Working Paper

# Gender Mainstreaming Kosovo's Legal Framework on the Environment in Line with EU Commitments

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# Introduction

The environment is a shared resource and access to it is crucial for the wellbeing of individuals and communities. Research has highlighted the importance of understanding gender roles to ensure environmental security.[1] Women are disproportionately impacted by climate change and other ecological threats due to their more limited access to resources such as land, technology, education, and decision-making power. To ensure environmental security, it is essential to provide women with equal access to resources and opportunities, so that they can play a more active role in protecting their environment.[2] This means considering gender-specific considerations when designing interventions for climate change adaptation and mitigation, as well as promoting the inclusion of women in all aspects of decision-making processes related to the environment. Only by ensuring that women are enabled to meaningfully participate and have access to resources can Kosovo ensure environmental security in the long run.

According to the Organisation for Security and Cooperation in Europe (OSCE), in recent decades "the importance of the linkages between environmental security and gender roles has been evidenced by a wide corps of research and impact assessments".[3] Women play decisive roles in managing and preserving biodiversity, water, land, and other natural resources locally. Meanwhile, although environmental degradation has severe consequences for all human beings, it particularly affects the most vulnerable, mainly women and children who constitute the majority of the world's poor.[4] This is especially dramatic in conflict and post-conflict contexts where women usually face the burden of securing survival for themselves and their families with no or little resources, information, and decision-making power for rescue or rehabilitation.[5] The OSCE concludes that:

- Women are still often ignored and absent from major policies and daily project activities regarding their needs and environmental knowledge.
- Since 2009 it has been acknowledged that gender neutral policies of this kind have a stronger impact on women when environmental disasters and insecurity occur. This also leads to the loss of opportunities "for a better management of environmental resources, along with opportunities for greater ecological diversity, productivity of foods and economic stability".[6]

[1] For example, see Geneva Environment Network, "Gender and the Environment", in *Gender and the Environment* (last accessed on 24.03.2023).
[2] UN Women – Headquarters, "Explainer: How gender inequality and climate change are interconnected" (last accessed on 23.03.3023).
[3] OSCE, *Gender and Environment: A Guide to the integration of Gender Aspects in the OSCE's environmental projects*, 2009, p. 6.
[4] UN Women, "Women, Gender Equality and Climate Change"(last accessed on 14.02.2022).
[5] UNFPA, *The impact of conflict on women and girls*, 2001 (last accessed on 14.02.2022).
[6] OSCE, *Gender and Environment: A Guide to the integration of Gender Aspects in the OSCE's environmental projects*, 2009, p. 6.

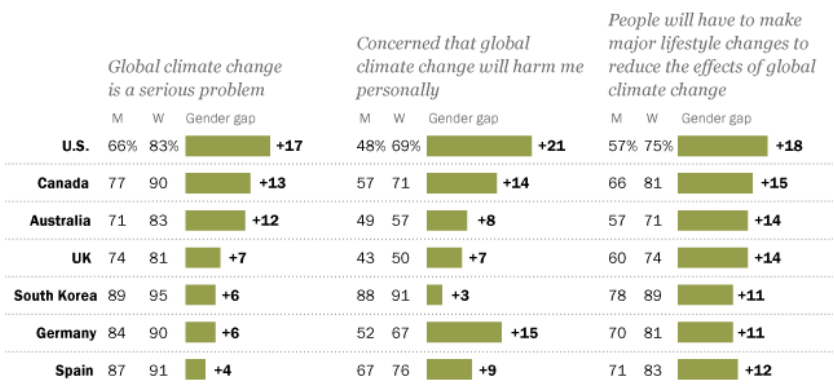
The United Nations Environment Programme (UNEP) Policy and Strategy for Gender Equality and the Environment 2014-2017 echoes the conclusion of the United Nations Framework Convention on Climate Change (UNFCCC) of 1994: "gender equality in environmental policy means addressing the needs of both women and men and promoting women's participation in decision-making processes".[7]

> **"Gender equality in environmental policy means addressing the needs of both women and men and promoting women's participation in decision-making processes.**

