

**STRATEGIC OBJECTIVE 3:** Until 2020, improve legal infrastructure and increase efficiency in treating DV cases, with a focus on victims' needs, as well as achieve adequate punishment for perpetrators. → Progress achieved in the incorporation of the IC in the Constitution, amendment of the CCK, and some improvements in coordination in treating cases. Slight improvements in sentencing.

### OBJECTIVES

3.1. Improvement of legal infrastructure and other acts for efficient treating of domestic violence cases → Some progress made, as CCK amended and IC included in Constitution.

3.2. Profiling of police investigators, social workers, victims' advocates, prosecutors and judges, for investigation and prosecution of domestic violence cases with added urgency and care. → Progress made as several institutions, albeit not all, have profiled officials responsible for addressing domestic violence.

3.3. Clarify the roles, tasks and responsibilities of each institution in provision of adequate services for domestic violence cases. → Some progress made in clarifying roles, but not all clear or adequate.

### Expected results:

3.1.a. Harmonized legislation that prosecutes and brings in front of justice perpetrators of any kind of domestic violence. → Improved with adopted amendments to CCK.

3.2.a. Profiled professionals reacting with additional priority and care to domestic violence victim's needs. → Improved as some profiled professionals, but not in all institutions and not always functioning.

3.3.a. Accountable institutions with clear roles that implement strictly the legislation, in the spirit of zero tolerance against domestic violence. → Only slightly implemented, as several institutions still attempt reconciliation, even when outside their role and responsibilities, signalling that zero-tolerance approach does not always exist.

### INDICATORS ON THE LEVEL OF OBJECTIVES

3.1.a.1. Number of laws and other acts amended and/or approved by the end of 2020 for efficient treatment of domestic violence cases. {Unit of measure: percentage. Disaggregated by: number of punished perpetrators, type of committed violence, sentence, year, etc. Means of verification: official data, data from the Official Gazette. → Partially implemented: at least 2 laws: CCK and Constitution amended. Consolidated database still does not exist within the justice system to measure accurately the percentage of perpetrators punished by type of violence committed, sentence, year, etc.

<p>3.1.b.1. Increase of 10% each year, starting from 2018, of the number of perpetrators of domestic violence who are criminally punished in accordance with the new provisions laid down in the Criminal Code of Kosovo. (Unit of measure): percentage. Disaggregated by: the number of convicted perpetrators, type of offense committed, the sentence imposed, year, etc. Means of verification: official data for all of the above, reporting from the MIA; → <b>Unavailable: Current data management practices do not allow for appropriate assessment of the implementation of this indicator.</b></p>										
<p>3.2.a.1. The total number of police investigators, social workers, victim advocates, prosecutors and judges, specialized for urgent and carefully investigate cases of domestic violence. Unit of measure: number. Disaggregated by: number of specialized officers, relevant institutions, the number of cases prosecuted after specialization, etc. Means of verification: official data for all of the above, reporting by the respective institutions to the ONCADV} → <b>Unavailable, but seemingly improved: police, prosecutors, VAs, and judges specialised, but there are not enough specialized persons, institutions do not always engage specialised persons in the division of duties within the institution, and seemingly there not any specialised social workers. According to the NCDV, 87 persons specialized.</b></p>										
<p>3.2.b.1 Increasing the fund from the state budget by 3% each year and that is set aside for investment in improving infrastructure and profiling professionals. Unit of measure: percentage. Disaggregated by: Investments realized each year for specific amounts or for training professionals, age, etc. Means of verification: official data from the State budget and the annual reports on the use of this budget. → <b>Unavailable: while some funds seem to be set aside in 2021, the nature of the Kosovo budget did not enable assessment of this over time. No reports with this information published to enable assessment.</b></p>										
<p>3.3.a.1. Increasing the number of institutions with roles, tasks and responsibilities coordinated, working in a spirit of zero tolerance against violence. Unit of measure: number. Disaggregated by: policy and institutional or inter-institutional agreements that have improved. Means of verification: official data submitted by the relevant institutions for NCDV. → <b>Partially improved through establishment of CMs, but still uncoordinated, not all roles are clear, and a zero tolerance policy is not always upheld.</b></p>										
<p>3.3.b.1. Increasing the number of protective orders by 10% every year, which are effectively implemented. Unit of measure: percentage. Disaggregated by: issued protective orders, number of violated PO, etc. Means of verification: official data from the state police and MJ. → <b>Unavailable: no system exists for assessing effective implementation.</b></p>										
<b>Objective 3.1. Improvement of legal infrastructure and other acts for efficient treating of domestic violence cases</b>										
3.1.1. DV cases to be treated as violations of human rights, in order to receive prioritized treatment by office of the prosecutor and courts	Prosecutors Judges	Judicial Council, Prosecutorial Council	VAs, CSW, judicial institutions, NGOs, IOs, KP	2016-2017	No. of DV cases treated with priority by courts and office of the prosecutor	Total 14,472	Government 14,472		0.5 All basic courts and prosecutions have appointed judges and prosecutors specialised in DV. General backlog still prevents prioritization sometimes.	0.5: Specialised prosecutors and judges appointed and reportedly treated with priority, as per interviews, but monitoring illustrates that delays still exist.

