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COMMENTARY

A GENDER READING OF THE EUROPEAN COMMISSION'S KOSOVO 2021 REPORT

INTRODUCTION

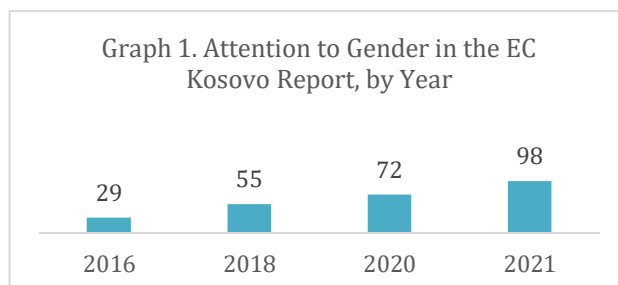
Annually, the European Commission (EC) presents its assessment of Kosovo's progress towards joining the European Union (EU) in a report (hereafter, "the Report"). It analyses the political situation in Kosovo, rule of law, human rights, protection of minorities, regional issues, the economic situation, and Kosovo's legislation, policies, and their approximation with the EU Acquis. Each year the Kosovo Women's Network (KWN) and Kosovo Gender Studies Center (KGSC) produce a Commentary on the extent to which the Kosovo progress report has attended to gender equality-related issues. This Commentary discusses the EC's Kosovo 2021 Report from a gender perspective,¹ examining attention to women, men, girls, boys, and gender equality; and the extent to which recommendations provided by women's civil society organisations (WCSOs) were included.²

OVERVIEW: GENDER MAINSTREAMING IN THE REPORT

Ideally, in accordance with EU commitments, all chapters of the Report should be gender mainstreamed. Compared to previous years, the Kosovo 2021 Report has improved regarding the extent to which gender has been mainstreamed, as well as in its phrasing related to gender equality and women's rights. Overall, the Report addressed 50% of the recommendations put forth by KWN and its members. One of the main recommendations related to the 2020 Report was that language towards gender equality should be strengthened, and there have been some improvements in this respect; two commitments in the Report directly address gender equality issues. Specifically, the 2021 Report emphasises that Kosovo must:

- Strengthen the implementation of the Law on Gender Equality and ensure proper functioning of the system of protection, prevention and adjudication of all forms of gender-based violence;
- Adopt and enforce the Law on Labour in line with relevant EU acquis, in particular in relation to non-discrimination in employment and parental leave;

Generally, the Report mentions women, men, and gender more than in prior years, totalling 98 times (see Graph 1). The Report



¹ European Commission, [Kosovo Report 2021](#).

² KWN consulted with its diverse member organisations and provided input for this year's Report in March-April 2021. KWN members contributing included: KGSC, Safe House "Gjakova", EcoKos Women, Association for the Emancipation of Women "Alma", Udruženje Poslovnih Žena WBA (Women Business Association WBA), Organization of Persons with Muscular Dystrophy of Kosovo, Center for Equality and Education, and the independent activists Xhejrane Lokaj and Violeta Berisha.

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attends to gender equality issues in 20 different sectors, including: gender-based violence and human trafficking; women's participation in the labour market and discrimination in the workplace; women's participation in decision-making; parental leave and access to childcare; and transitional justice, including related to sexual violence survivors, among others.

SHORTCOMINGS IN ENSURING A GENDER PERSPECTIVE

Although the 2021 Report shows an increase in gender mainstreaming, the following pressing issues on gender equality and women's rights remained unaddressed:

Fundamentals First: Political Criteria and Rule of Law

Elections

- On Elections, parliament, and governance, the Report does not require institutions to harmonise the Law on General Elections and the Law on Local Elections with the Law on Gender Equality (LGE), despite requesting the government to strengthen implementation of the LGE.

Governance and Public Administration Reform

- The Report mentions that the government should implement active labour measures regarding employment; and, under fundamental rights, it states the need to strengthen implementation of the LGE. However, the EU's requirement for merit-based recruitment lacks any gender perspective.³ Practice has shown that officials use "merit-based" recruitment as a reason to avoid implementing the LGE even though the LGE allows for affirmative measures to enhance gender equality and calls for 50% representation of women and men throughout public life. The EC requires merit-based recruitment 11 times in this Report, including when referring to Public Administration, Public Officials, Judiciary, Boards, Kosovar Agencies, Air Navigation Service Agency and the Civil Aviation Authority, and the Kosovo Tax Administration. It does not encourage applying the LGE in any of these instances.
- Affirmative measures are not encouraged to ensure equal representation of women and men in the executive and especially in municipal governance, although the report mentions that women remain underrepresented in local government decision-making and there are currently no female mayors in any of Kosovo's municipalities.
- On Policy Development and Coordination, the Report mentions that there is a need for a stronger centre-of-government role in ensuring quality control of regulatory and budget impact assessments. However, gender impact assessments are not mentioned, though the government often fails to conduct these, which means that legislation can have negative impacts on diverse women and men. The government must conduct gender impact assessments using the Agency for Gender Equality (AGE) guidelines⁴ in accordance with the Better Regulation Framework requirements.⁵ Nor does the Report recommend progress on institutionalising gender responsive budgeting as a legal obligation in the LGE.

