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COMMENTARY

A GENDER READING OF THE EUROPEAN COMMISSION'S KOSOVO 2022 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 **Kosovar Gender Studies Center (KGSC)** produce a Commentary on the extent to which the Kosovo progress report has attended to gender equality-related issues.¹ This Commentary discusses the EC's Kosovo 2022 Report from a gender perspective,² 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.³

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 2022 Report has continued to improve regarding the extent to which input provided by WCSOs during consultations has been integrated in the report, and the extent to which gender has been mainstreamed overall, as well as in its phrasing related to gender equality and women's rights.

Overall, the Report addressed 70% of the recommendations put forth by KWN and its members. One of the main recommendations related to the 2021 Report was that language towards gender equality should be strengthened,⁴ and there have been some improvements in this respect; four commitments in the Report directly address gender equality issues. Specifically, the 2022 Report emphasises that Kosovo must:

- On Fundamental Rights: Strengthen the implementation of the Law on Gender Equality; adopt the Law on Domestic Violence and Violence Against Women; continue efforts to ensure proper functioning of the system of protection, prevention and adjudication of all forms of gender-based violence by implementing the relevant strategy and action plan;
- On Justice, Freedom and Security: Implement the strategy and action plan against trafficking in human beings 2022-2026, adopting a victim-centered approach;
- On Economic Development and Competitiveness: Implement active labour market

¹ This Commentary was written by Valmira Rashiti for KWN as part of the EQUAPRO Coalition, cofunded by the EU and Sida.

² European Commission, [Kosovo Report 2022](#).

³ KWN consulted with its diverse member organisations and provided input for this year's Report in March-April 2022. KWN members contributing included: KGSC, Safe House "Gjakova", EcoKos Women, Committee of Blind Women of Kosova, CSO Foleja, Initiative for Blind Persons of Kosova, Minority Communities Center, Undruženje Poslovnih Žena WBA (Women Business Association WBA), Organization of Persons with Muscular Dystrophy of Kosovo, Mitrovica Women Association for Human Rights (MWAHR), and Women Association "Feminae".

⁴ KWN, [A Gender Reading of The European Commission's Kosovo 2021 Report](#).

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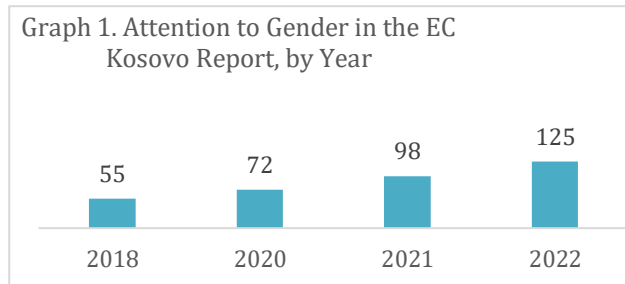
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measures to support employment, resume publishing of the labour force survey data and continue to implement measures aiming to formalise informal employment.

- **On Social Policy and Employment:** Adopt the new Law on Labour in line with relevant EU acquis, in particular in relation to non-discrimination in employment and parental leave

The 2022 Report considered KWN and KGSC's remarks last year on the 2021 Report related to: The rights of the child, as this year's report shows slightly improved attention to the diverse needs of girls and boys, as foreseen in the EU Gender Action Plan (GAP) III⁵; as well as an increased intersectional perspective, integrating a more thorough gender perspective when reporting on Persons with disabilities and Non-majority communities. For the first time in many years, Civil Society Organisations' contribution in advancing gender equality also is mentioned and recognised.⁶

Generally, the Report mentions women, men, equality, and gender more than in prior years, totalling 125 times (see Graph 1). The Report attends to gender equality issues in 13 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 economic development and competition, among others.