3.1.2 Appointing a working group of professionals (including NGOs with experience in working with DV) for harmonizing the legal base with international standards and existing studies, and to produce a manual for penal policy, including the tightening punitive policy against repeat offenders	MJ, experts from the field of justice	Judicial Council, Prosecutorial Council, KP, MJ (experts working group) AGE.	MIA, IOs, donors	2016 –2017	Number of working group meetings held  Adopted manual	Total 13,500  No budget allocated.	Government 6,750	Donors 6,750	0	0: KWN found no evidence of this.
3.1.3. Amendment of laws – complementing of the legislation in order to specifying domestic violence as criminal act in the CCK in accordance with the definition of domestic violence from the LPDV.	MJ	Judicial Council, Prosecutorial Council, KP	MIA, IOs, Donors	2017	Changed Code  DV defined as criminal act	Total 5,600  No amounts shared with KWN.	Government 5,600		0	1: Completed
3.1.4. Avoiding fragmentation of criminal and civil procedures while treating cases with priority by the office of the prosecutor and the court.	Prosecutors, Judges	Judicial Council, Prosecutorial Council	VA, CSW, Judicial institution, NGOs, IOs	2016 – 2018	Ordering of protection order in civil proceeding becomes part of the file of the office of the prosecutor for criminal prosecution. Number of unified procedures	Total 10,181	Government 10,181		0.5: No procedure available. Judges declared that it is implemented.	1: Judges and NCDV stated that it is implemented.

3.1.5 Applying efficiently the declaration on harm (aiming at materialization of the compensation from the accused in criminal proceeding)	VA, Prosecutors, Court	Judicial Institutions, Judicial Council	KP	2016 -	The effective implementation of the Declaration for damage compensation in the proceedings; Judges treat compensation in a criminal proceeding.	Total 28,566 No budget allocated.	Government 28,566		0	0: Judges mentioned that victims do not want compensation; only in a few cases. This suggests that victims are not appropriately informed of this right and declarations are not efficiently applied.
<b>Objective 3.2. Profiling of police investigators, social workers, victims' advocates, prosecutors and judges, for investigation and prosecution of domestic violence cases with added priority and care</b>										
3.2.1. Special assessment of circumstances and risk management in all criminal acts with DV elements, by Kosovo Police and office of the prosecutor	KP, Office of the Prosecutor, Court, CSW, Safe house, Correctional Service, Mental health	KP, Office of the prosecutor	VA, Court, Probation Service, CSW, IOs, EULEX, OSCE, Government	2016 – 2020	Number of treated cases	Total 392,149 No budget allocated.	Government 392,149		0	0.5: While KP should undertake risk analysis of all domestic violence cases reported, interviews and monitoring suggest risk analyses are not always completed.
3.2.2. Ensuring the infrastructure in the police, to adequately address in accordance with the standards of all DV cases	KP	MIA	MJ, MF, Donors	2017-2020	No. of established special interviewing rooms.	Total 25,000	Government 10,000	Donors 15,000	0	1: Every station in all municipalities has at least one room for interviewing victims.
3.2.3. Ensuring the infrastructure and officials that speak Serbian Language (or other languages depending on the minorities present in Kosovo) in police for adequate treating of DV cases based on standards.	Kosovo Police	MIA	MJ, MF, Donors	2017 - 2020	Number of special interviewing rooms; No. of police officials that speak Serbian as well as other languages depending on the minorities present in Kosovo made available for this community	Total 171,394	Government 17,394		1: Implemented. All stations have police officers that speak local languages.	1: Completed.

