



Kosovo Women's Network

Serving, Protecting and Promoting the Rights of Women and Girls

8 November 2022

Dear esteemed Members of Parliament,

The Kosovo Women's Network (KWN) is writing to express our concerns with the current draft Law on Prevention and Protection from Domestic Violence, Violence against Women, and Gender-based Violence. This is an essential law urgently needed to protect the wellbeing of women and girls in Kosovo, which must be considered carefully and be in line with the Istanbul Convention in accordance with the Constitution of the Republic of Kosovo.

Following our careful review of the draft Law, and based on our extensive expertise monitoring the implementation of the existing legal framework by responsible institutions, our main concerns with the draft law include:

1. The Law should focus on protection and rehabilitation from “gender-based violence”, which should be defined in the beginning of the Law and be clearly stated to encompass all other forms of gender-based violence defined thereafter (e.g., domestic violence, sexual violence and violence against women, etc.). This is because the other definitions and forms of violence enlisted in the law are forms of gender-based violence; it therefore can be used as an all-encompassing term to refer to all forms of violence enlisted thereafter. Additionally, gender-based violence also affects boys and sometimes men, so their rights also should be protected through this Law, while the Law should still emphasise that women are disproportionately affected by violence due to historical socialised power relations among women and men. After gender-based violence is defined, it can be used as a consistent terminology throughout the Law to refer to all forms of violence; this would simplify the language of the Law, which is currently confusing and not harmonised. The Law also needs to be checked for consistent use of legal terminology and official definitions in all languages. For example, it is concerning that the current draft often refers only to domestic violence in discussing several services, while the services outlined in the Law should be available for all forms of gender-based violence, including sexual violence, as per the Istanbul Convention. Thus, we propose using the term “gender-based violence” as a holistic, encompassing term throughout the Law.

2. The Law must define more clearly the responsibilities of specific institutions. According to the Istanbul Convention, the body monitoring the implementation of the Law must be separate from the body that implements the Law. At the national level, we recommend that the National Coordinator on Gender-based Violence (not only on domestic violence) together with the National Council on Gender-based Violence, led by the Coordinator, has the responsibility of policy-making, monitoring, evaluation, and reporting at the national level. Then, the institutions responsible for implementing the Law then should be responsible for implementation, such as the police, Centres for Social Welfare, and Victim Advocates, among others. In this regard, the individual institutions responsible for monitoring and evaluating performance (e.g., Police Inspectorate, Prosecution, and Department for Social Work, respectively) should be mentioned specifically in the Law, and their responsibilities for monitoring implementation need to be made clear.

At the municipal level, we recommend having two separate municipal Coordination Mechanisms, again to divide the responsibilities of monitoring from those of implementation, based on the Istanbul Convention:

- First, the proposed Local Policy Coordination Mechanism should be comprised of local government officials from the responsible institutions (e.g., Directorate of Budget and Finance, Directorate of Health and Social Welfare, among others), and it should focus on policy-making, budgeting, monitoring, and evaluating the work of responsible institutions and actors at the local level (see Article 25). This Mechanism would also design local policies in line with the National Strategy. We recommend this be coordinated by the municipal Gender Equality Officer, a civil servant position, in close collaboration with the Mayor.
- Second, the Local Case Management Coordinating Mechanism should be comprised of certified civil servants and practitioners that collaborate in assisting the individual cases, including social service officers, victim advocates, police from gender-based violence investigation units, healthcare workers, and shelters all certified in assisting cases (see the proposed Article 26). One social service officer should serve as the Local Coordinator for Addressing Gender-based Violence and coordinate the Local Case Management Coordinating Mechanism, as part of the person's responsibilities and job description. In this way, coordination in assisting cases will not be subject to changing local politics, as it will be a civil servant position held by qualified persons. The Local Case Management Coordination Mechanism should focus on designing and implementing case management plans by practitioners.

This would be in accordance with the Istanbul Convention's request to separate the responsibilities for implementation from the responsibilities for monitoring and evaluation. While they can coordinate local Policy Coordination Mechanisms, we strongly recommend against Gender Equality Officers holding the position of municipal coordinators of local Case Management Coordination Mechanisms because they are not certified in case management and social service provision. Rather, Gender Equality Officers should be focused on gender equality policies and their implementation at the municipal level, as well as other aspects of the Law on Gender Equality. Similarly, local government officials should not be allowed access to the specifics of individual cases and case management, as they are not qualified in service provision and this could undermine confidentiality needed to protect victims. We have proposed how to differentiate these policy-making, monitoring, and implementation roles in accordance with the Istanbul Convention within our comments on the draft Law, specifically Articles 25 and 26.