Thus, a gender perspective is relevant in all different areas of environmental policy. As stated in 2009 and reaffirmed in 2017 by the Global Environment Facility (GEF),[8] "(g)ender relations between women and men, and girls and boys, play a key role in the access to and control of environmental resources, as well as the goods and services they provide". The GEF unites 184 countries in partnership with international institutions, civil society organisations (CSOs), and the private sector.[9] The GEF states further that these relationships have been known and discussed for at least 50 years and that the correlation between gender and environmental issues is very important. This discussion started in the early 1970s "when the growing debate on environmental changes intersected with the emergence of studies on women's roles in development and development policy strategies within the international women's rights movement".[10]

According to the European Institute of Gender Equality (EIGE), substantial research has shown that gender differences in the impacts of climate change mean more casualties among women during extreme weather events and increased burden from care work.[11] Evidence also exists of gender-specific consumption patterns that affect contributions to GHG emissions, and thus to climate change. For example, women spend more time at home due to the unequal share of care responsibilities, and thus depend on domestic heating to a greater extent. For mobility, women depend on access to public transport to a larger degree due to lower levels of car ownership, but also because of their preferences for the use of environmentally friendly solutions such as public transport. Due to their lower average income, women are at greater risk of energy poverty than men and have fewer options for investing in low-carbon options such as energy efficiency and renewable energies. According to EIGE, "(p)erceptions and attitudes towards climate change and climate policy

**Gender gap on climate change in many wealthy nations**




Source: Spring 2015 Global Attitudes survey.
PEW RESEARCH CENTER

[7] UNEP, *Gender Equality and the Environment: Policy and Strategy*, 2015, p. 52 (last accessed on 31.03.2023).
[8] GEF, "Guidance to advance gender equality in projects and programs"; "Gender Mainstreaming", 2009 (last accessed on 14.02.2022).
[9] GEF, Website (last accessed on 14.02.2022).
[10] GEF, "Gender Mainstreaming".
[11] EIGE, "Environment and climate change" (last accessed on 09.02.2022).

options also vary substantially according to gender. Women are, on average, more concerned about climate change than men".[12] According to a poll by Pew Research Center, the difference in opinion between men and women was highest in English-speaking countries, such as the United States, Canada, United Kingdom, and Australia.[13] Women in South Korea, Spain, Germany, and Canada were found to be more concerned about climate change's potential to do them harm:

As men and women have different roles in the family, community, and workforce, they are likely to have different personal attitudes, priorities, and power over resources when it comes to environmental protection. Men and women also interact differently with the environment, which provides them with different opportunities to protect it.[14] All this requires that strategies for promoting environmental protection at the country, local, and community level approach men and women differently. As way of example, promoting local products to reduce environmental threats in a small community could be addressed to men and women in different ways, as in many countries, traditionally it is still typically the "role" of women to do grocery shopping. Another example could be that in most households women are responsible for water and waste management.[15] However, due to their often-restricted access to public positions and political participation, decisions about water and waste management systems in the community are often taken by men who do not necessarily consider the views and needs of women household managers.[16] Consequently, the goal of gender mainstreaming environmental protection is to promote equal opportunities for men and women as participants and beneficiaries of environmental protection by considering their different positions and knowledge with regard to the environment. This includes producing and disseminating information about environmental protection that reaches both women and men and recognises their different roles and priorities in relation to the environment.

Considering this and in the context of Kosovo's EU accession process, this working paper analyses the EU's legal framework related to gender and the environment, Kosovo's legal framework, and opportunities for harmonising Kosovo's legal framework with the EU legal framework on gender and environment. It includes recommendations towards better mainstreaming gender in Kosovo's legal framework pertaining to the environment.

## Political Actions taken on the EU Level

### European Commission

In its EU Gender Equality Strategy 2020-2025, the European Commission (EC) states that "upcoming policies under the European Green Deal (…) can impact women differently to men". In the Strategy, the EC commends the role of young women in tackling climate change and reiterates that climate change policies affect men and women differently. For example, "there are less possibilities for women as climate refugees", "there are more women in energy

[12] EIGE, "Review of the Implementation in the EU of the area K of the Beijing Platform for Action: Women and the Environment", *Gender Equality and Climate Change*, Report, 2012, p. 33.
[13] Pew Research center, "Women more than men see climate change as personal threat", 2015 (last accessed on 24.03.2023).
[14] Evans, R., "Why gender matters in conservation", Mongabay, 26.05.2017 (last accessed on 14.02.2022).
[15] Acabal Masgon, M., Gensch, R., "Water, Sanitation and Gender" (last accessed on 14.02.2022).
[16] OSCE, "Gender and Environment, A Guide to the integration of Gender Aspects in the OSCE's environmental projects", 2009, p. 6.