3.2.4. Securing infrastructure in the prosecution office, to adequately address in accordance with the standards of all cases of DV	Office of prosecutor	Prosecutorial Council	MJ, MF, Donors	2017-2020	No. of established special interviewing rooms;	Total 35,000	Government 10,000	Donors 25,000	0.5: Most basic prosecutors have interviewing rooms.	0.5: Special rooms installed in 5 municipalities, but Mitrovica and Gjakova still do not have them.
3.2.5. Ensuring the infrastructure, prosecutors and victims' advocates that speak Serbian Language (or other languages depending on the minorities present in Kosovo) in the office of the prosecutor for adequate treating of DV cases based on standards.	Office of the prosecutor	Prosecutorial Council	MJ, MF, Donors	2017 - 2020	No. of prosecutors and VA that speak Serbian, as well as other languages depending on the minorities present in Kosovo, made available for this community.	Total 75,413	Government 75,413		I: All basic prosecutors and VAs provide services in all local languages. When needed (for example international victim) they provide translation.	I: All prosecution offices have prosecutors who speak Serbian, two in Prizren speak Turkish. None speak Romani, but translators are provided.
3.2.6. Providing of judges that speak Serbian Language (or other languages depending on the minorities present in Kosovo) for adequate treating of DV cases based on standards.	Judiciary	Judicial	MJ, MF	2017 - 2020	No. of judge that speak Serbian (or other languages depending on the minorities present in Kosovo made available	Total 75,413	Government 75,413		I: All courts have judges who speak a local language, or they provide translation.	I: Completed. While judges may not speak Turkish or Romani languages, translation is reportedly available.
3.2.7 Appointment of specialized prosecutors, judges and police officers for DV.	Prosecution, Court, KP	Judicial Council, Prosecutorial Council, KP	MJ, MIA, IOs	2016	Number of specialized prosecutors, judges and police officers for DV, by institutions	Total 443,910 <i>Amounts not shared with KWN.</i>	Government 443,910		I: All police stations have a DVIU and all basic courts and prosecutions have appointed judges specialized in DV.	0.5: Prosecutors, judges and police trained and specialized for DV, but some judges retired and there are not enough specialized, according to NCDV.

3.2.8. Training of prosecutors, investigators, judges, VAs, to be specialized for DV cases	Police investigators, prosecutors, judges	Court, Judicial Council, Prosecutorial Council, KP	IOs, MJ, MIA	2016 – 2020	Module is prepared and institutionalized.  No. of provided trainings.  No. of issued certificates.	Total 46,612 Amounts not shared with KWN.		Donors 46,612	0.5: Some have stated to attend such training.	I: Completed according to MJ monitoring report, but interviews suggest that further training needed.
3.2.9. Joint training for coordinating cases of domestic violence	Police, prosecution, court,	Kosovo Judicial Institute, KJC, Prosecutorial Council, KP	MIA, IOs, MIA, MJ	2016 – 2018	No. of provided trainings  No. of participants segregated by gender	Total 69,465 Amounts not shared with KWN.		Donors 69,465	0	I: Completed according to MJ monitoring report.
<b>Objective 3.3. Clarification of the roles, tasks and responsibilities of each institution in provision of adequate services for domestic violence cases</b>										
3.3.1. Review of tasks and responsibilities, and coordination of procedures of each responsible institution (police, judicial, victims' advocates, office of the prosecutor) in protection of DV victims.	KP, Office of the prosecutor, Court, Probation Service	Judicial Council, Prosecutorial Council, KP, VA	AGE, NCDV	2016 - 2020	Number of job descriptions that are considered and completed by each institution.  Number of approved improvements in each institution	Total 2,569	Government 2,569		0	0: KWN found no evidence of this.