3. We highly recommend that the persons responsible for case management and thus the coordination of municipal Local Case Management Coordination Mechanisms are qualified, specialised and certified in treating gender-based violence, as social service officers from Centres for Social Work. This is because they have the role and responsibilities for case management, including related to the rights of the child, who are often affected in domestic and sexual violence cases. We recommend that this Law establishes that every municipality will have a precise number of social service officers (based on population size, such as one social service officer per a specified number of cases, where the number of cases is based on the number of shelter beds recommended in the Istanbul Convention). These social service officers should be certified and specialised only in treating cases of gender-based violence. Thus, this Law would set the foundation for allocating more resources for hiring and certifying

these positions. We have already worked with the Ministry to draft the relevant curricula, which will be adjusted based on this Law.

4. If the National Coordinator remains in the Ministry of Justice, the responsibilities for ensuring access to social services (in addition to justice), especially rehabilitation and reintegration need to be very clear, as these have been a consistent shortcoming in Kosovo. These are not within the responsibilities of this Ministry, so work with the other ministries and the Inter-ministerial Group on these issues will be essential. That the Agency for Gender Equality will serve as the National Coordinator in the absence of a government must be stated in the Law, so as not to leave the position unfilled and violence unaddressed amid government changes, as has happened in the past.

5. Given our extensive expertise as a diverse network of 190 organisations and more than 15 years' experience monitoring and supporting address of gender-based violence in Kosovo and the Western Balkans region, we kindly ask to be included as a permanent member of the Inter-ministerial Coordination Group where we believe we can continue to contribute.

6. According to the Istanbul Convention, Kosovo must establish a 24-hour, free SOS helpline. In addition to legal advice and referrals, the helpline should also provide psychological counselling services by trained professionals. The Law needs to clarify which institution is responsible for financing the helpline (e.g., victim advocates, health services, or another actor) and which qualifications helpline operators must have, including the possibility of the government contracting these services from qualified CSOs. Then, the responsibilities need to be made clear in the Law and a budget allocated.

7. Some activities such as training and services available to victims are mentioned both under the responsibilities of a specific institution, in an article relevant to that institution, as well as part of a general list of services available. Perhaps these responsibilities should be harmonised to ensure that the institution responsible for each service is clearly stated. If these responsibilities are under an article specific to that institution, that article can simply be referenced in the list of available services. We have suggested to enlist these services under the Case Management Plan, and perhaps they can now be removed from other sections except under the respective responsible institution, towards reducing repetition.

8. The current Article 24, paragraph 5, which regulates the financing of shelters by the number of clients assisted is problematic because shelters need to be open whether or not they have a case, and they need to have staff available immediately to assist that case. They cannot close or lay off staff when they do not have cases because if an emergency occurs, staff will not be available. We recommend instead to calculate the amount per shelter based on the cost of operations, calculated transparently based on a budget that includes all relevant costs to keep the shelter open, with the option of additional financing for added costs that arise, when well-documented. We have proposed rephrasing for this article.

9. The current draft Law does not refer explicitly to Rape Crisis Centres or Sexual Violence Referral Centres, which are required by the Istanbul Convention and which Kosovo has yet to establish. These are essential for providing services to persons who have suffered sexual violence. We suggest that articles be added regulating the operations, roles, responsibilities and financing of Sexual Violence Referral Centres and Rape Crisis Centres, based on the Istanbul Convention. The phrasing of these should be consulted with the Forensic Medical Institute, which has experience already and has led the process of drafting the nearly finalized State

Protocol for Treating Cases of Sexual Violence in collaboration with the Ministry of Justice, KWN, and other relevant institutions.

10. Generally, the order of the chapters and articles needs to be more clearly and logically organised to first specify the responsible parties and then detail their responsibilities. Now it is mixed and thus sometimes repetitive and potentially confusing.

Please find enclosed our specific suggestions, which we prepared quickly and in a very limited amount of time. We would welcome more time to carefully review and harmonise the language in the draft, as well as to double check it with the requirements of the Istanbul Convention.

Considering that we have more than twenty years' experience specialising in addressing gender-based violence, we welcome continued discussion and collaboration with you towards finalizing this Law. We would also welcome a presentation to the parliamentary committee, as needed, through which we are ready to further explain our recommended changes and support the committee, towards ensuring the wellbeing of women and girls in Kosovo.

Sincerely,

Igballe Rogova
Executive Director
Kosovo Women's Network