poverty", and "more women use public transport".[17] The EU Gender Action Plan (GAP) III includes the Green Transition as a key pillar of GAP III and is particularly relevant for the EU's external relations and financing, including to Kosovo.[18]

However, in the European Green Deal itself, published in December 2019, none of the above was mentioned,[19] and the paper is gender-neutral in that it does not attend to the different positions and needs of diverse women and men.

## European Council

The 2009 European Council Conclusions on climate change and development underlined "the human dimension of climate change, including a gender perspective, and that poor people are most at risk, and that their resilience to climate change needs to be strengthened".[20] The document also refers to gender equality and women's empowerment at the end of paragraph 6. This relates to support for programmes that contribute to a low-carbon and climate-resilient development path and adaptation to the adverse impacts of climate change: "In providing such support special attention should be paid to gender equality and women's empowerment".[21]

The 2012 Council Conclusions on Gender Equality and the Environment stated that enhanced decision-making, qualifications, and competitiveness in the field of climate change mitigation policy in the EU play an important role in the focus assigned to gender issues throughout EU environmental policies.[22] Paragraph 1 of these conclusions, which were informed by the report on gender and climate change commissioned by the Danish Presidency and produced by EIGE, recognise that: "Women play a vital role in sustainable development, and that gender as well as social and employment aspects need to be integrated into efforts to combat climate change in order to improve them".[23] In 2011, the Council stated in its conclusion on the European Pact for gender equality for the period 2011-2022 that:

> (w)omen and men affect the climate differently: their consumption patterns are different and they have different CO2 footprints, and they are not represented equally in decision-making in this field (…). Studies show that women and men also have different perceptions and attitudes towards climate change: women are in general more concerned about this issue and more motivated to act. Women's potential as agents of change needs to be recognised.[24]

In addition, the conclusions stress that:

> There is an urgent need to improve gender equality in decision-making in the field of climate change mitigation, especially the transport and energy sectors, and to increase the number of women with relevant qualifications in scientific and technological fields as well as the number of women participating in relevant scientific bodies at the highest level (paragraph 9).

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[17] EC, "EU Gender Equality Strategy", 2020 (last accessed on 24.03.2023).
[18] EC, "EU Gender Action Plan III", 2020 (last accessed on 24.03.2023).
[19] Heinrich Böll Stiftung Brussels office, "The European Green Deal and Gender Diversity" (last accessed on 24.03.2023).
[20] Council of Europe, European Council Conclusions on climate change and development (last accessed on 09.02.2022)
[21] Ibid.
[22] Council of Europe, Council conclusions on Gender equality and the environment: enhanced decision-making, qualifications and competitiveness (last accessed on 09.02.2022).
[23] Ibid.
[24] Council of Europe, Council conclusions on the European Pact for gender equality for the period 2011 – 2020, (last accessed on 09.02.2022).

They claim that gender-based prejudices and stereotypes exclude women from areas of the green economy such as transport and energy, causing human resources to be wasted and preventing the EU from achieving its full competitive potential.

The Council calls on Member States and the EC to take active and specific measures aimed at achieving a balanced representation of women and men in decision-making in the field of climate change mitigation at all levels, including the EU level; to support women in science and technology at national and European level; to eliminate gender stereotypes and promote gender equality at all levels of education and training, as well as in working life; and to integrate the principle of gender mainstreaming into all relevant legislation, policy measures, and instruments related to climate change mitigation. It calls on the EC to provide guidance for gender mainstreaming of policy areas; to consider focusing on the issue of women and climate change in one of the future reports; and to take action, with the participation of civil society, to raise awareness about the gender dimension of climate change policy.[25]

## European Parliament

The European Parliament (EP) has been very active in this field since 2011, producing several **resolutions which address climate change from a gender perspective**. For example, in the EP resolution of 29 September 2011 on developing a common EU position ahead of the UN Conference on Sustainable Development (Rio+20), Article 19 emphasises that the Rio+20 Summit should discuss an integrated approach to address multiple challenges such as poverty eradication, health, food, employment, gender equality, climate change, and energy supply.[26]