3.3.2. Effective implementation of protection orders, monitoring and adequate punishment, as well as awareness raising on their violations, including capacity building of the probation service to decrease the level of recidivism	KP, court, office of the prosecutor, VA, KP DVIU, Judicial Council, Prosecutorial Council	KP, Office of the prosecutor, Courts, CSW	VAs, CSW, Judicial institutions, Judicial council, Prosecutorial Council, Kosovo Bar Association, AGE, LAO, NGO, IOs, Probation Service	2016 - 2020	No. of orders issued; No. of punishments for violated orders; No. of issued reports for punishment of perpetrators in cases of recidivism; No. of trainings of the Probation Service staff on monitoring cases of recidivism. <sup>22</sup>	Total 1,937,868  No known budget allocated	Government 1,928,202	Donors 9,666	0	0.5: Several protection orders issued; violations of protection orders handled by relevant institutions. However, interviews suggest that protection orders are not always implemented. The Probation Service since 2016 had 20 trainings on gender-based violence and how to monitor cases of recidivism. Specific data unavailable as per indicators.
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#### PILLAR 4: REHABILITATION AND REINTEGRATION

**STRATEGIC OBJECTIVE 4: Until 2020, enable access to new and existing services that are efficient and sustainable, for long term rehabilitation and reintegration of domestic violence and gender-based violence victims and rehabilitation of perpetrators, throughout Kosovo.** → Little if any progress made in ensuring efficient, sustainable long-term rehabilitation and reintegration services.

#### OBJECTIVES

4.1. Establishing of services for rehabilitation and empowerment of domestic violence victims and increase of their efficiency in central and municipal level. → Little implemented.

4.2. Establishing of budgetary lines for long term reintegrating services for domestic violence victims, in the governmental level. → Seemingly not implemented.

4.3. Use of integrated policies for improvement of rehabilitation and reintegration services for domestic violence victims. → Seemingly not implemented.

<sup>22</sup> For number of orders issued and violations, the Probation Service had no information. Nor for the budget.

4.4. Establish rehabilitation institutions and consultancy centres with mandatory programs for the perpetrators of domestic violence. → <b>Seemingly not implemented.</b>
<b>Expected results:</b>
4.1.a. Efficient rehabilitation services provided to domestic violence victims, throughout Kosovo. → <b>Little implemented.</b>
4.2.a. Long term reintegration programs supported regularly by state budget, applied in central and local level → <b>Seemingly not implemented.</b>
4.3.a. Municipalities with enhanced capacities that apply integrated policies for improvement of rehabilitation and reintegration services for domestic violence victims. → <b>Seemingly not implemented, with the exception of a few cases assisted.</b>
4.4.a. Mandatory and efficient programs for rehabilitation of domestic violence perpetrators, provided by specialized institutions for that purpose. → <b>Not implemented.</b>
<b>INDICATORS ON THE LEVEL OF OBJECTIVES</b>
4.1.a.1. Percentage of established services starting from 2017, which efficiently rehabilitate and reintegrate domestic violence victims, increased by 2% yearly. Unit of measure: percentage. Disaggregated by: the type of services established each year, their number, municipalities, as well as efficiency of their functioning assessed through certain methods, by municipalities. Means of verification: official data, for everything specified above, collected through official data that are reported at the end of each year municipality to the Office of the National Coordinator against DV; or monitoring and evaluation reports that will be drafted based on M&E system that will be created in the frame of the implementation of this strategy} → <b>Data unavailable.</b>
4.2.a.1. Percentage of annual budget allocated by governmental institutions for rehabilitation and reintegration services, increased by 2% yearly starting from 2017. Unit of measure: percentage. Disaggregated by: institutions and yearly budgetary plans by setting also the type of service they support. Means of verification: official data from annual budget of governmental institutions, as well as the data for reporting the expenditures of these budgetary lines} → <b>Data unavailable, and it seems most institutions did not allocate this, as per responses given during interviews.</b>
4.3.a.1. Percentage of victims that benefit yearly from reintegration services increased by 2% yearly starting from 2017 {Unit of measure: percentage. Disaggregated by: number of victims that benefit each year from the services, by municipalities, type of the benefited service, duration, etc. Means of verification: official data, for everything specified above, collected through official data that are reported at the end of each year → <b>Comprehensive data unavailable, though a few persons seem to have benefitted.</b>