Judiciary

Quality of Justice

- KWN recommended that the Academy of Justice ensure proper training and institutionalised treatment protocols for the entire justice system (including social workers, victim advocates, prosecutors, police, health institutions representatives, judges, forensic medicine staff), especially on gender-based violence, sexual violence, sexual harassment, and victim blaming. The Report only mentions briefly the lack of professionalism and competence among prosecutors, encouraging further in-service training regarding values and professional skills.

³ EC Kosovo 2021 Report, "In the coming year, Kosovo should in particular: ensure full respect for merit-based recruitment and dismissal of public officials, especially senior management", On Public Administration, p. 12.

⁴ Agency for Gender Equality, Office of the Prime minister, [Gender Equality Impact Assessment Manual](#)

⁵ Kosovo government, [Better Regulation Strategy 2.0 for Kosovo 2017-2021](#).

When reporting that “more work is needed”, the Report only highlights the following “specialised areas”: economic crime, mediation, new provisions of the revised Criminal Code and European Court of Human Rights case law. Gender-based violence is not mentioned specifically and should be.

Domestic Handling of war crime cases

- On domestic handling of war crime cases and good neighbourly relations and regional cooperation, the Report ignores the essential, proven role of WCSOs in contributing to peace; it does not emphasise the urgent need for their involvement in peace-making and reconciliation processes, as per the UN Security Council Resolution (UNSCR) 1325 on Women, Peace and Security, despite EU commitments to this. The Report fails to address how women’s needs and priorities have been excluded from negotiations and the dialogue between Kosovo and Serbia; and that insufficient government consultations have been organized with diverse women and men, despite substantial evidence of this.⁶

Fundamental Rights

The prison system

- On this section, the report does not mention the need for appropriate rehabilitation that would address gender-based violence, gender norms, and power relations.

The rights of the child

- The Report does not show particular attention to the diverse needs of girls and boys, especially to the situation of girls in Kosovo, as per early marriages, school dropouts, gender-based violence, sexual harassment, sexual violence, and lack of safety, though the need to attend to the diverse needs of boys and girls is foreseen with the EU Gender Action Plan III.⁷

Persons with disabilities

- Despite recommendations sent by KWN members on the need for a specific strategy that addresses the diverse needs of women and men with disabilities, the Report continues to lack attention to gender on this matter.

Non-majority communities

- Similarly, in the section on non-majority communities, the needs of Roma, Ashkali, and Egyptian women in Kosovo are completely left out. The Report does not mention how COVID-19 recovery measures have failed to consider sufficiently intersectional needs, such as for women and men of diverse ethnicities, abilities, ages, geographic locations, and/or other potential added vulnerabilities.

Cybercrime

- There was no gender perspective regarding Cybercrime. WCSOs have raised concerns regarding the increase of online sexual threats and harassment, especially during the pandemic, targeting women and girls, along with the need for functioning mechanisms to better address and prevent this issue. The Report did not address these concerns.

Economic Development and Competitiveness

- This chapter did not address the specific difficulties faced by women-owned businesses.
- Although the Report requires the government to “improve of the quality of public spending by reforming wage system”, it does not attend to gender responsive budgeting or the existing

⁶ Kosovo Women’s Network, [A Seat at the Table](#) - Women’s contributions to and expectations from peacebuilding processes in Kosovo, 2021

⁷ European Commission, [The EU Gender Action Plan III](#), 2021.

gender pay gap. Although, the fiscal stimulus aims at supporting the vulnerable economy, it does not contain sufficient gender perspective informed by gender analysis,⁸ which would better inform an effective post-COVID recovery. This section also failed to mention that regular financial reporting did not contain any gender perspective specifically with regards to expenditures related to COVID-19.

Public Procurement, Statistics, Financial control

Statistics

- Despite improvements in providing gender-disaggregated data, the Report still did not contain sufficient data on the diverse needs and consequences faced by women and men, girls, and boys in all sections (e.g., in reference to youth, business owners, farmers, public officials). The Report did not highlight the need for all institutions to provide gender-disaggregated data, as per the LGE, though it did note that social protection and labour market statistics are only partially produced.