The EP resolution on women and climate change is explicitly concerned with exposing and addressing the **links between climate change and gender**.[27] In Article 8, it calls on the EC and Member States to collect country-specific and gender-disaggregated data when planning, implementing, and evaluating climate change policies, programmes, and projects, so as to effectively assess and address the differing effects of climate change on each gender, to produce a guide on adapting to climate change, outlining policies that can protect women, and to empower women to cope with the effects of climate change. Article 20 calls on the EC and Member States to integrate gender in **strategies for preventing and managing the risks associated with natural disasters, to promote women's empowerment and awareness through capacity-building before, during, and after climate-related disasters**, and to further their active involvement in disaster anticipation, early warning systems, and risk prevention as part of their role in resilience-building. Article 35 stresses the important role played by women in implementing mitigation measures in daily life, such as through energy- and water-saving practices, recycling measures, and the use of eco-friendly and organic products. Article 42 stresses the need for financing mechanisms to reflect women's priorities and needs, and for the active involvement of organisations that promote gender equality in the development of funding criteria. This includes the allocation of resources for climate change initiatives, particularly at the

[25] Allwood, G. "Gender mainstreaming and EU climate change policy", in Weiner, Elaine and Heather MacRae (eds), *The persistent invisibility of gender in EU policy*, European Integration online Papers, 2014, Special issue 1, Vol. 18, Article 6, pp. 1-26.

[26] EP resolution of 29 September 2011 on developing a common EU position ahead of the United Nations Conference on Sustainable Development (Rio+20), in "Texts adopted - Rio+20 earth summit", 29 September 2011 (last accessed on 09.02.2022).

[27] EP resolution of 11 September 2012 on the role of women in the green economy, in "Texts adopted - Role of women in the green economy", 11 September 2012 (last accessed on 09.02.2022).

local level and in the activities of the Green Climate Fund.[28] The EP calls on "the Commission and the Council, in order to ensure that climate action does not increase gender inequalities but results in co-benefits to the situation of women, to mainstream and integrate gender in every step of climate policies, from conception to financing, implementation and evaluation".

Article 4 of the EP resolution of 11 September 2012 on women and the green economy calls on the EC and Member States to compile age- and gender-disaggregated data when strategies, programmes, and budgeting projects are being planned, implemented, and evaluated for the environment and climate sectors.[29] Article 5 calls on the EC and Member States to establish **gender mainstreaming mechanisms at international, national, and regional levels in environmental policies**, as gender concerns and perspectives are not well integrated in policies and programmes for sustainable development. The resolution includes other recommendations regarding gender aspects of the environment and the green economy in general, as well as particular recommendations relating to sustainable consumption, sustainable transport, the welfare sector, "green" jobs, and sustainable policies in international relations. On the EU Strategy for Equality Between Women and Men Post 2015, the EP calls on the EC to gather gender-specific data with a view to conducting an impact assessment for women in the areas of climate, environment, and energy. This has not been done yet.[30]

The resolution stresses the EU's responsibility and role as a model for gender equality and women's rights, and underlines that women are not only more vulnerable to the effects of energy supply and use, environment, and climate change, but also effective actors in relation to mitigation and adaptation strategies, as well as a driving force for an equitable and sustainable model of growth.

The EP resolution of 2019 is on climate change and a European strategic long-term vision for a prosperous, modern, competitive, and climate neutral economy in accordance with the Paris Agreement, as a gender-neutral document.[31] This is not the case for the EP resolution from 2020.[32] In this document, the EP "emphasises the need for a gender perspective on actions and goals in the Green Deal, including gender mainstreaming and gender responsive actions" and calls on the EC:

> in its efforts to promote the EU as leader of international climate and biodiversity negotiations to design a concrete action plan to deliver on the commitments of the renewed five-year Gender Action Plan agreed at COP25 (Enhanced Lima work programme), to promote gender equality in the UNFCCC process, and to appoint a permanent EU gender and climate change focal point, with sufficient budget resources, to implement and monitor gender-responsible climate action in the EU and globally.

Finally, the Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations

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[28] EP resolution of 20 April 2012 on women and climate change, in "Texts adopted - Women and climate change" 20 April 2012 (last accessed on 09.02.2022).