SHORTCOMINGS IN ENSURING A GENDER PERSPECTIVE

Although the 2022 Report shows improvement in gender mainstreaming compared to prior years, the following issues remained unaddressed, including related to the structure of the Report and (non)inclusion of the following gender equality and women's rights issues:

Fundamentals First: Political Criteria and Rule of Law

Elections

- On Elections, parliament, and governance, the Report does not explicitly require institutions to harmonise the Law on General Elections and the Law on Local Elections with the Law on Gender Equality (LGE) requirements for equal representation, 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. Further, it notes that "Kosovo showed commitment to addressing gender equality issues by further implementing the Law on Gender Equality in the public administration recruitment process"⁷, however, there is no concrete evidence provided on how this progress was measured, nor on what this conclusion was based. The EU continues to emphasise the principle of merit-based recruitment, without emphasising the role of the

⁵ European Commission, *The EU Gender Action Plan III*, 2021.

⁶ "Civil society continues to play a critical role in advancing gender equality, contributing to the improvement of legislation, monitoring the implementation of policies, providing services, assisting victims of violence and raising awareness, which reflects the need for the authorities to step up their engagement in these areas" & "Body-shaming and other verbal attacks continue, but reactions from public officials, institutions, civil society and women rights' organisations, contribute to making sexism less acceptable", On Gender Equality, p. 36.

⁷ Fundamental Rights, p. 30.

LGE in hiring procedures.⁸ 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 in public life.

- On Policy Development and Coordination, the Report mentions that upgraded administrative capacities are needed in the Office of the Prime Minister in ensuring quality control of regulatory and budget impact assessments.⁹ However, gender impact assessments are not mentioned, though the government often fails to conduct these. As a result, legislation may have negative impacts on diverse women and men. The government must conduct gender impact assessments using the Agency for Gender Equality (AGE) guidelines¹⁰ in accordance with the Better Regulation Framework Strategy requirements.¹¹ Nor does the Report recommend progress on institutionalising gender responsive budgeting as a legal obligation in the LGE and as essential to ongoing public finance reforms.

Judiciary

Quality of Justice

- KWN recommended that the Academy of Justice ensure proper training and institutionalised treatment protocols for the entire justice system (including victim advocates, prosecutors, police, judges, and 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 and it adds that “Judges, prosecutors, police and victims’ advocates need further training to better understand their role under the current legislation.” Yet, the level of gender-based violence and institutional neglect towards treating cases show that further training of all institutions enlisted in WCSOs’ recommendations remains crucial, particularly towards implementing the Istanbul Convention, and should be required in a stronger language.

Domestic Handling of war crime cases

- On domestic handling of war crime cases, 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; nor does it state that insufficient government consultations have been organised with diverse women and men, despite substantial evidence of this.¹²

Cybercrime

- There was no gender perspective related to 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.

Fundamental Rights

- When reporting on Gender Equality, the Report elaborates on several topics, including: Women’s right to property, Domestic violence, Women in Politics, Discrimination in the Labour market, the role of WCSOs in policy making, and Women in the media & Sexism,

⁸ “Compliance of appointments and dismissals of civil servants with the formal procedures laid down in the LPO still needs to be improved and a consistent rule-based system of selection and merit-based recruitment must be ensured in practice”, On Public Administration Reform, p. 15.

⁹ Policy development and coordination, p. 13.

¹⁰ AGE, Office of the Prime Minister, [Gender Equality Impact Assessment Manual](#).

¹¹ Kosovo government, [Better Regulation Strategy 2.0 for Kosovo 2017-2021](#).

¹² KWN, [A Seat at the Table: Women’s contributions to and expectations from peacebuilding processes in Kosovo](#), 2021.

among others. All of these issues could be given specific attention under corresponding chapters, such as Rule of Law, Social Policy and Employment, and Fundamental Rights. Integrating a gender perspective in these chapters could better inform responsible actors of the need to address these issues and avoid merging them into a single sub-section that may be ignored. These issues lack concrete recommendations to the government.