4.4.a.1. Percentage of perpetrators that are rehabilitated through mandatory programs provided by specialized institutions increased by 5% every year. {Unit of measure: percentage. Disaggregated by: type of established services, number of perpetrators that are treated there, by municipalities, as well as the efficiency of their functioning, evaluated through certain methods. Means of verification: official data, for everything specified above, collected through official data that are reported at the end of each year municipality to the Office of the National Coordinator against DV; or monitoring and evaluation reports that will be drafted based on M&E system that will be created in the frame of the implementation of this strategy. → **Data unavailable and mandatory, specialized rehabilitation programs do not exist.**

**Objective 4.1. Establishing of services for rehabilitation of domestic violence victims and increase of their efficiency in central and municipal level.**

4.1.1 Provision of short term and long term psychological-social consulting for domestic violence victims by certified professionals	Victims, perpetrator, family	MH, MLSW	CSW, Municipal Commission for Reintegration of Repatriated Persons, Departments of Mental Health, Shelters	2016 - 2020	Number of advisory programs have been prepared for implementation by certified experts. Number of certified experts who can offer advisory programs. The number of victims that are served in a professional manner.	Total 14,266  No info about budget	Government 14,266		0.5: Representatives from shelters provide counselling. However, established programs and certified experts do not seem to have been established.	1: Shelters still provide this service; CSWs do not always have psychologists employed, but MLSW has tried to provide more sustainable psycho-social services. MH provides psychological counselling in 7 regions at mental health centres.
4.1.2. Medical treatment and consulting for DV victims in existing health institutions (Mental health centres, psychologists, psychiatrist).	Victims family	MH	Municipality AGE, University Clinic of Kosovo - Neuropsychiatry and psychologist, Primary healthcare, Family Medical Centre, Forensics Institute	2016 – 2020	No. of treated victims (divided by the centres where the treatment is carried out, experts offer services of treatment, etc.)	Total 107,886	Government 107,886		0.5: Health institutions like Emergency Centres, Family Centres and ambulances provide medical treatment. No evidence from mental health centres. Psychological treatment limited.	0.5: Victims receive medical treatment at different health institutions, but expert services seem lacking, KWN monitoring suggests. Some doctors and nurses mentioned that health institutions should have these services for when victims seek medical attention there.

4.1.3. Inclusion of DV victims in existing education programs for adults	DV victims	MED, MEST	Municipality, GEO, Directorate for Education, schools, NGO	2016 – 2020	No. of education programs drafted for this purpose based on the Law on Adults Education, No. 04/L-143; No. of victims included each year in education programs; No. of scholarships provided for inclusion of victims into education programs	Total 28,311	Government 28,311		0	0.5: MEST reported being in contact with universities to enrol victims over age 18 in bachelor programs. Does not seem that the Law was amended or that specific other educational programs exist. No other data available.
4.1.4. Establishing of new shelters for addressing the needs of minority communities	Victims, children	Municipality of North Mitrovica, Municipality of Gračanica, etc.	CSW, NGO, Donors	2017 – 2020	Number of new established shelters in detail divided by municipalities. The capacity of these shelters (the number of people who can be supported).	Total 410,458  In North, funded by municipalities with donor support		Donors 410,458	0	1: 2 new shelters established in Novobardo (up to 18 people) and Zubin Potok (20 people).
4.1.5. Opening of a shelter for boys and men victims of domestic violence.	Boys over the age of 12 and men	Municipalities, Line Ministries	CSW, NGOs, IOs	2018	Established shelters  Capacities of the shelter (number of Victims sheltered in it)	Total 214,967  No budget allocated.		Donors 214,967	0	0

4.1.6. Training of personnel in the existing shelters in order to be ready to provide quality services, based on different categories for victims of DV, for LGBT, RAE community, other minority communities,	Shelter personnel	NCDV, Line Ministries <sup>23</sup>	Municipalities, Donors, IOs, NGOs	2016 – 2020	Assessment of improving capacity on the basis of the analysis form before/after organized training; Number of placed victims on the basis of different characteristics	Total 11,466	Government 11,466		0	0: Shelter staff did not indicate to have received such training.
4.1.7. Provision of long term sheltering for victims, through agreements of understanding between municipalities, shelter houses, CSW and the Commission for Social Sheltering, including regional sheltering through inter-municipal agreements	Victims	Municipalities	CSW, Shelters, Commission for Social Sheltering	2016 – 2020	Number of provided social shelters  Number of sheltered victims	Total 21,000	Government 21,000		0.5: Only Gjakova and Gjiilan are known to have reserved social housing for DV victims.	0.5: N. Mitrovica, Prizren, Gjiilan, and Gjakova have added reserved social housing for victims. Long-term shelter was provided for 57 victims. Other municipalities did not indicate to have made progress.
4.1.8. Trainings for officials for employment, healthcare, education, social services and others for a gender sensitive approach	Professionals	AGE	Municipality, MEST, MH, MLSW-Department for Labour and Employment, Donors	2016 – 2020	Approved annual calendar of planned training  Number of certified experts by areas	Total 40,353  [AGE spent 8,339 for SOP training in 2019]		Donors 40,353	0	1: 218 participants certified by AGE.