[29] EP resolution of 11 September 2012 on the role of women in the green economy, in "Texts adopted - Role of women in the green economy", 11 September 2012 (last accessed on 09.02.2022).

[30] Florence School of Regulation, "Gender Equality and the European Green Deal" (accessed on 24.3.2023).

[31] EP resolution of 14 March 2019 on climate change – a European strategic long-term vision for a prosperous, modern, competitive and climate neutral economy in accordance with the Paris Agreement (2019/2582(RSP)) (last accessed on 24.03.2023).

[32] EP resolution of 15 January 2020 on the European Green Deal (2019/2956(RSP) (last accessed on 24.03.2023).

(EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law')[33] includes a gender perspective in Article 9:

> The Commission shall use all appropriate instruments, including the European Climate Pact, to engage citizens, social partners and stakeholders, and foster dialogue and the diffusion of science-based information about climate change and its social and gender equality aspects.

Further, the Regulation obliges the European Scientific Advisory Board to be gender-balanced (Article 12 (1)).

## Legal Instruments at the EU Level

Many of the national legislations of the 27 EU member states are directly influenced by EU law because EU regulations oblige member states and individuals directly, and EU directives must be transposed into national law. This is also the case for Kosovo due to its potential candidature for EU Accession. Since environmental topics ("green topics") are unfortunately still considered "luxury topics" in the Western Balkans,[34] EU legislation is a strong tool to influence the adoption of "green" legislation as part of Kosovo's accession process.

There is no EU directive or regulation directly linking gender and environment, apart from the above-mentioned articles 9 and 12 of the "European Climate Law". However, this link is still quite weak and does not oblige EU members states to take any actions. Therefore, on the EU level, the link between gender and environment must still be drawn by **gender mainstreaming**.

### What is the legal basis for gender mainstreaming on the EU level?

Gender mainstreaming was established internationally as the major global strategy for gender equality at the United Nations Fourth World Conference on Women in **Beijing in 1995**, where the concept was promoted by the EU. It became the official policy approach in the EU and its Member States **in the Amsterdam Treaty (1997**), and the legal basis was strengthened **in Article 8 Treaty on the Functioning of the European Union (TFEU)**, which commits both to eliminating inequalities and promoting the principle of equality between women and men in all their actions. The EU has adopted a twin-track approach of **incorporating a gender perspective across all sectors**, and specific **positive action for women to eliminate, prevent, or remedy inequalities**, first set out in the 1996 communication on incorporating equal opportunities for women and men into all community policies and activities. On its introduction, it was noted that gender mainstreaming was not only a potentially revolutionary concept, but also an extraordinarily demanding one, which required the **adoption of a gender perspective** by all the central actors in the policy process, who might have little experience or interest in gender issues. Each EU institution had its own system and would have its own challenges.

The EU's **GAP III** aims to accelerate progress on empowering women and girls, and safeguard gains made on gender equality during the 25 years since the adoption of the Beijing Declaration and its Platform for Action. GAP III provides the EU with a policy framework with five pillars of action for accelerating progress towards meeting international commitments. It makes the promotion of gender equality a priority of all external policies and actions and offers a roadmap for working together with stakeholders at national, regional, and multilateral levels. It calls for gender analysis to inform the gender mainstreaming of EU external financing. The third of five pillars calls for accelerating progress on key thematic areas of engagement, including

[33] Publications Office (last accessed on 24.03.2023).
[34] Stefan Mager, "Civil society and think tank forum", Conference Statement, Berlin, Nov. 2022, p. 23.

promoting equal participation and leadership and bringing a gender perspective into the **green transition**.

### What is gender mainstreaming?

In some areas, such as education and employment, the gender dimension is evident. In others, such as **climate change** and environmental fields, it may be less immediately apparent. Yet, across the spectrum, including in these seemingly "gender-neutral" fields, policy may have different impacts on women and men and may inadvertently perpetuate inequality or discrimination. One of the tools that has been developed to ensure that these impacts are considered is "gender mainstreaming". As defined by the **European Commission in 1996,** it means "not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilising all general policies and measures specifically for the purpose of achieving equality". EIGE defines it as:

> a strategy towards realising gender equality. It involves the integration of a gender perspective into the preparation, design, implementation, monitoring and evaluation of policies, regulatory measures and spending programmes, with a view to promoting equality between women and men, and combating discrimination.[35]

Gender mainstreaming is not just about women, but about ensuring that women's as well as men's experiences and concerns are built into the design, implementation, monitoring, and evaluation of policy, legislation, and spending programmes and that both individual rights and structural inequalities are addressed. It also entails looking at institutions and how they work, including gender representation within policy areas and decision-making structures.