Enterprise and Industrial Policy

- The Report lacked a gender perspective regarding enterprise and industrial policy, and in highlighting the necessary measures that the government needs to take in this section. The Report highlighted that “in the coming year Kosovo should: adopt and start implementing a strategy to support Kosovo’s business environment and industrial development; reorganise the Kosovo Investment and Enterprise Support Agency (KIESA) to improve its support schemes and provision of advisory services to SMEs and add an investor aftercare unit”. Both measures could have been crucial for women and a gender perspective should have been included, requiring the application of affirmative measures and gender impact assessments as per the LGE.

PROPOSED ACTIONS AND RECOMMENDATIONS

Fundamentals First: political criteria and Rule of Law

- *Require* harmonization of the Law on Local Elections 2008/03-L07 and the Law on General Elections No. 03/L-073 with the LGE No. 05/L-020, which foresees equal participation of women and men, considering that the EU calls for the implementation and strengthening of the LGE.
- *Ensure* that officials consider the LGE and its foreseen affirmative measures during recruitment at all levels and sectors via EU support for public administration reforms and merit-based hiring.
- *Attend* to the phrasing of Report recommendations during future reporting when requiring public institutions to continue to recruit individuals on merit-based principles, including reference to affirmative measures.
- *Strongly encourage* AGE and the Ministry of Finance, Labour and Transfers to finalize, adopt and implement gender-responsive budgeting and ensure gender impact assessments throughout public financial management systems and processes to further gender-responsive budgeting. This process is important and timely, as per the requirements of GAP III and the LGE, related to the ongoing process of reforming the public administration and public finances. Gender-responsive budgeting and gender impact assessments remain crucial especially amid the COVID-19 pandemic recovery.

Judiciary

- *Ensure* that the Academy of Justice offers proper training and institutionalised treatment protocols for the entire justice system (including social workers, victim advocates,

⁸ Kosovo Women’s Network, “*The pandemic has no gender*”? A Gender Fiscal Budget Analysis: The Government of Kosovo’s Response to the COVID-19 Pandemic from a Gender Perspective, 2020

prosecutors, police, health institutions representatives, judges, forensic medicine staff), especially on gender-based violence, sexual violence, sexual harassment, and victim blaming. Pressure should be directed towards the Kosovo Judicial Council to inform and educate judges that offences established in accordance with Istanbul Convention are punishable by effective, proportionate, and dissuasive sanctions, considering their seriousness.

- *Emphasise* the need for substantive and equal inclusion of women at all levels of decision-making in the technical, legal, and administrative aspects of the dialogue process as an absolute priority for the Kosovo government, pursuant with the LGE and UNSCR 1325. Diverse women and WCSOs must be consulted throughout the process.
- *Better attend* to the diverse situation of girls and boys in Kosovo, and the need to address their distinct needs. As per GAP III, the EU should encourage the government to undertake a gender-transformative approach in changing rigid gender norms and imbalances of power which disadvantage women and girls and generate discriminations at all ages, starting from early childhood education.⁹
- *Incorporate* a more thorough intersectional perspective in the Report. Reporting on persons with disabilities must recognise the specific disadvantages of women with disabilities. In line with the requirements of GAP III, the EU should address intersectionality of gender with other forms of discrimination. “Focus should also be on the most disadvantaged women, for instance indigenous peoples and persons belonging to racial/ethnic/religious minorities, forcibly displaced, migrant, economically and socially deprived women, those living in rural and coastal areas, as they face multiple discrimination. Specific challenges for girls and of elderly women should be considered. The rights of women with disabilities should be at the core of the future strategy on the rights of persons with disabilities for the coming years (2021-2030)”.¹⁰ . The EC Report should not refer to women as a homogenous group without considering intersectional inequalities.
- *Include* an added gender perspective in reporting on Cybercrime. The EU should attend to the increase in online sexual threats and online harassment, especially during the pandemic, which primarily targeted women and girls. It should emphasise that the Kosovo government needs to enable more functioning mechanisms to better tackle the issue and to prevent such cases. This is also foreseen by GAP III.¹¹

Economic Development and Competition

- *Improve* gender mainstreaming in the Economic development and Competition section. Difficulties of women-owned businesses should be better addressed and measures should be proposed to help their COVID-19 recovery through the application of affirmative measures. The same should follow in the Enterprise and Industrial Policy section. In the implementation process, the EU should ensure that the measures that the government needs to take in this section (the strategy to support Kosovo’s business environment and industrial development and the reorganisation of KIESA to improve its support schemes and provision of advisory services to SMEs and add an investor aftercare unit) apply affirmative measures and a substantial gender perspective.
- *Continue* reporting based on available gender-disaggregated data, and it should require the same are maintained by all institutions, as per the LGE. The EU should continually emphasise the need for gender-disaggregated data for better understanding the needs of diverse women and men resulting from the COVID-19 pandemic.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid. “Promoting an enabling and safe environment, including online, for civil society, girls and women’s rights organizations, women’s human rights defenders, peacebuilders, women journalists and representatives of indigenous people.”