<sup>23</sup> Perhaps this would better fall under the obligations of MLSW in relation to licensing and certification. The courses could be provided as obligatory for renewed licenses.

4.1.9. The establishment of counselling centres for victims	Victims	MH	NGO, MLSW, Donors, municipalities	2016 – 2020	Number of established centres	Total 277,500 No info about budget		Donors 277,500	0	0.5: According to MH, 7 mental health centres provide psychosocial counselling for victims of gender-based violence and domestic violence. They are not new.
<b>Objective 4.2. Establishing of budgetary lines for long term reintegrating services for domestic violence victims at the governmental level</b>										
4.2.1. Economic empowerment of victims in the form of subsidies from the relevant ministries (for example, for victims of domestic violence who want to start a small business, or exemption from payment if they become involved in further education, etc.)	Victims, families	Ministries, municipalities	MF, MJ, MLSW, MH, MEST, State Prosecution, VA	2016 – 2020	Number of supported victims in the form of grants awarded on the basis of the type of support (for example, to start small businesses, etc.). The number of Cases exempted from the payment of the MEST for victims of domestic violence for entry examinations, completed vocational education and training (including the graduation test, after the documentation submitted by the victim.	Total 250,000  No budget allocated.		Government 75,000  Donors 175,000	0: No examples identified.	0.5: For MEST, reportedly completed but no information on how many victims of domestic violence have been released from payments. No info about budget. KWN found no evidence or information related to the other indicators.
4.2.2. Allocation of budgetary means of each ministry / institution for special programs for DV victims	Governmental institutions	MF and supportive Ministries	MJ, MLSW, MH, MEST, VAs	2016 – 2020	No. of supported programs for reintegration of DV victims % of the budget used for this purpose	Total 5,750	Government 5,750		0	0

Objective 4.3. Use of integrated policies for improvement of rehabilitation and reintegration services for domestic violence victims.										
4.3.1. Utilization of municipal owned facilities for shelters for DV victims, including DV victims as a category for social housing.	DV victims	Municipalities, MLSW	Director of Healthcare and Social Welfare in Municipality, CSWs	2017 – 2020	No. of shelters used for this purpose; No. of sheltered victims	Total 45,000  Only in Gjakova and Peja; amounts not shared with KVN.	Government 45,000		0.5: A few municipalities have provided limited support.	0.5: A few municipalities have provided shelter buildings (e.g., Gjiilan one apartment, Prizren up to 17 apartments since 2017 for temporary social housing). Pristina university used temporarily during COVID-19. In total, in Prizren and Gjiilan, 57 victims stayed from 2017 to November 2020. Two shelters pay monthly rent (Ferizaj, Mitrovica South), five are in municipal buildings (Pristina, Novo Brdo, Prizren, Gjiilan, Zubin Potok) and three use private property (Peja, Gjakova, Hope & Homes).
4.3.2. Usage of municipal owned facilities of central government owned facilities for shelters, in accordance with article 284 (4) of the Criminal Procedure Code on confiscated assets, including facilities that can be given for use for social housing or for shelter	DV victims Shelters	Municipalities, MF, Agency for Administration of Sequestrated and Confiscated assets, Office of the State Prosecutor	Director of Healthcare and Social Welfare in Municipality, CSW	2017 – 2020	No. of shelters used for this purpose,  No. of sheltered victims	Total 99,000	Government 99,000		0	0: Agency for Administration of Sequestrated and Confiscated assets had no idea that NSPDV exists. No information existed of confiscated assets being used for this purpose.