## The Environmental Legal Framework in Kosovo from a Gender Perspective

So far, few regulations in Kosovo related to the environment have involved gender mainstreaming. Only the **Kosovo National Water Strategy Document 2017-2036** contains demographic data itemised by gender, age, and ethnicity.[36] This "is a document of long-term planning, which contains the vision, mission, objectives, purpose, actions, activities and measures for water policy development in the Republic of Kosovo".[37]

The water sector in Kosovo is regulated by the **Law on Waters of Kosovo No. 04/L-147**.[38] According to Article 1, water resources are assets of general interest and property of the Republic of Kosovo, which shall be saved and protected by Law. This Law has no gender perspective. However, Kosovo has a so-called "Water Services Regulatory Authority"(WSRA) (previously Water and Wastewater Regulatory Office), which was officially established in 2004.[39] It is "an independent regulatory body accountable to the Assembly of the Republic of Kosovo and is the key licensing and economic regulator for the water services sector".[40] The "main role of WSRA is to manage an effective regulatory framework, which encourages water service

[35] EIGE, "Gender Mainstreaming" (accessed on 24.03.2023).
[36] Kosovo National Water Strategy 2017-2036, p. 34 (last accessed on 07.02.2022).
[37] Ibid., p. 8.
[38] Law No. 04/L-147 on Waters of Kosovo.
[39] Ibid., p. 7.
[40] Ibid.

providers in Kosovo to ensure a high quality service in the monetary value paid by customers".[41] Non-discrimination is a leading principle of the WSRA. Therefore, it shall ensure that "service tariffs charged to customers are fair and do not impose any discrimination or demonstrate preferences for any category of customers". Its goal also is to secure, that "services provided for water and wastewater are being carried out transparently and in a non-discriminatory manner, as well as that gender and minority issues are addressed in full accordance with Kosovo laws".[42]

Further, Kosovo has a **Law on Waste.**[43] According to Article 1, it aims to protect the environment and human health from pollution and risk of harm from waste through environmentally sound waste management by establishing conditions for prevention and reduction of waste production and its harmfulness. The Law on Waste only refers to gender once in Article 4.2., where it is clarified, that the terms of any gender used in the Law includes other genders.

The **Climate Change Framework Strategy for Kosovo** has the purpose to provide a comprehensive climate change mitigation policy framework based on present information.[44] It includes a gender perspective only under the National Adaptation Strategy, which aims to:

> introduce new and improve current mechanisms of disaster risk reduction, especially important for sectors of economic significance that are particularly vulnerable to climate change impacts, and to enhance adaptive capacity of the vulnerable communities, particularly of the poor farmers, marginal groups and women to address the climatic impacts and related risks on their lives and livelihoods.[45]

Other applicable policies such as the **Kosovo Environmental Strategy 2011-2015**[46] and the **Kosovo Environmental Strategy 2013-2022** lack a gender perspective.[47] Also the Law on Environmental Protection, the Law of Environmental Impact Assessment, the Law on Strategic Environmental Assessment, the Law on the Inspectorate of Environment, Water, Nature, Spatial Planning and Construction, the Law of Nature Protection, and the Law on Chemicals do not involve gender mainstreaming.[48]

In addition, there are European directives which have been partially implemented in Kosovo law.[49] These directives are the **Directive on the assessment of the effects of certain public and private sectors**[50] and the **Directive providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment**.[51] However, these do not include any reference to gender mainstreaming.

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[41] Ibid.

[42] Ibid., pp. 79, 80.

[43] Law No. 04/L-060 on Waste (last accessed on 07.02.2022).

[44] Climate Change Strategy 2019-2028, Action Plan on Climate Change, p. 9 (last accessed on 07.02.2022)

[45] KWN, *Kosovo Gender Analysis*, p. 14 (last accessed on 07.02.2022).