- The Report does not address gender-based violence under the Rule of Law chapter, a long-term request of WCSOs that corresponds with the government's commitments in its Rule of Law Strategy, as well. Further, when reporting on domestic violence, the EC Report does not emphasise the need to amend and finalise the Law on Protection from Domestic Violence, including by *renaming and revising* it to include protection from *all forms of gender-based violence*, as required by the Istanbul Convention. Instead, it only requests from the government to: *adopt the Law on Domestic Violence and Violence Against Women*. The current draft Law is very problematic and not offering sufficient protections as per the Istanbul Convention.¹³ Moreover further secondary legislation including protocols for individual institutions will need to be adopted.

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 “the quality of public spending by reforming wage system”, it does not address the need for institutionalising gender-responsive budgeting or the existing gender pay gap. Although fiscal stimulus packages aimed at supporting the vulnerable economy, these do not contain sufficient gender perspective informed by gender analysis,¹⁴ 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 regarding expenditures related to COVID-19 measures, as per best practices in gender-responsive budgeting.

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 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 “The lack of easily accessible and affordable credit continues to be a substantial barrier to the growth of SMEs in Kosovo”. However, the barriers faced by women-owned businesses, lack of support from KIESA, and their difficulties accessing loans due to lack of collateral, remained unaddressed.

Social Policy and Employment

- The EC Report 2022 notes that the current draft Law on Labour anticipates shifting the responsibility of paying for maternity leave from businesses to the government, but it has yet to be adopted by the Assembly. The EC Report requires that the government adopt the new

¹³ KWN's comments on the current draft law and accompanying letter to parliament outlining the problems with the draft law are available upon request.

¹⁴ KWN, “*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.

Law on Labour in line with relevant EU acquis, particularly in relation to non-discrimination in employment and parental leave. However, the draft Law on Labour to which the EC Report refers has not been made public for consultations, nor was it discussed with WCSOs, considering their expertise and long-term advocacy towards its harmonisation with the EU Work-Life Balance Directive. Concerningly, recent discussions with key officials suggest that they continue to resist ensuring the Law on Labour is sufficiently aligned with Directive and may not proceed the Law to the parliament for approval this year.

PROPOSED ACTIONS AND RECOMMENDATIONS

KWN and KGSC recommend that the EU:

- *Strive* to mainstream gender in all relevant chapters. Gender-based violence needs to be treated as a Rule of Law issue, followed by concrete, stronger recommendations for institutions responsible for the implementation of the Law on Protection from Domestic Violence, Rule of Law Strategy, and National Strategy for Protection against Domestic Violence and Violence against Women 2022-2026. *Strongly encourage* the government and parliament to revise the draft Law to include all forms of gender-based violence and to address the concerns put forth by KWN regarding its insufficient alignment with the Istanbul Convention.
- *Ensure* that all progress reported on gender equality is evidence-based, verified, and well-justified by the government.

Fundamentals First: Political Criteria and Rule of Law

- *Require* harmonisation 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 implementing 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 in future reporting when requiring public institutions to continue to recruit individuals using merit-based principles, including reference to affirmative measures.
- *Strongly encourage* AGE and the Ministry of Finance, Labour and Transfers to finalise, adopt and implement gender-responsive budgeting in close consultation with experienced WCSOs and ensure gender impact assessments as part of public financial management systems. Institutionalising gender-responsive budgeting is important as per GAP III, the LGE, and as part of current public administration and public finance reforms.

Judiciary

- *Ensure* that the Academy of Justice offers proper training and institutionalised treatment protocols for the entire justice system (including victim advocates, prosecutors, police, judges, and 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.
- *Continue integrating and improving* an intersectional perspective in the Report. Reporting 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 and inequalities.

- *Include* an added gender perspective in reporting on Cybercrime. The EU should attend to the increase in online sexual threats and online harassment, and 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.¹⁵

¹⁵ European Commission, [Gender Action Plan III – a priority of EU external action](#), “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.”