4.3.3. Drafting an Administrative Instruction or Decision of the Prime Minister on subsidizing businesses for the victims of DV	Victims, children	MJ	Ministry of Agriculture, Municipality, businesses	2016 – 2020	Number of subsidized businesses	Total 2,714	Government 2,714		0	0.5: No progress according to MJ, but some steps taken during COVID-19. <sup>24</sup>
4.3.4. Supporting of shelter through purchase of services with yearly budget by municipalities	Shelters	Municipalities	MLSW, NGO, Donors	2016 – 2020	% of yearly budget that the municipality allocates for the shelter <sup>25</sup>	Total 748,800 Suhareka: €2,200 in 2020; Peja: building emergency shelter in 2017: €80,000	Government 374,400	Donors 374,400	0.5: Some municipalities have supported shelters' services (e.g., Ferizaj).	0.5: Some municipalities are supporting shelters. However, this is not institutionalized and not all municipalities do. An accurate percentage of their budgets cannot be estimated.
4.3.5. Inclusion in existing programs and drafting programs for economic empowerment of domestic violence victims, in cooperation with private businesses and donors.	DV victims	Municipalities and Line Ministries	MF, CSW, businesses, NGOs Donors	2016 – 2020	No. of drafted programs; No. of businesses that support these programs; No. of victims that benefit from these programs every year	Total 284,228	Government 143,528 Donors 140,700		0	0: While some ad hoc efforts may have existed, no comprehensive programs seem to have been created.
4.3.6. Offer incentives (fiscal package) for businesses that employ vulnerable categories of society including the victims of domestic violence	Victims	EOs, MLSW, [Ministry of Trade and Industry] MTI, MED and municipalities	Commercial Chamber, Businesses, Donors	2016 – 2020	The envisaged measures to encourage business; The number of victims who were employed during the year	Total 12,441	Government 11,020	Donors 1,421	0	0

<sup>24</sup> KWN interview with NCDV, 2021. Notably, the indicator does not seem to match the action. While some businesses may have been subsidized, clear information on the number was unavailable.

<sup>25</sup> In KWN's view, from a gender-responsive budgeting perspective this is not the best indicator because the percentage of municipal expenditures is not necessarily relevant. What is more important is whether the costs of the shelter and services are covered, and the percentage could differ over time based on the needs. Thus, the budget should be estimated based on gender analysis and a costing of the actual services, and not set as a percentage of the budget.

4.3.7 Prioritizing the employment of DV victims/survivors by the Employment Centre at local level.	Victims EO	Regional Employment Centres [EOs] - MLSW, MTI, MED and Municipalities	Business Association, Vocational Training Centres	2016 – 2020	Number of trained victims in VCT; The number of victims who are employed via EO	Total 22,151	Government 22,151		0	0.5: Since 2017, 36 domestic violence victims have been trained by VTC and 40 have been employed through EOs. They may not always be prioritised.
<b>Objective 4.4. Establish rehabilitation institutions and consultancy centres with mandatory programs for the perpetrators of domestic violence.</b>										
4.4.1 Establishing of rehabilitation programs and establishment of appropriate infrastructure to work with domestic violence perpetrators, which are mandatory in line with the Law on protection from domestic violence	Perpetrators	MJ, Correctional service	Municipality, MLSW, Rehabilitation Centres, MH, Donors	2017 – 2020	Decision for opening programs; Number of established programs  No. of perpetrators included in rehabilitation programs	Total 207,080		Donors 207,080	0	0: MJ confirmed that there are no such programs.
4.4.2. Training of rehabilitation programs' staff	Doctors, Professionals	MH	Municipal Department for Social Work, Directory of Healthcare and Social Welfare, Department of Education	2016 - 2020	Number of trained/certified experts	Total 18,569		Donors 18,569	0	I: MH holds regular trainings together with CSOs for rehabilitation programs in which 30 participants participate each year. Health workers certified by the Doctors Chambers of Kosovo.
4.4.3 Using the Correctional Service to monitor the rehabilitation and reintegration of offenders.	Offenders	MJ, Correctional Service	MLSW, CSW, NGO	2016 - 2020	Number of rehabilitated offenders	Total 200,968	Government 197,103	Donors 3,865	0	0: Information not available as DV cases disaggregated.