[46] Kosovo Environmental Strategy 2011-2015 (last accessed on 07.02.2022).

[47] KWN, *Kosovo Gender Analysis*, p. 46.

[48] Ibid, p. 46.

[49] Ibid, p. 45.

[50] Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (last accessed on 07.02.2022).

[51] Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and

The Law on Gender Equality and the Kosovo Program on Gender Equality (2020-2024) set the general framework for integrating gender equality into laws, policies, and public services. Kosovo's legal infrastructure paves the way for the effective inclusion of gender-responsive budgeting into all phases of central and local financial management cycles, including related to the environment and climate change. Further, the Better Regulation Strategy of Kosovo 2.0 required a Gender Impact Assessment (GIA) as an ex-ante policy analysis tool alongside other proposed tools in designing Concept Documents, and it has been included as part of the required Regulatory Impact Assessment.[52] The GIA aims at preventing unintended negative consequences and strengthening intended positive outcomes, including women empowerment, of proposed policies and legislation that affect already existing inequalities between men and women in society.

## Needs for Improving the Legal Framework

It is important to consider gender mainstreaming in environmental regulations. This is shown by the Kosovo Program for Gender Equality 2020-2024.[53] It observes that life expectancy in Kosovo remains low:

> This is partly a consequence of poverty, but also a consequence of environmental factors (reflected in a high prevalence of respiratory diseases). (…) Outdoor air pollution is considered to be the biggest health impact factor (€97.6 million per year) causing 852 premature deaths, 318 new cases of chronic bronchitis, 605 hospital admissions and 111,900 emergency visits (lead contamination is the second factor, estimated to cost €67.9 million).[54]

Also, infectious diseases are a permanent threat to the population, where water and foodborne diseases continue to contribute to the highest number of cases.[55] Women in rural areas also have poorer access to health services than men and women in urban areas.[56] Thus, women have poorer access to healthcare services also when it comes to diseases caused by environmental impacts.

To be able to establish legal frameworks that involve gender mainstreaming, precise data regarding environmental effects on diverse women and men's health, discrimination, and/or disadvantages that women and men face must be collected. It would, for example, have to be proven, that women have less access to water supply than men. However, the only reliable data regarding water access is found in the Water Statistics 2018-2019. According to statistics, 14% of the population had no access to water supply in 2018,[57] but it is not distinguished how different population groups are affected. Data can serve as a source for creating a legal text that aims to achieve equal rights for women and men regarding environmental issues, as well as to prohibit discrimination. It is a long process to create laws that take gender mainstreaming into account. Even the EU itself and its member states do not yet have satisfactory legal frameworks in this regard.

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amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC - Statement by the Commission (last accessed on 07.02.2022).

[52] Better Regulation Strategy 2.0 for Kosovo 2017-2022.

[53] Kosovo Program for Gender Equality 2020-2024 (last accessed on 16.02.2022).

[54] Ibid., p. 35.

[55] Ibid., p. 35.

[56] Ibid., p. 36.

[57] Water Statistics 2018-2019, https://ask.rks-gov.net/media/5413/water-statistics-2018-2019.pdf, p. 11 (last accessed on 16.02.2022).

In conclusion, it can be observed that the lack of data, among other reasons, hinders Kosovo in applying in practice the GIA and thus gender mainstreaming, two important EU-promoted instruments that serve to highlight effects, risks, but also compliance with gender equality in legislation and political decision-making.

## Access to Justice

The 27 EU member states must guarantee everyone the right to go to court, or to an alternative dispute resolution body, and to obtain a remedy when their rights are violated.[58] This is the right of access to justice according to international and European human rights law.

Related to the environment, the EU has recognised the importance of ensuring that both gender equality and access to justice are upheld in environmental matters. In particular, the Aarhus Convention, which the EU has ratified, recognises the link between environmental protection and human rights, including the right to a healthy environment, the right to access information, participation in decision-making, and access to justice.[59]

In addition, the EU has taken steps to ensure that access to justice in environmental matters is available to all. The Aarhus Regulation, a binding EU instrument applicable in all EU member states, sets out procedures for individuals and groups to challenge decisions and actions that may harm the environment.[60] The EU also has established the European Environmental Bureau, which provides legal and technical support to individuals and groups seeking to defend their environmental rights.[61]

Nevertheless, the existing EU law could and should go much further, allowing non-governmental organisations to access to EU courts.[62] Further, to the knowledge of the authors and up to date there are no actions foreseen by the EU institutions related to access to justice as well gender and environmental violations.

In Kosovo, the Ministry of Environment, Spatial Planning, and Infrastructure and the Agency of Free Legal Aid should make citizens aware of how to demand their rights and where to address complaints in case they have been affected by environmental issues or their rights have been violated. In cases where an environmental rights violation is based on gender or involves gender bias, women's rights CSOs (WCSOs) should be consulted and provide their expertise on the intersection of gender and environment.

## Recommendations

### For the Government

- Conduct ex-ante Gender Impact Assessments, in addition to environmental assessments, prior to drafting public policies in relation to the environment, as per the Law on Gender Equality and Regulatory Impact Assessment guidance, ensuring a do no harm approach.

[58] European Agency for Fundamental Rights, "Access to Justice" (last accessed on 24.03.2023).
[59] UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the "Aarhus Convention"). The Convention was adopted in 1998 in the Danish city of Aarhus under the auspices of the UNECE. It entered into force in 2001. The EU became a Party in 2005, meaning that since then the provisions of the Convention have applied to EU institutions themselves.
[60] EU, Aarhus Regulation.
[61] See: https://eeb.org/.
[62] Conclusion of the Aarhus compliance committee attesting to a breach of the EU obligation to grant access to justice to non-governmental organisation.

- Work to increase inter-institutional cooperation, as well as capacities, to carry out gender mainstreaming in environmental policies, compiled by competent institutions, emphasising the responsibility of the Ministry of Environment, Spatial Planning, and Infrastructure in coordination with local level directorates for environmental protection and urban planning.
- Strengthen working groups in the Ministry of Environment, Spatial Planning, and Infrastructure. Ensure engagement of the Gender Equality Officer and Human Rights Officer in working groups and the drafting process. Ensure inclusion in working groups of WCSOs with expertise, which that can support gender-mainstreaming draft laws and policies. Consult more, diverse women and men, especially from rural communities. Organise public consultations on draft legislation and policies, in different formats, as per the Public Consultation Regulation, which does not limit public consultations to the public consultation platform but rather requires a more inclusive approach including meetings with interested parties, such as affected communities.
- Ensure participation of diverse CSOs and WCSOs in all government decisions regarding nature conservation and biodiversity, e.g., implementation of Natura 2000, waste management, forest management, and combating corruption and organised crime in the field of nature conservation.
- Address the lack of data and invest in research on the specific ways in which diverse women and men are affected by environmental issues in Kosovo.
- Monitor the impact of environmental issues on women, including through consultations with and drawing from the expertise of CSOs and WCSOs.
- Increase efforts to implement environmental law by strengthening and training relevant institutions and the responsible agencies, inspection staff, as well as police to prosecute environmental crimes.
- Allocate a clear budget for CSOs to strengthen their work related to the environment and gender, including monitoring and watchdogging.

### For CSOs

- Conduct gender analysis related to the environment, monitor environmental impacts on diverse women and men, and make evidence-based policy recommendations to support the government in improving the legal framework from a gender perspective.
- Advocate for changes to laws, both primary and secondary, to provide a more gender-responsive or transformative perspective that corresponds with the needs of diverse women and men.
- Further capacities based on EU and regional practices in offering legal aid and then proceed to offer legal aid services especially for women affected by environmental issues.

### For Cooperation among CSOs and Government, especially the Agency for Gender Equality

- Raise awareness of the importance of gender mainstreaming in environmental issues by training stakeholders and politicians on local and national levels.
- Undertake joint awareness campaigns to further diverse women and men's awareness.
- Set up affirmative actions to protect women's rights related to environmental issues, as per the Law on Gender Equality.
- Provide training on gender mainstreaming in environmental issues on the national and local levels and seek to institutionalise its application among legal professionals, politicians, and CSOs.

## Universities and Law Schools

- Teach gender-responsive strategic litigation and recent case law[63] related to climate and environmental protection; contribute to transforming the law into a concrete instrument for inclusion on all fields of public and private life.

[63] For example, see case law from Canada and Germany.